

(Papers on Protocol.)

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2. Report of the Temporary Mixed Commission for the Reduction of
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4. Protocol for the Pacific Settlement of International Disputes-
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5. Arbitration, Security and Reduction of Armaments: General
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6. dto Resolutions adopted by the Fifth Assembly at its meeting
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Das Genfer Protokoll.

Von Prof. Dr. Walther Schücking.

Die Entwicklung des Völkerbundes.

Der Genfer Völkerbund hat der heiligen Allianz darin geglichen, daß er nach zwei Seiten schaute, vorwärts und rückwärts. Die heilige Allianz wollte nach dem Elend der napoleonischen Zeit eine Epoche planmäßigen Zusammenwirkens der europäischen Großmächte zur Vermeidung der Wiederkehr solcher Katastrophen schaffen, aber sie verfälschte diesen großen und guten Gedanken durch das Bestreben, in erster Linie den jeweiligen fürstlichen Besitzstand aufrecht zu erhalten, unbekümmert um das in der französischen Revolution erwachte, auf den nationalen Staat abzielende Selbstbestimmungsrecht der Völker. Und deshalb hat die heilige Allianz ein ruhmloses Ende gefunden. Den gleichen Zusammenbruch hat man dem Völkerbunde von Genf prophezeit, weil der fortschrittliche Gedanke, das Zusammenleben der Staaten fortan auf die Idee der Solidarität und des Rechts zu gründen, hier getrübt ist durch machtpolitische Tendenzen einzelner, wie sie der Vorkriegs-Vergangenheit des staatlichen Lebens den Stempel aufgedrückt haben. Die äußerliche Verknüpfung des Genfer Völkerbundes mit dem Versailler Friedensdiktat hat den Skeptizismus in dieser Hinsicht in Deutschland besonders stark werden lassen. Ich habe solchem Skeptizismus von Anfang an daheim und in ehemals neutralen Ländern, wo er sich auch vielfach geltend machte, widersprochen mit dem Hinweis auf unser demokratisches Zeitalter, das der Genfer Satzung einen ganz anderen Charakter gab wie der Urkunde der heiligen Allianz. Aus dem Genfer Völkerbunde mußte schließlich das werden, was die zugehörigen Völker aus ihm machten. Je mehr diese sich dem Rechtsgedanken erschlossen, je mehr ihnen ihre innere Verbundenheit auf Gedeih und Verderb zum Bewußtsein kam, umso günstiger mußte sich der Völkerbund entwickeln. Nicht die in Paris zustande gekommene Urkunde des Völkerbundes, sondern der Geist der Völker war das Entscheidende. In den ersten Nachkriegsjahren schienen aber auch in diesem Punkte die Zweifler Recht zu behalten, die letzte Tagung des Völkerbundes hat ihnen jedoch Unrecht gegeben. Auch das Genfer Protokoll hat noch seine Schönheitsfehler, von denen weiter unten zu sprechen sein wird, trotzdem bedeutet es einen radikalen Sieg des Rechtsgedankens, wie ihn zu Beginn des Weltkrieges auch der kühnste Pazifist noch nicht zu hoffen gewagt hätte.

