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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 TENTH MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 1 September 1949, at 3 p.m.

CHAIRMAN: Mr. MIKAJUI (Lebanon)

SECRETARY: Mr. HOSTIE

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CONSIDERATION OF DRAFT FORMAL PROVISIONS FOR INSERTION IN A CONVENTION
ON ROAD AND MOTOR TRANSPORT (Documents E/CONF.8/10, E/CONF.8/21,
E/CONF.8/25, E/CONF.8/29 and E/CONF.8/38) (continued)

The Committee resumed discussion of the draft formal provisions submitted by the Secretariat (Document E/CONF.8/21).

Article C (Amendments to the Annexes)

Mr. BANERJI (India) said that Article C should not be adopted unless far-reaching amendments were made to it, since it had been drafted on the assumption that all the annexes to the Convention would be permissive. The last sentence of paragraph 3 in particular, was not consistent with the fact that the Conference had decided in principle that several of the annexes should be obligatory. If Article C were adopted as it stood, it might be argued that a State could remain a party to the Convention, and yet not be bound by an obligatory annex to which an amendment was subsequently made. It should be made clear that a State which had adhered to the Convention, and which declined to accept an amendment to an obligatory annex which a requisite majority of the contracting states had agreed should be made, would cease to be a party to the convention. To protect the interests of contracting states it should be laid down that no amendment could be made to an obligatory annex unless the procedure laid down in Article B for the entry into force of amendments to the convention had been followed, and that a conference should be convened to discuss a proposed amendment to an obligatory annex if one-third or perhaps one-half, of the contracting states requested it.

Mr. BEST (United Kingdom) said that the representative of India had raised very important matters. Far-reaching amendments should certainly be made to Article C. The procedure for adopting major amendments to obligatory annexes should be the same as that for amendments generally to the convention; but it should be made easier to make minor amendments to the annexes than to the main body of the convention.

Mr. FOLEY (United States of America) agreed with much of what the representatives of India and the United Kingdom had said.

/He proposed that

He proposed that the Committee defer a decision on Article C until representatives had had an opportunity to study more closely both that article and the complicated and difficult problems to which it gave rise.

Mr. MORGANTI (Italy), agreeing with the proposal of the representative of the United States, said that the procedure for making amendments to obligatory annexes should be different from that for making amendments to the main body of the convention, and that there should be a third mode of procedure for making amendments to permissive annexes.

Mr. BLONDEEL (Belgium) said that it should not be forgotten that it had been decided to place certain provisions in annexes, and not in the main body of the convention, with the precise aim of making it easier to amend those provisions as technical developments might demand. Since the provisions in the annexes were more technical than those in the main body of the convention, it should be made easier to amend provisions even in the so-called "obligatory annexes" than to amend those in the main body of the convention. It should also be remembered that many of the provisions in the "obligatory annexes" would probably be worded in the form of invitations to contracting states, and would therefore not be obligatory in the strict sense of that term.

The Committee unanimously agreed to defer its final decision on Article C until Monday, 5 September 1959.

Article D. (Additional Annexes)

Mr. FOLEY (United States of America) said that Article D closely resembled articles concerning additional annexes in conventions already in force. He urged its adoption without amendment.

Mr. AYOUB (Lebanon) said that Article D, too, had been drafted on the assumption that all the annexes would be permissive.

It had since become apparent that States might propose supplementary obligatory annexes. Article D should therefore be re-drafted to make it consistent with the Conference's decision, taken in principle, that several annexes should be obligatory.

Mr. ECHAEYMAN (Netherlands) suggested that it might be advisable to lay down that a conference to consider a proposed supplementary annex should be convened if one-quarter, and not one-third, of the contracting states so desired.

The CHAIRMAN said that, if it was agreed that a conference should be called to discuss an amendment to the convention if one-quarter of the contracting states so desired, as had been proposed in connection with Article B, it would be reasonable and consistent to fix a similar proportion in the case of additional annexes.

Mr. BANERJI (India) agreed with what the representative of Lebanon had said on Article D. Had all the annexes been permissive, he would have had no objection to Article D as drafted by the Secretariat. As matters stood, he considered that no supplementary annex should be added to the convention unless at least two-thirds of the parties thereto agreed to its addition.

Mr. MORGANTI (Italy) also agreed with the remarks of the Lebanese representative on Article D, and moved that no decision be taken thereon before Monday, 5 September 1949.

Mr. BLONDEEL (Belgium) considered that the procedure for dealing with proposals to add supplementary annexes should be the same as that for dealing with proposals to amend the main body of the convention.

Replying to the CHAIRMAN, Mr. AZKUL (Lebanon) said that if, as he had dared to hope, it was agreed that application of all the annexes should be made obligatory for each contracting state after it had been a party to the convention for a specified number of years, the difficulties at present under discussion would largely disappear; but the remarks he had just made about Article D were based on the assumption that the hope would not be fulfilled, and that

/the decisions in

the decisions in principle which the Conference had taken would be upheld when the final draft of the Convention was opened for signature.

