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UNITED NATIONS CONFERENCE ON ROAD AND MOTOR TRANSPORT
COMMITTEE I ON LEGAL AND GENERAL MATTERS AND DOCUMENTS

SUMMARY RECORD OF THE ELEVENTH MEETING

Held at the Palais des Nations, Geneva,
on Monday, 5 September 1949 at 10 a.m.

CHAIRMAN: Mr. MIKAOUI (Lebanon)
SECRETARY: Mr. HOSTIE

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CONSIDERATION OF DRAFT PROVISIONS FOR INSERTION IN THE CONVENTION ON ROAD TRAFFIC SUBMITTED BY THE WORKING PARTY OF THE COMMITTEE (Working paper W/RT/22/49).

Report by Acting Chairman of the Working Party.

Mr. VONK (Netherlands), who had been in the Chair at meetings of the Working Party during the absence of its Chairman, Mr. Rumpler (France), explained that the Working Party had discussed the proposal of the United Kingdom representative that there should be inserted in the Convention a provision setting a limit to the time during which drivers and vehicles should be considered as being in international traffic. Although that proposal applied particularly to Chapters IV and V of the Convention, the Party had decided to recommend that the text which it had drafted to meet that aim (Working Paper W/RT/22/49, section 1) should be inserted in Article I, so that it would apply to the whole Convention, and not merely to Chapters IV and V thereof.

When considering the advisability of inserting in other chapters of the Convention introductions of the type which the Committee had decided should be inserted in Chapter II (see Document E/CONF.9/C.1/SR.8, pages 6 and 7), the Party had decided to recommend the insertion in Article 20 of the text given in Section 2 of the Working Paper.

The draft Article A (Disputes) recommended by the Party had been drafted on the basis of the corresponding Article in the draft Convention on Freedom of Information.

The text recommended by the Party for insertion in Article B related only to the question of which States should be invited to send representatives to Conferences to consider proposed amendments to the Convention; the Party had not considered other questions raised by Article B of the Secretariat, draft, since they were closely connected with Articles C and D which had not been referred to the Party.

At a meeting held immediately before the present meeting of the Committee, the Working Party had agreed that the draft of Article E (Signature and Acceptance of the Convention) which it had prepared (Working Paper W/RT/22/49, page 2) should be amended by adding in paragraph 3, after the word "Article.", the sentence; "It shall also be open for accession on behalf of any trust territories of which the United Nations is an administrative authority"; and by transforming

the last sentence of paragraph 3 into a new paragraph 4. That text had been drafted on the basis of corresponding articles in the Convention on Freedom of Information. The Party had discussed at length the advisability of laying down that the Convention should be open for accession on behalf of the free territory of Trieste, but, although no firm decision had been taken on that point, it had been apparent that the majority were opposed to the inclusion of such a provision.

By including in Draft Article G (Territorial Application) the words "under the provisions of Article 2", the Party had endeavoured to obviate difficulties arising out of the fact that it had not yet been decided finally which of the annexes should be obligatory.

Article 20, paragraph 2. (Working paper W/RT/22/49, Section 2).

Mr. PANTELIC (Yugoslavia) said that he was opposed to the inclusion in paragraph 2 of Article 20 of the words "at all times". If they were included and the Article were applied strictly, a driver in a country foreign to him would not even be able to proceed to the nearest garage if, as a result of an accident, the vehicle he was driving ceased to conform to the provisions of Annex 8.

Mr. VONK (Netherlands) said that national authorities customarily permitted both drivers of vehicles in international traffic and drivers of vehicles in their own country to proceed to the nearest garage with due care, if, as a result of force majeure, the vehicle they were driving ceased to conform to national regulations.

The SECRETARY pointed out that, if the words "at all times" were deleted, it might be argued that paragraph 2 of Article 20 would apply to a motor vehicle or a trailer only at the moment it was actually crossing an international frontier.

Mr. de SYDOW (Sweden), Mr. SCHAEPMAN (Netherlands), Mr. HOCKING (United Kingdom), Mr. FOLEY (United States of America) and Mr. HUBERT (France) said that they could agree to the deletion of the words "at all times", since such deletion would in no way change the meaning of the text.

Mr. MORGANTI (Italy) said that Italian regulations, corresponding to the provision in the draft of paragraph 2 of Article 20 submitted by the Working Party, contained the word "constantly".

The Committee agreed to adopt the draft of paragraph 2 of Article 20 submitted by the Working Party with the deletion of the words "at all times", and to request the Chairman to invite the President of the Conference to take steps to ensure that that paragraph would be considered either in plenary or by Committee II, as the latter might deem appropriate.

New paragraph to be added to Article 1. (Working paper W/RT/22/49, Section 1).

Mr. AZKOUL (Lebanon) suggested that it would be more apparent that the words, which the Party had recommended should be inserted as a new paragraph in Article 1, applied only to vehicles in international traffic, if they were inserted in paragraph 1 of Article 1.

Mr. BUZZI-QUATRINI (Austria) asked whether the adoption of the text proposed would not be equivalent to an agreement that Contracting States should relinquish certain extra-territorial rights. If it were adopted would diplomats be required to pass driving tests in the country to which they were accredited at the expiry of the twelve-months period? And would Governments of countries under military occupation which became parties to the Convention be obliged to make drivers of the occupation forces pass tests after they had been in the country for more than a year?

