

UNITED NATIONS CONFERENCE ON ROAD AND MOTOR TRANSPORT

COMMITTEE I ON LEGAL AND GENERAL MATTERS AND DOCUMENTS

SUMMARY RECORD OF THE TWELFTH MEETING

Held at the Palais des Nations, Geneva,
on Monday, 5 September 1949, at 3.0 p.m.

CHAIRMAN: Mr. MIKAÛI (Lebanon)

SECRETARY: Mr. HOSTIE

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CONSIDERATION OF DRAFT PROVISIONS FOR INSERTION IN A CONVENTION ON ROAD AND MOTOR TRANSPORT PREPARED BY THE ECONOMIC COMMISSION FOR EUROPE (Item 4 of the Conference Agenda) (Documents E/CONF.8/3, E/CONF.8/21 and E/CONF.8/41) (continued)

Recommendations of the Working Group relating to draft General Articles A, B, E and G. (Working paper W/RT/22/49.)

Article A

At the invitation of the CHAIRMAN, the SECRETARY read out the revised text of the Working Group's proposed draft for Article A, reading:

"Any dispute between any two or more Contracting States concerning the interpretation or application of this Convention or its Annexes which the Parties are unable to settle by negotiation or another mode of settlement, may be referred by written application of any of the Contracting States concerned to the International Court of Justice for decision."

Mr. FOLEY (United States of America) said that the revised text was still not fully satisfactory, since, in his view, a concrete obligation to refer a dispute to the Court was still lacking.

Mr. HUBERT (France) considered that the fears of the United States representative were without foundation. Contracting States would be bound to submit any serious dispute to the Court, but, with the text as revised, they would not be obliged to invoke the jurisdiction of the Court if they did not consider the dispute sufficiently serious.

Mr. FOLEY (United States of America) replied that in Article A no distinction was made as to whether the dispute was serious or not; that morning the Committee had decided that otherwise insoluble disputes had to be referred to the International Court, and he only wished to make certain that that procedure would in fact be followed.

Mr. KOPELMANAS (Secretariat) pointed out that if disputes could be referred to the Court on the request of any one State, that was a guarantee that any country had the unilateral power to invoke the Court's jurisdiction.

/Mr. de SYDOW (Sweden)

Mr. de SYDOW (Sweden), Mr. GOTTREIT (Switzerland), Mr. PANTELIC (Yugoslavia) and Mr. MORGANTI (Italy) were in favour of the revised text of the Article.

Mr. BLONDEEL (Belgium) also approved the new text, since it did, in his opinion, clarify the procedure for appeal to the International Court, and embodied the phrase which he himself had suggested.

The CHAIRMAN explained that the amendment had been drawn up at short notice with the help of the representative of Sweden, and had been accepted by the representatives of the Netherlands and of the United Kingdom.

In that connection, Mr. SHAEPMANN (Netherlands) said that if the new text signified that any State in conflict with another could apply to the Court, and that the Court's judgment would be binding, the Netherlands delegation would accept the amendment in preference to its own suggested amendment submitted at the previous meeting.

Mr. AZKOUL (Lebanon) expressed his willingness to accept the new draft for similar reasons. He said further that the United States Government had approved the Convention on the Freedom of Information, which was less precise than the draft now before the Committee in so far as the obligation of Contracting Parties to refer disputes to the International Court was concerned.

Mr. FOLEY (United States of America) maintained that the new text in question did not make it absolutely clear that if the dispute could not be settled otherwise, the dispute must be submitted to the International Court of Justice.

The SECRETARY pointed out that the amended text of Article A provided not only an agreement to abide by the Court's judgment, but also the assurance that the Court's jurisdiction could be invoked by any Contracting State which wished to do so.

Mr. FOLEY (United States of America) granted that any Party had the right to appeal to the Court, but still doubted whether it was obliged to do so. His delegation would have to reserve its position on that point.

/Mr. GILLENDER

Mr. GILLENDER (United Kingdom) thought that the phrase "shall be referred" should be replaced by the phrase "may be referred". He could not see that any Contracting State could be obliged to bring a dispute before the International Court, particularly where the parties to the dispute did not consider the matter sufficiently important.

At the CHAIRMAN's proposal, the Committee unanimously adopted the revised text of Article A, and took note of the reservation entered by the United States representative.

Article B, paragraph 1.

Referring to the Working Group's amendment of the last sentence of paragraph 1 of Article B, Mr. BANERJI (India) proposed that in the phrase: "may invite to the Conference", the word "may" should be replaced by the word "shall". He made that proposal because, in view of what he knew of the administrative relationship between the Secretary-General and the Economic and Social Council, it was clear that if the Economic and Social Council desired that an invitation be extended to a certain country, the Secretary-General was bound to issue it.