Mr. BEST (United Kingdom) said that he doubted whether it was necessary to include in the convention an article such as Article D on additional annexes. Provisions would be laid down in the convention governing amendments thereto, supplementary obligatory annexes would, like other obligatory annexes, be essential parts of the Convention; no such annexes could therefore be added unless an amendment were made to the main body of the Convention.

Mr. PANTELIĆ (Yugoslavia) agreed with the representative of the United Kingdom, saying that an additional argument in favour of abandoning Article D was the fact that supplementary annexes would clearly be limited to provisions relating to matters not mentioned in the convention in its first form.

Mr. BANERJI (India) was convinced by the remarks of the United Kingdom representative on Article D. It would not be necessary to include in the convention an article such as draft Article D.

Mr. AZKUL (Lebanon) said the main purpose underlying the provisions in draft Article D was to ensure that the Convention should be as flexible as was practicable. He urged that no decision should be taken on the article until it had been decided which annexes should be permissive.

Mr. SCHAEFMAN (Netherlands) urged the Committee to defer its final decision on Article D.

The Committee agreed to defer its final decision on Article D.

Article E (Signature and Acceptance)

Mr. FOLEY (United States of America) said that he hoped the Conference would adopt, not Article E submitted by the Secretariat, but Draft Articles C and D (Document E/CONF.8/29) on ratification and accession which had been proposed by his delegation and which were similar to the provisions in the Convention on the Prevention and Punishment of the Crime of Genocide.

Mr. BEST (United Kingdom) said that the Article which his delegation had proposed on signature and acceptance (Document E/CONF.8/25, page 6), closely resembled Article E submitted by the Secretariat. However, he could accept the articles proposed by the United States delegation.

Replying to Mr. FRANCO (Dominican Republic), who said that the mandatory "shall", in the United States Article C should be amended, Mr. LUKAC, Executive Secretary of the Conference, said that the word "acceptance" in the draft submitted by the Secretariat covered ratification of the convention by a national legislative body, as well as signature of the Convention by the executive authorities of a State in which such signature was sufficient to make that State a party to the convention.

Mr. HUBERT (France) suggested the insertion of the words "if necessary" after the word "ratified" in the draft Article C proposed by the United States delegation.

Mr. SCHAEPMAN (Netherlands) preferred the text of Article E drafted by the Secretariat to that of Articles C and D drafted by the United States delegation.

Mr. de SYDCW (Sweden) also preferred the Secretariat text of Article E.

The Committee agreed to refer to the Working Group Articles C and D as drafted by the United States delegation (Document E/CONF.8/29), and Articles E drafted by the Secretariat (Document E/CONF.8/21), and to instruct it to submit a version of the United States Articles C and D revised in the light of the foregoing discussion.

Article F (Binding Effect of Annexes)

Mr. AZKUL (Lebanon) said that Article F was not consistent with the decision in principle taken by the Conference that several of the annexes should be obligatory.

Mr. BANERJI (India) urged the Committee to postpone further discussion of Article F until a specific decision had been taken on the question of which annexes should be permissive.

The Committee unanimously agreed to defer further discussion of Article F.

Article G (Territorial Application)

Mr. HUBERT (France) urged that throughout Article G the words "territories for which it is internationally responsible" be substituted for the words "territories for the international relations of which it is responsible", since the French territories in West Africa, for example, did not have separate international relations, but were an integral part of the French Republic. He considered that paragraph 2 of Article G was not really necessary, and that paragraph 3 should be deleted as it was redundant.

Mr. FOLEY (United States of America), urging the adoption of Article G in the form submitted by the Secretariat, said that the text of that article was exactly the same as that on which the representatives of France, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America had agreed after negotiations which had lasted more than eighteen months.

Mr. BEST (United Kingdom) agreed with the representative of the United States of America. The expression "territories for the international relations of which it is responsible" was applicable to the relations between the United Kingdom Government and its overseas territories.

At the suggestion of Mr. AZKUL (Lebanon), who pointed out that the representatives of small countries which were also affected, had agreed to the text in Article G,

/the Committee agreed

the Committee agreed to correct the French version of Article G by substituting throughout the words "tout territoire dont il assure les relations internationales" for the words "tout territoire dont il est chargé d'assurer les relations internationales".

Mr. DVORAK (Czechoslovakia), observing that the text of Article G was generally acceptable to him, urged that the words which his delegation had proposed, namely, "it is understood that territories under military occupation cannot be considered as territories for the international relations of which a State is responsible" (Document E/CONF.8/33), should be added to Article G.

Mr. PANTELIĆ (Yugoslavia) said that his views on Article G were identical with those of the representative of Czechoslovakia.

Mr. HUBERT (France) could not accept the Czechoslovak text; neither the Committee nor the Conference was competent to decide for what territories a State was internationally responsible.