Interessant ist die Tatsache, daß man eigentlich auf einem Umwege zu diesem schweren Ziele gekommen ist. Was man zunächst erreichen wollte, war bekanntlich die in Artikel 8 der Satzung vorgesehene allseitige Rüstungsbeschränkung. Nach jahrelanger Beschäftigung mit diesem Thema kam man zu einer Einsicht, die wir Pazifisten uns schon seit langem an den Schuhsohlen abgelaufen hatten und der unser verstorbener Freund A. H. Fried einmal mit den knappen Worten Ausdruck gegeben: „Die Rüstungen sind vernünftig, solange das System unverändert ist.“ Die Lösung der Abrüstungsfrage war geknüpft an die Möglichkeit, den Staaten anderweitige „Sicherungen“ zu geben. Solche Sicherungen aber konnten, darüber ließen die wertvollen Antworten auf den vom Völkerbund versandten, freilich stark verwässerten Garantieplan des Lord Robert Cecil keinen Zweifel, nur in einem entsprechenden Ausbau des Rechtsschutzes und der eventuellen Vollstreckung gefunden werden. Auch die Antwort der deutschen Regierung hat in dieser Richtung unzweifelhaft ihre Wirkung gehabt. Und so ist naturgemäß das ganze Genfer Protokoll gestimmt auf den Dreiklang: Ausbau der Schiedsgerichtsbarkeit, Sicherheit, Abrüstung. Um vor Eintritt in die Einzelheiten ein Gesamturteil vorwegzunehmen, zu dem derjenige ohne Ueberhebung glaubt berufen zu sein, der sich zufällig seit etwa zwanzig Jahren mit diesen Problemen beschäftigt hat, so ist das Genfer Protokoll trotz gewisser namentlich für uns Deutschen höchst bedauerlichen Normen, die sich aus den politischen Machtverhältnissen im Völkerbunde erklären, eine wahrhaft glänzende Leistung. Es enthält juristisch-politische Lösungen, die man manchmal direkt geistreich nennen kann. Wohl nicht ohne Grund wird die Ehre der Autorschaft in erster Linie Politis zugeschrieben, einem der ersten Völkerrechtslehrer der Kulturwelt, der dazu als ehemaliger Außenminister und gegenwärtiger Gesandter Griechenlands in Paris eine besondere politische Erfahrung besaß. Neben dem Genfer scheint diese Verbindung von Rechtsgelehrten und Diplomaten — Politis war jahrelang in Paris Professor — eine Verbindung, die uns in Deutschland einstweilen noch völlig fehlt, der Typ des zukünftigen Staatsmannes für das Auswärtige zu sein. Denn je mehr das Recht sich die Sphäre der Staatenbeziehungen erobert, um so notwendiger wird es sein, auch an der Spitze der Verwaltung des Auswärtigen, im Räte des Völkerbundes, ja selbst im Weltgerichtshof Persönlichkeiten zu haben, die Erfahrungen aus diplomatischer Praxis mit sehr soliden Rechtskenntnissen verbinden. Aufgabe der Zukunft ist es, auch bei uns aus den besten Begabungen des juristischen wie des diplomatischen Nachwuchses solche Persönlichkeiten heranzubilden.

Der Angriffskrieg.

In der Präambel des neuen Genfer Dokumentes wird der Angriffskrieg als internationales Verbrechen gekennzeichnet. Damit wird ein Meilenstein auf dem Wege des Kulturfortschritts gesetzt, wie er hochragender in der ganzen Geschichte der Menschheit nicht gedacht werden kann. Das Recht, ausgehend in seinen Anfängen von dem kleinen Kreise der Sippegenossen, hat sich damit endgültig die Welt der überstaatlichen Beziehungen erobert. Gewalt des einen gegen den andern ist schlechthin verboten und an dem Tage, an dem dieses Protokoll in Kraft trat, kann die ganze Menschheit noch einmal jenes berühmte Wort wiederholen, von dem einst der Russe Alexander Herzen bei Aufhebung der Leibeigenschaft in seinem Vaterlande Gebrauch gemacht hat: „Du hast gesiegt, Galiläer!“ Der Krieg als Form des völkerrechtlichen Prozesses, durch die bisherige Satzung des Völkerbundes nur eingeschränkt, aber nicht ausgeschlossen, hört damit auf, ein Rechtsinstitut des Völkerrechts zu sein. Man wird mit auf ein Rechtsinstitut des Völkerrechts schreiben über das „ius belli ac pacis“, niemand hat mehr die Wahl zwischen Fehdrecht und Rechtsrecht, wie sie auch jahrhundertlang innerhalb Deutschlands rechtens gewesen ist, bis der ewige Landfriede von 1495 den Fehdrecht zum Verbrechen stempelte. Die ungeheure Tragweite dieser Bestimmung erleidet nicht die geringste Einbuße durch die Erwägung, daß es auch nach 1495 gelegentlich noch Kriege im Innern Deutschlands gegeben hat. Ist die Konsequenz der Unvollkommenheit alles

irdischen, daß auch die Rechtsordnung versagen kann. Wer wollte darum ihre Bedeutung unterschätzen! Man lese nur einmal die Limburger Chronik aus dem 14. Jahrhundert, die immer wieder von Fehde zu erzählen weiß, und vergleiche damit die innerstaatlichen Verhältnisse der neuzeitlichen Jahrhunderte des alten Reiches, dann wird der Rechtsfortschritt genügend zutage treten. Selbstverständlich wird in Art. 2 des Protokolls ausdrücklich das Recht des Angegriffenen anerkannt, sich mit Gewalt zur Wehr zu setzen. Auf die Idee eines überstaatlichen Lebens ebensowenig aufbauen wie das innerstaatliche. Die Entfaltung äußerer Macht und ihre Bestätigung wird niemals vollständig zu entbehren sein, nur soll die Macht die Magd des Rechtes sein. Der Gedanke der Notwehr wird für den Staat weitergelten wie für das Individuum, aber die Völker werden durch den Ausbau der internationalen Instanzen davor geschützt werden, daß frivole Angriffskriege ihnen als berechtigte Notwehr hingestellt werden. Die künftig noch erlaubte staatliche Notwehr ist aber etwas ganz anderes wie der Krieg als völkerrechtlicher Prozeß, als Rechtsinstitut der Vergangenheit, und dasselbe gilt von dem gewalttätigen Handeln, das in Art. 2 des Protokolls in Zukunft noch in Uebereinstimmung mit dem Völkerbunde als eine Form der internationalen Exekution zugelassen wird. Eine auf rechtlicher Anordnung einer höheren Gewalt beruhende Exekution ist zweifelsohne ihrem innersten Wesen nach vom Kriege unter Gleichgeordneten genau so verschieden wie die zugelassene völkerrechtliche Notwehr. Mögen auf beide Fälle der Gewaltanwendung einstweilen auch noch die Rechtsregeln anzuwenden sein, die früher einmal für den Krieg entwickelt sind, für das Denken der Menschen würde es entschieden von Vorteil gewesen sein, wenn das Genfer Protokoll für die Fälle der nach wie vor erlaubten Gewaltanwendung auf den Begriff des Krieges überhaupt verzichtet hätte. Das ist leider nicht geschehen.