Mr. VONK (Netherlands) said that since the text was drafted in a negative form, its adoption would not compel any Contracting State to test foreign drivers remaining within its territory for a continuous period exceeding one year; nor would it prevent any Contracting State from testing them. If the text were adopted, a member of the diplomatic corps in any Contracting State need not pass a test in that country, provided he did not remain there continuously for more than a year.

Mr. GOTTERET (Switzerland) felt that the example given by the Austrian representative was not very happily chosen. The provisions of the Convention would only apply to motor vehicles, trailers or drivers in international traffic; in Switzerland at least, diplomats accredited to the Government would not be affected.

In replying to the direct question asked by the Austrian representative, he would like to make clear that the object of the Swiss authorities in inviting diplomats accredited to the Swiss Government to comply with certain formalities, was to bring to their notice the special provisions of Swiss traffic regulations and to draw their attention to the dangers of mountain roads.

The CHAIRMAN said that the point raised by the representative of Austria was extremely important, since some national authorities did not permit people with driving licences valid in another State, or even with international driving permits, to drive in their territories without a domestic permit. That concerned, not only diplomats, but also tourists who entered a foreign country by car. It was closely connected with the important question of whether drivers in a foreign country were legally protected when they were involved in an accident. But it might be advisable to defer discussion of the point until the Committee came to consider Article 22 of the ECE draft (Document E/CONF.8/3).

Mr. BEST (United Kingdom) said that the adoption of some such provision as that in the new paragraph recommended for addition to Article 1 by the Working Party was essential; but, since it had been drafted in a negative form, its adoption would not make it obligatory for the authorities of Contracting States to compel all foreign drivers who remained in that State for a continuous period of more than one year to take a test. He agreed with the Chairman that it would be advisable to defer discussion of the point raised by the representative of Austria until Article 22 of the ECE draft came to be discussed.

The Committee unanimously agreed: (a) to adopt the recommendation of the Working Party that the text in section 1 of Working paper W/RT/22/49 be inserted as an additional paragraph in Article 1 of the Convention; and (b), to discuss further when it came to consider Article 22 of the ECE draft (Document E/CONF.8/3) the question of the driving permits of persons who remained for more than one year in a country of which they were not nationals.

Article A (Working paper W/RT/22/49, Section 3).

Mr. AZKOUL (Lebanon) said that if the draft of Article A submitted by the Working Party were adopted, parties to a dispute concerning the interpretation or application of the convention would not be compelled to refer the dispute to the International Court of Justice, if they agreed to try to settle the dispute by other means, but failed to do so. If the Committee wished to recommend that disputes should be referred to the International Court of Justice, unless settled by other

means, the words "succeed in reaching agreement by another mode of settlement" should be substituted for the words "agree to another mode of settlement".

Mr. BEST (United Kingdom) said that Contracting States should not be compelled to refer to the International Court of Justice any dispute concerning the convention. Accordingly he suggested the substitution of the word "may" for the word "shall" in the first line.

Mr. VONK (Netherlands) said that the Working Party had considered that parties to a dispute concerning the convention should first attempt to settle it by negotiation; if they did not succeed, they should attempt to settle it by means other than referring it to the International Court of Justice; if they still did not succeed, then they should refer it to the International Court of Justice. If the Working Party's text were adopted, a dispute might be referred immediately to the International Court of Justice, but others, and perhaps many others, might be settled by other means, for example, by discussion at a meeting of the Inland Transport Committee of the Economic Commission for Europe.

Mr. BEST (United Kingdom) said that a dispute concerning the convention should be referred to the International Court of Justice only if the parties thereto could not succeed in settling it by direct negotiation or other means.

Mr. SCHAEPMAN (Netherlands) said that the text submitted by the Working Party might give rise to misunderstanding, and proposed that it be amended by replacing everything after the word "negotiations" and the end of the third line, by the sentence "or by any other mode of settlement agreed upon by the contracting states concerned, shall be referred to the International Court of Justice for decision".

Mr. FOLEY (United States of America) supported the proposal of the representative of the Netherlands.

Mr. LUKAC, Executive Secretary, pointed out that at the second session of the General Assembly it had been decided that it would be desirable to insert, particularly in conventions or treaties concluded under the auspices of the United Nations, clauses providing, without prejudice to Article 95 of the Charter, for the submission of disputes which might arise from the interpretation or application of such conventions or treaties, preferably and as far as possible to the International Court of Justice (General Assembly Resolution 171 (II) C.2). The proposal of the representative of the Netherlands was in harmony with that decision.

Abdul Karim SAFWAT Bey (Egypt) said that he could agree to the adoption of the draft of Article A submitted by the Working Party, but nevertheless preferred the text proposed by the representative of the Netherlands, which was more logically drafted.

Mr. de SYDOW (Sweden) and Mr. BANERJI (India) said that they could agree to the adoption of the principle in the text proposed by the representative of the Netherlands.

Mr. BLONDEEL (Belgium) said that it should be made clear which party should refer to the International Court of Justice such disputes concerning the convention as could not be settled by other means.

Mr. PANTELIC (Yugoslavia) agreed with the United Kingdom representative that parties to disputes concerning the convention should not be compelled to refer them to the International Court of Justice, and supported his proposal that the word "may" should be substituted for the word "shall".

Mr. SHAEPMAN (Netherlands) could not agree to the substitution of the word "may" for the word "shall"; such an amendment would fundamentally alter his text.

The meeting rose at 1.15 p.m.