Mr. BUZZI-QUATTRINI (Austria) said that he must repeat his question, asked at an earlier meeting, as to what guarantee Austria had of being invited to a Conference of the type covered by Article B, if that country was unable to accede to the Convention.

The SECRETARY considered that that question should be raised in connection with Article E rather than Article B, since it was a question of knowing which precisely were the Contracting States.

Mr. AZKOUL (Lebanon) said that the Austrian representative's question had an important bearing on the whole of paragraph 1 of Article B, and not merely on a small section of it. On the assumption that the Committee had accepted paragraph 1 with the exception of the sentence now before it, he wished to place on record that it was, in his opinion, probable that a number of States would sign the Convention immediately that others would sign it after the lapse of a certain period, whereas yet others would not sign it at all. Provision should

/therefore be

therefore be made for taking cognisance of the views of the second and third groups, should there be any question of amending the Convention. He considered that essential, particularly since the third category of countries he had mentioned might change their minds concerning accession to the Convention if there was some prospect of amending features to which they had objected. He further proposed that the right of participation in any conference called to deal with amendments should be extended not only to Contracting States, but to all members of the Conference now being held.

Mr. GILLENDER (United Kingdom) pointed out that the sentence from Article B which the Committee was now considering was included in the amendments proposed by the delegations of India, France, the United Kingdom and the United States of America (Document E/CONF.8/41). That being so he thought it would be better to wait until representatives had studied those amendments, and then to deal simultaneously with the last sentence of Article B and the point raised by the Lebanese representative.

The CHAIRMAN proposed that the Committee adopt the Indian amendment to Article B.

This was agreed, and the Article was adopted as amended.

Article E, paragraph 1.

Mr. FOLEY (United States of America) proposed that the final phrase "and to any other State which the Economic and Social Council may by resolution declare to be eligible" should be transferred to the end of paragraph 3.

Paragraph 1 was adopted with the United States amendment thereto.

Paragraph 2.

Mr. BEST (United Kingdom) proposed that the word "be" should be deleted from the phrase "instruments of ratification be deposited".

This was agreed, and paragraph 2 was adopted as amended.

Paragraph 3

At the suggestion of Mr. AZKOUL (Lebanon), amended by Mr. HUBERT (France), the text of paragraph 3 as given in working paper "Addition to Document W/RT/22/49" was amended to read:

"From 1 January 1950, this Convention shall be open for accession to those of the states referred to in paragraph 1 of this Article which have not signed the Convention, as well as to any other state which a resolution of the Economic and Social Council shall have declared eligible. It shall also be open for accession on behalf of any trust territory of which the United Nations is an administering authority."

Paragraph 3 was adopted as amended.

The CHAIRMAN said that although paragraph 3 was thereby adopted, it would be sent to the Working Group which would be instructed to work out a formula acceptable to all representatives on the question of political entities having the power of concluding treaties.

Mr. VONK (Netherlands), Chairman of the Working Group, recalled his statement at the morning meeting that the question of the accession to the Convention of the Free Territory of Trieste had been discussed by the Working Group in connection with Article E, paragraph 3. The Working Group had decided to ask the Committee for further instructions as to how it should proceed on that point.

Mr. BUZZI-QUATTRINI (Austria) repeated that since he had received no instructions yet from his Government he might be obliged to raise the question of formal provisions again in the Conference.

Mr. BEST (United Kingdom) said that the question of political entities involved difficult legal and political problems, and he was therefore of the opinion that it would be better to defer consideration of the question by the most interested delegations. For that reason he proposed that it should not be taken up immediately by the Working Group.

The CHAIRMAN expressed his agreement.

Paragraph 4 of Article E was adopted without discussion.

Article G

Paragraph 1 was adopted.

Paragraph 2

Mr. BEST (United Kingdom) said that he realized that the Conventions on Human Rights and on the Freedom of Information had provided the precedents for introducing such a paragraph in the present Convention. The argument was that an analogy could be drawn between the two Conventions referred to and the draft Road Transport Convention, but he was bound to say that it was in his opinion to some extent a false one. In such a matter as the Road Transport Convention the United Kingdom did not find it proper or desirable to assume the obligation of seeing that its provisions were applied by certain territories (for example, Southern Rhodesia) which enjoyed a measure of independence in their domestic affairs. Although it was true that there was a saving clause at the end, the fact remained that an undertaking was imposed at the beginning. For that reason the United Kingdom delegation would prefer to see paragraph 2 deleted.

Mr. DVORAK (Czechoslovakia) said that as far as Article G was concerned, his delegation reserved the right to submit an amendment in the Conference.

The CHAIRMAN asked whether the Committee could agree to the deletion of paragraph 2.

The general feeling, voiced by Mr. AZKOUL (Lebanon), being that this matter could not be decided precipitately, it was decided to defer discussion of it till the next meeting.

The meeting rose at 5 p.m.