Rechtsschutz.

Das gänzliche Verbot des Angriffskrieges wird durchführbar gemacht durch den Ausbau des Rechtsschutzes. Der große Fortschritt, den schon das Recht des Völkerbundes in dieser Hinsicht enthielt, war das Obligatorium für den Versuch, jeden Staatenkonflikt friedlich zu schlichten, indem mangels anderweitiger Einigung ein schiedsgerichtliches Verfahren im Haag oder eine Vermittlungsaktion des Völkerbundesrates nachgesucht werden mußte. Aber dafür, daß dieser Versuch gelang, war noch keinerlei Sicherheit gegeben. Denn wenn auch nach Art. 13 des Paktes Schiedssprüche nach Treu und Glauben von den Parteien auszuführen sind, so fehlt im Pakt jede Garantie dafür, daß der Staatenkonflikt überhaupt auf dieses Geleise eines schiedsgerichtlichen Verfahrens gebracht wird. Nach dem bisherigen Recht des Völkerbundes gibt es noch keinen Einlassungszwang für die Parteien vor einem internationalen Gerichtshof. Auch die Zuständigkeit des Weltgerichtshofes ist grundsätzlich eine im Einzelfall freiwillige. Zieht auch nur eine Partei das Vermittlungsverfahren beim Räte vor, so kommt die Sache überhaupt nicht an den Gerichtshof. Damit ist aber dem Krieg in zahlreichen Fällen eine Tür offen gelassen, denn im Gegensatz zum Spruch des Schiedsgerichts gilt für die Partei hier nur ausnahmsweise die Verpflichtung, das Resultat der Vermittlungsaktion als bindend hinzunehmen, nämlich dann, wenn das Gutachten einstimmig abgegeben und von der Gegenpartei erfüllt wird. Andernfalls kann sie drei Monate nach Abgabe des Gutachtens zum erlaubten Einzelkrieg schreiten. Das Genfer Protokoll bringt nun in konsequenter Ausbau der Kriegsverhütung die gewaltige Neuerung, daß nicht nur der Versuch der friedlichen Schlichtung vor den Behörden des Völkerbundes obligatorisch ist, sondern daß auch das materielle Resultat des Verfahrens zwingend ist, das sich unter der Autorität des Bundes abspielt. Wir haben hier also ein Obligatorium in einer ganz anderen und sehr viel höheren Bedeutung.