Mr. FOLEY (United States of America) and Mr. de SYDOW (Sweden) were also unable to accept the Czechoslovak text.

Mr. BEST (United Kingdom) could not accept the Czechoslovak text; it had not been found necessary to insert such a text in any other convention. In certain cases occupying powers were responsible for the international relations of a territory occupied by them, in others they were not.

Replying to the CHAIRMAN, Mr. DVORAK (Czechoslovakia) and Mr. PANTELIĆ (Yugoslavia) said that they did not wish the Czechoslovak amendment to be put to the vote forthwith, but wished to reserve their right to propose at a plenary meeting of the Conference its insertion in the Convention.

Mr. BEST (United Kingdom) announced that the United Kingdom representative to the Conference might raise points not discussed by the Committee when Article G was discussed in plenary.

The Committee adopted draft Article G submitted by the Secretariat (Document E/CONF.8/21) subject to the reservations entered by the representatives of Czechoslovakia, the United Kingdom and Yugoslavia.

Article H (Entry into Force of the Convention)

Mr. FOLEY (United States of America) said that his delegation had proposed that the convention should enter into force "on the thirtieth day after the date of the deposit of the second instrument of ratification or accession" (Document E/CONF.8/29), since it hoped that the convention would come into force at the earliest possible date.

Mr. BANERJI (India) said that it should be made clear in the Convention that when it entered into force, it would not be binding on States the representatives of which had signed it, but which had not ratified or acceded to it.

Mr. BEST (United Kingdom) pointed out that it would be impracticable to adopt any article on the entry into force of the new convention before it had been decided how long the two 1926 and the 1931 Conventions were to remain in force. Draft Article A proposed by the United States delegation (Document E/CONF.8/29) related to that question.

Mr. PERLOWSKI (IAT/FIA) said that the approach of his Organization to the problem was purely practical. The proposals which it had made (Document E/CONF.8/10, pages 7 and 8) had been put forward with a view to stifling in their early stages the difficulties particularly those relating to international driving permits, which would arise for those engaged in international traffic, if appropriate provisions were not made to cover the period at which some parties to the 1926 and 1931 conventions would have ratified the new convention, and others would not have done so. It should not be forgotten that there would probably be a considerable interval between the ratification and the application of the new convention by any given State. Article H, as drafted by the Secretariat, did not make it clear whether or not the 1926 and 1931 conventions would become dead letters as soon as the new convention entered into force. Provision should be made in the new convention to ensure that a citizen of a State party to the new convention would not need one kind of international driving permit to drive in another State which was also a party to the new convention and another kind to drive in a State which was still a

party to the 1926 convention. Provision should also be made to ensure that for some time to come an international driving permit delivered by the authorities of a party to the 1926 convention would be valid in a State which had deposited an instrument of ratification or accession to the 1926 convention and also to the new convention.

Mr. AZKOU (Lebanon) said that if the article on entry into force proposed by the United States delegation were adopted, States would hesitate to become parties to the convention until they were certain that a reasonable number of other States would also do so. He believed that the United States representative's hope that the Convention would come into force as quickly as possible might be realised if it were laid down that it should come into force as soon as several instruments of ratification or accession had been deposited, but that his hope would be frustrated if it was laid down that it might come into force when only two instruments of ratification or accession had been deposited.

Mr. SCHAEPMAN (Netherlands) said that his views on the question of entry into force of the convention coincided to a large extent with those of the representative of Lebanon. The convention should not come into force until at least five, or perhaps seven, instruments of ratification or accession had been deposited.

He would welcome an opportunity of studying the AIT/FIA proposals before a decision was taken on them or on the draft of Article H submitted by the Secretariat.

Mr. REGISAERT (Inter-American Federation of Automobile Clubs) remarked that the important question raised by the representative of the AIT/FIA had been the subject of considerable discussion at the third Congress of Inter-American Transport (Document E/CONF.8/11, pp. 3 - 4).

Mr. MORGANTI (Italy) considered that the convention should not enter into force until more than two instruments of ratification or accession had been deposited.

The Committee decided to defer taking a decision on draft Article H submitted by the Secretariat, draft Article A submitted by the United States delegation (Document E/CONF.8/29) and the relevant AIT/FIA proposals (Document E/CONF.8/10, pages 7 and 8) until the week beginning 5 September 1949.

Article I (Denunciation)

At the suggestion of Mr. BEST (United Kingdom), who pointed out that the wording of Article I should be consistent with the decisions that remained to be taken on the question of which Annexes should be permissive, the Committee agreed to defer discussion of Article I.

Article J (Notifications, Deposit and Registration)

Mr. HUBERT (France) pointed out that it would be pointless to take any decision on Article J until decisions, which the Committee had decided to defer, had been taken on other formal articles.

The Committee agreed to defer consideration of Article J.

The meeting rose at 6.40 p.m.