Um so wichtiger ist die Frage, wie sich nunmehr dieses in seinen Resultaten zwingende Verfahren vor den Behörden des Bundes abspielen soll. Wenn die Satzung schon wenigstens „généralement“ eigentliche Rechtsstreitigkeiten der Schiedsgerichtsbarkeit zuweisen will, ohne freilich für den Einzelfall hier einen wirklichen Einlassungszwang zu schaffen, so hätte es wahrlich nahe gelegen, jetzt mit dieser Tendenz Ernst zu machen und für Rechtsstreitigkeiten den Haager Gerichtshof obligatorisch zu machen. Hier hätte ein wirklicher Einlassungszwang vorgesehen werden müssen und die bedenkliche Konsequenz, daß dann vielleicht ein lediglich aus juristischen Technikern bestehender Gerichtshof einem bedeutsamen politischen Einschlag eines Konfliktes nicht gerecht geworden wäre, hätte man immer noch dadurch beseitigen können, daß zu Gunsten der betreffenden Partei ein Recht einer Einrede geschaffen wäre, die auf den politischen Einschlag der Angelegenheit, auf deren überwiegend politische Bedeutung abgezielt hätte. Der Gerichtshof selbst hätte dann aber darüber zu entscheiden, ob diese Einrede gegen die Gerichtsfähigkeit begründetermaßen vorgebracht wäre. Diese Lösung habe ich schon 1917 in meiner Studie „Der Weltfriedensbund und die Wiedergeburt des Völkerrechts“ vorgeschlagen, sie ist in den Völkerbundsvorschlag des Deutschen Reiches aufgenommen, den wir 1919 in Versailles überreicht haben, und wenn damals unsere Anregungen leider unter den Tisch gefallen sind, so ist dieser Weg doch mittlerweile erfreulicherweise in dem deutsch-schweizerischen Schieds- und Vergleichsvertrag vom 3. Dezbr. 1921 beschritten worden, nach welchem der Einlassungszwang vor dem Schiedsgericht in seiner materiellen Wirkung dadurch aufgehoben werden kann, daß das Schiedsgericht selbst die Einrede des Beklagten anerkennt, für ihn handle es sich hier um Unabhängigkeit, Unversehrtheit seines Gebiets oder andere höchste Lebensinteressen. Erfreulicherweise ist nach diesem Modell jüngst auch mit Schweden von Deutschland ein Schiedsgerichtsvertrag abgeschlossen. Soweit wie diese fortschrittlichen Individualverträge zwischen zwei Staaten, ist nun leider das als Mondialabkommen gedachte Genfer Protokoll nicht gegangen. Freilich soll es für die Signatarstaaten des Protokolls nicht mehr, wie es in Art. 86 des Statuts des Weltgerichtshofes vorgesehen war, einer besonderen protokollarischen Erklärung bedürfen, um für die Zukunft bei Rechtsstreitigkeiten den Weltgerichtshof obligatorisch zu machen, der Einlassungszwang tritt vielmehr grundsätzlich für die Signatarstaaten automatisch ein, aber es besteht die Möglichkeit, daß diese Bestimmung für die Großmächte auf dem Papier bleibt, denn wohl bekannt mit ihrer

Abneigung gegen diesen Einlassungszwang, läßt Artikel 8 des Protokolls den Signatarmächten die Hintertür offen, daß sie einen abstrakten Vorbehalt gegen diese obligatorische Zuständigkeit des Gerichtshofes bei Rechtsstreitigkeiten machen dürfen. Wieweit dieser Vorbehalt gehen darf, ist nicht gesagt, tausend Möglichkeiten bleiben dafür offen. Politis führt in seinem ausgezeichneten Kommissionsbericht z. B. an, daß, wenn unter den eigentlichen Rechtsstreitigkeiten, für die der Einlassungszwang gelten soll, von den Parteien auch Fragen der Vertragsauslegung inbegriffen wären, doch durch jenen Vorbehalt Friedensverträge ausgenommen werden könnten! Das läßt darauf schließen, daß einstweilen noch keine Hoffnung darauf besteht, daß die Auslegung streitiger Bestimmungen des Versailler Vertrags fortan dem Weltgerichtshof anvertraut werden soll und wir die Siegerstaaten jederzeit vor dieses Forum ziehen könnten.

Umso wichtiger wird für uns die Frage: Was wird aus den Konflikten, die überhaupt nicht als Rechtsstreitigkeiten angesehen werden können oder, obgleich sie unzweifelhaft unter diese Kategorie fallen, doch auf Grund irgend eines abstrakten Vorbehaltes, den eine Partei gemacht hat, der Zuständigkeit des Weltgerichtshofes entzogen sind? Die Satzung des Völkerbundes kannte dafür nur das Vermittlungsverfahren vor dem Räte, einer denkbar ungeeigneten Behörde, weil hier Diplomaten nach Instruktionen stimmen und angesichts der üblichen Intrigen, Rankünen und Rivalitäten hier auch nicht die geringste Garantie dafür gegeben ist, daß die Lösung der Natur der Sache entnommen wird. Das ist wohl auch der Grund dafür gewesen, daß man nicht gewagt hat, bei Aufstellung der Bundessatzung diesem Verfahren die Wirkung einer obligatorischen Streitschlichtung beizulegen. Wie oben gesagt, sollte das Gutachten des Rates nur für den Fall seiner Einstimmigkeit soweit eine obligatorische Wirkung haben, daß, wenn die eine Partei sich unterwarf, die andere nicht mehr Krieg führen dürfte. Hier setzt nun die Kritik derer ein, denen es um die absolute Kriegsverbütung zu tun war. Sie forderten zweierlei, einmal die Entpolitisierung der Vermittlung in dem Sinne, daß dafür ein unparteiliches Gremium bestellt werden müsse, zweitens nach Erfüllung solcher Garantien aber auch die obligatorische Wirkung des fraglichen Verfahrens in dem Sinne, daß das gewonnene Resultat von den Parteien unbedingt angenommen werden müsse, unter Ausschluß jedes Rechts, wegen der betreffenden Angelegenheit noch zum Kriege zu schreiten.* Man wird anerkennen müssen, daß durch das Genfer Protokoll dieser Forderung in weitem Umfange genügt ist.

Die gütliche Beilegung.

Wenn der fragliche Konflikt nicht unter die obligatorische Zuständigkeit des Weltgerichtshofes fällt und die Parteien sich auch nicht freiwillig einigen, einfach den Haager Gerichtshof anzugehen, so geht die Sache zunächst ohne weiteres auf Grund des Paktes an den Völkerbundrat und dieser macht seinen Versuch zu einer Versöhnung der Parteien, wie ihm das in Art. 15 des Paktes vorgeschrieben ist. Es findet also zunächst eine Art völkerrechtlicher „Güterverfahren“ statt, wogegen sicherlich nichts einzuwenden ist. Aber wenn dieses Güterverfahren nicht zum Ziele führt, so schiebt sich in die Kette der Prozedur nach Art. 4 des Protokolls ein neues Glied ein, das dem Pakt noch ganz unbekannt ist und das offenbar bestimmt ist, der Entpolitisierung der Vermittlungsaktion zu dienen. Wenn auch nur eine Partei der weiteren materiellen Betätigung des Rates in dieser Angelegenheit mißtraut, so kann sie vor dem Rat auf eine obligatorisch wirkende schiedsgerichtliche Entscheidung antragen und diesem Antrag muß stattgegeben werden. Auf dem Umwege ist also doch ein prozessualer Einlassungszwang geschaffen und zwar ein Einlassungszwang, der weit über die eigentlichen Rechtsstreitigkeiten hinausgeht. Das ist eine kühne und radikale Neuerung gegenüber der Tendenz des Paktes, für die politischen Konflikte dem Rat eine möglichst weitgehende Zuständigkeit einzuräumen. Freilich ist es nicht der Haager Weltgerichtshof, der auf das einseitige Begehren einer Partei zuständig sein soll, sondern ein „isoliertes“ Schiedsgericht, wie wir im Völkerrecht sagen. Der Völkerbundrat setzt zunächst eine Frist für dessen Konstituierung. Den Parteien ist im übrigen in Bezug auf die Zahl der Schiedsrichter, ihre Persönlichkeit, ihre Vollmacht und das Verfahren vollständige Freiheit gegeben und es ist für diese Fälle daran gedacht, daß man nicht notwendigerweise Zwiste in das Schiedsgericht hineinbringt, sondern daß man mehr oder weniger einen Schlichtungsausschuß konstituiert, der die Dinge mit obligatorischer Wirkung nach Billigkeit ordnet. Andererseits ist Vorsorge getroffen, daß doch auch vor dieser ad hoc unter der Autorität des Völkerbunds fungierenden Behörde das Recht nicht zu kurz kommt. Jede Partei hat nämlich auch in diesem Verfahren die Befugnis, zu verlangen, daß über etwa auftauchende Rechtsfragen der Haager Weltgerichtshof sich gutachtlich äußert. Sein Gutachten soll zwar keine formal bindende Bedeutung haben, wird aber doch regelmäßig die entscheidende Instanz stark beeinflussen. Vor allen Dingen ist in geschickter Weise Vorsorge getroffen, daß nicht eine Partei das ganze Verfahren sabotiert, indem sie z. B. es verweigert, Schiedsrichter zu benennen. Bei solchem Verhalten gehen die Zuständigkeiten der Parteien einfach auf den Rat des Völkerbundes über und diese vortreffliche Vorschrift wird dafür sorgen, daß die Parteien lieber von sich aus ihre Rechte wahrnehmen.

Stellt aber nach dem Scheitern des Güterverfahrens keine von beiden Parteien den Antrag auf ein solches schiedsgerichtliches Verfahren, so kann der Rat darin den Beweis sehen, daß man seine Eigenbetätigung für die Erledigung des Konfliktes vorzieht. In diesem Falle hat er Recht und Pflicht, sich selbst wieder materiell mit dem Streitfall zu beschäftigen, wie es ursprünglich in Artikel 15 des Paktes als dem alleinigen Weg für die Erledigung der Sache vorgesehen war. Er kann den Versuch machen, zu einem einstimmigen Votum zu gelangen, wobei selbstverständlich die Stimmen der im Streit befangenen Parteien nicht mitgezählt werden. Gelingt ihm dieser Versuch, so ist seine einstimmige Äußerung ebenso rechtsverbindlich wie ein Spruch des Haager Weltgerichtshofes oder wie eine Entscheidung des auch nur von einer Partei bevorzugten isolierten Schiedsgerichts. Hiergegen kann man kein Bedenken er-

heben; denn wenn in solchen Formen die Beilegung des Konflikts durch eine hochpolitische Behörde wie den Rat erfolgt, so geschieht den Parteien doch nur, ihr eigener Wille. Aber wenn ein einstimmiges Votum im Räte nicht zustande kommt, so behalten die Parteien nicht mehr wie früher Recht, nach drei Monaten zu den Waffen zu greifen. Mehr hat dann der Rat von sich aus Recht und Pflicht, die definitive Erledigung ein Schiedsgericht einzusetzen, bei er nur verpflichtet ist, auf die sachliche und persönliche Qualifikation der Schiedsrichter entsprechende Rücksicht nehmen. Dieses Schiedsgericht zweiten Grades, wie es Genf benannt worden ist, fällt dann einen selbstverständlichen absolut verbindlichen Spruch.

Hinter allen Entscheidungen steht die Autorität des ganzen Völkerbundes. Bei einer bloß passiven Resistenz eines Staates übt der Rat zunächst einen friedlichen Druck aus, um den Widerstand zu überwinden. Gelingt das nicht, so kann er Kollektivmaßnahmen wirtschaftlicher und finanzieller Art vorsehen. Er kann auch die obsiegende Partei autorisieren, sich aus Gewalt gegen den Unbotmäßigen zu gebrauchen. Militärische Sanktionen durch die übrigen Signatarmächte sind aber nur für den Fall vorgesehen, daß der unbotmäßige Staat selbst zu den Waffen greift.

Dieses System des Rechtsschutzes erscheint absolut lückenlos, leider gibt es aber nach dem Protokoll dennoch Annehmlichkeiten, in denen zwar auch der Krieg verboten ist, aber trotzdem ein Rechtsschutz nicht gewährt wird. Auf diese Normen werden wir in einem zweiten Artikel zurückkommen.

Die nationalen Minderheiten.

Während der letzten Tagung des Völkerbundes hat die Frage der nationalen Minderheiten zum ersten Male die Aufmerksamkeit der Welt in einem Grade in Anspruch genommen, der einigermaßen in einem Verhältnis zu der großen Ernst dieses Problems steht. Und wiederum auch diesmal wieder das letzte Wort bei denen blieb, die in der bisherigen Behandlung der Minderheitenklagen durch den Völkerbundsrat den Gipfel staatsmännischer Weisheit und unerschütterlicher Gerechtigkeit sahen, so war doch die Begleitmusik draußen so, daß Herr Hymans, der die Beschwerde des Grafen Apponyi abtrumpfte, schwerlich das nächste Mal dieselbe Sprache für richtig halten wird. Eine Besserung scheint sich vorzubereiten. Aber es geht langsam, sehr langsam damit. Das zeigt nun auch wieder die Praxis. Vor einigen Tagen hat in Kopenhagen eine Konferenz zwischen Vertretern Deutschlands und Dänemarks begonnen, die eine Vereinbarung über die Behandlung der beiderseitigen Minderheiten treffen soll. Nach einigen vorbereitenden Sitzungen ist sie verlagert worden. Sie soll in Berlin fortgesetzt werden. Hoffentlich bald und hoffentlich mit einem guten Ende. In Lettland liegt dem Landtag seit fast einem Jahre der Entwurf eines Autonomiegesetzes für die Deutschen vor, das auf gleicher Weise auch auf die anderen Minderheiten ausgedehnt werden könnte, aber es rückt nicht von der Stelle. In Estland, das in seiner Verfassung ausdrücklich den nationalen Minderheiten die kulturelle Selbstverwaltung zugesteht, ist man trotz dieser verfassungsmäßigen Garantie nicht weiter gekommen. Das Ausführungsgesetz dazu ist in der estnischen Landesvertretung zum dritten Mal verhandelt worden, und zum dritten Mal ist es an die Kommission zurückverwiesen worden, weil die estnische Mehrheit nicht damit einverstanden ist. Kein Wunder, wenn die Minderheiten, wie der „Revaler Bote“ andeutet, anfangen zu glauben, die Esten wollten die verfassungsmäßige Autonomie in der Praxis gar nicht. Man kann es den Minderheiten gar nicht verübeln, wenn sie glauben, das Gesetz werde von den Esten sabotiert, so daß es nie verabschiedet werden und nie Tatsache werden könnte. Vielleicht ist es nicht ganz so schlimm, aber die Verschleppung ist schlimm genug. Da steht nun die Autonomie der Minderheiten als schönes Schaustück im Prunkschrein der Verfassung. Aber für den Hausgebrauch darf sie nie verwendet werden. Estland hat seinerzeit sich sehr in der ganzen Welt herumloben lassen wegen der Verfassungsbestimmung über die Minderheitenautonomie. Das war wohl etwa zu früh, und ob Lob zu spenden ist, wird sich erst zeigen müssen, wenn die Verfassung keine leere Gebärde bleibt.

Deutsch-griechischen Beziehungen.

Deutsche Gesandte v. Schön hat vor kurzem in feierlicher Audienz dem Präsidenten der griechischen Republik seine gläubigungsschreiben überreicht. In diesem wie der Gatte auf seine Bestrebungen hin, die mannigfachen Beziehungen, die zwischen dem deutschen und dem griechischen Volke, namentlich auf geistigem und wirtschaftlichem Gebiet so erfreulicher Weise bestehen, zu pflegen und enger knüpfen. Auf geistigem Gebiete sagte der Gesandte, er wolle diese Bemühungen und Wünsche, die alten wechselseitigen kulturellen Beziehungen zu vertiefen. Ein besondere Freude ist es, feststellen zu können, daß die seit längerer Zeit geführten Wirtschaftsverhandlungen zum Abschluß eines Abkommens geführt haben, das den Interessen beider Nationen in gleicher Weise dient. In seiner Antwort äußerte sich der Präsident in ähnlichem Sinne.

Die Ansprache wurde vom deutschen Gesandten deutsch gehalten und von dem Dolmetscher der Gesandtschaft in Französisch übertragen. Der Präsident antwortete in griechischer Sprache. Seine Antwort wurde von einem Beamten des griechischen Ministeriums des Äußeren ins Französische übersetzt.

Der Nationalrat der französischen Sozialisten beschloß die Unterstützung des Kabinetts Herriot, gegebenenfalls auch durch Annahme des Budgets.

Der spanische Professor Unamuno ist durch Erlaß des Königs seines Amtes als Professor und Rektor der Universität Salamanca entbunden worden.

Der Präsident von China, Tsao Kun, hat seinen Rücktritt erklärt.

Der belgische Wehrminister hat die Schleifung eines Teiles der Forts von Namur beschlossen. Die Forts Marchevette und Malonne dürften aus historischen und ästhetischen Gründen jedoch erhalten bleiben.

Die Aussperrung bei dem Röchlingsch Eis- und Stahlwerk in Vöcklabruck ist beendet. Es erfolgt Wiedereinstellung der Arbeiter nach Maß-

* Vgl. mein von der Nobelstiftung herausgegebenes Werk: Das völkerrechtliche Institut.

Die Politik der Paradoxe.

(II.)

Das Bedeutsamste an den politischen Dokumenten, die Herr v. Tirpitz in seinem neuen Buche („Der Aufbau der deutschen Wirtschaft. Erschienen bei J. G. Cotta Nachf. Stuttgart-Berlin 1924) ans Licht bringt, ist die volle Darlegung der deutsch-englischen Spannung wegen des Flottenbaus. Wir haben in dem ersten Artikel bereits darauf hingewiesen, daß der Kapitalfehler der deutschen Politik oder vielmehr der vom Kaiser gewollten und von Tirpitz ausgeführten Politik darin bestand, den englischen Widerstand nicht nach seinem ganzen weltpolitischen Gewicht einzuschätzen. Tirpitz selbst gab sich dem Wahne hin, daß er Geschichtslehren nennt, die Engländer ließen sich durch eine mächtige deutsche Flotte auf die Knie zwingen. Gewiß, er nannte das nicht so. Aber der Gedanke lag in der Natur der Sache. Die logische Schlussfolgerung, daß England sich Allianzen gegen Deutschland suchen würde, zog er nicht. Soviel nun seinerzeit in der Öffentlichkeit über diese Zusammenhänge geredet und geschrieben worden ist, so wenig hatte man eine Vorstellung davon, wie furchtbar ernst die diplomatischen Verhandlungen geworden waren. Hier liegt die schwere Verantwortung unserer deutschen politischen Führung. Sie lag zunächst auf dem Kaiser und Tirpitz, aber der Reichskanzler Fürst Bülow kann sich ihr ebensowenig entziehen. In seiner Hand liefen alle Fäden der deutschen Weltpolitik zusammen. Er hätte das Gleichgewicht herstellen müssen unter den Faktoren, die sie bestimmten.

Die entscheidende Krisis in der Spannung trat in den Sommer 1908. Denn bei den späteren Bemühungen einen deutsch-englischen Ausgleich im Flottenbau zu erreichen, auch bei dem Besuch Haldanes in Berlin im Jahre 1912, die Kluft bereits zu groß geworden. Jedenfalls scheiterte in jenem Sommer noch möglich gewesen zu sein, die Verhandlung zu hemmen oder doch in vernünftige Bahnen zu lenken. Die Aussprache fand in Cronberg statt. König Eduard VII. ließ sich jahrelang in Deutschland nicht gezeigt hatte, er hatte den Kaiser. Man erwartete davon eine Entspannung zwischen Deutschland und England, die auf die gesamte Welt zurückwirken würde. Nun erfährt man, daß in der ersten Phase eher eine Verschlimmerung eintrat. Denn der Kaiser zeigte sich in der Flottenfrage absolut unzugänglich, dazu in einer Form, die bei seinen Partnern die Hoffnung auf eine Verständigung schwinden lassen mußte. Für die Begegnung zwischen Wilhelm II. und Eduard VII. war im voraus versucht worden, den Boden vorzubereiten. Ballin hatte im Auftrage des Kaisers durch Sir Ernest Cassel den Königen wissen lassen, daß ein von England, Frankreich und Rußland kommendes Ansinnen auf Beschränkung des deutschen Flottenbaues „der Krieg sei“. Der Kaiser selbst hatte dem britischen Botschafter in Berlin einige Tage vor dem Besuche erklärt, daß „Vergleiche über Flottenbauten oder deren Tempo ausgeschlossen seien.“ Im Gespräch Wilhelms mit Eduard wurde die Flottenfrage daraufhin in der Tat nur gestreift. Der Kaiser selbst schrieb es den Einwirkungen Cassels zu. Wir werden sehen, daß der König seine Zurückhaltung anders auffaßte. Er sah, daß es zwecklos sei, die allgemeine Besserung der Stimmung durch Anschneiden der Flottenfrage zu vernichten. Er wußte übrigens, daß Sir Charles Hardinge, der ihn begleitete, den Auftrag hatte, die Frage im einzelnen mit dem Kaiser zu besprechen. Das ist am 12. August in Cronberg geschehen.

Der Kaiser berichtete darüber an den Reichskanzler Fürsten Bülow, und Tirpitz teilt diesen Bericht im Wortlaut mit. Man sieht hier, wie die dramatisierende Art des Kaisers wenig geeignet war, solche Diskussionen auf einen sachlichen ruhigen Ton zu stimmen:

12./13. August 1908.

Nach Tisch redete mich Sir Charles Hardinge auf unsere militärischen Einrichtungen an und ging nach kurzer Besprechung der Armeesache auf die Flottenfrage über. Er sprach von grave apprehension, von der alle Kreise Englands über unsern Flottenbau erfüllt seien.

Auf meine erstaunte Frage, warum, da er gesetzlich begrenzt und das Gesetz seit elf Jahren publiziert sei, erwiderte er: Da sie stets zu Hause konzentriert sei.

Ich erwiderte, wir brauchten unsere Flotte zum Schutz des rapiden Wachstums des Handels.

Er: Sie bleibt aber immer in Kiel oder Wilhelmshaven oder Nordsee.

Ich: Da wir keine Kolonien und keine Kohlenstationen haben, ist das unsere Basis, uns fehlt ein Gibraltar oder Malta.

Er: Von Ihrer Basis aus ist kein Handel zu schützen. Warum fahren Sie nicht mehr umher?

Ich: Wir sind durch die Handels- und auswärtige Behörden in der Ansicht, daß, je weniger die Briten unsere Flotte zu sehen kriegen, um so besser; ein Erscheinen derselben im Kanal würde Mißvergnügen hervorrufen.

Er: Sie wollen wohl einen faulen Scherz machen?

Ich: Es ist mein bitterer Ernst; meine Mannschaften haben genug darunter gelitten, ihre Dienstzeit nur in nordischen Gewässern zu verbringen.

Er: Das ist ja ganz unglaublich, in England hat man das ganz anders ausgelegt.

Ich: In diesem Sommer habe ich meine Flotte ins Ausland geschickt während Ihrer großen Manöver in der Nordsee, ein untrügliches Zeichen meiner Friedfertigkeit und meines Vertrauens zu England.

Er: Das war ausgezeichnet, hat sehr gut gewirkt; schicken Sie Ihre Schiffe nur oft weg, dann werden unsere Leute wesentlich ruhiger werden. Immerhin wäre es wünschenswerter, unsere Besorgnis wegen des Flottenbaus zu zerstreuen, da Sie in wenigen Jahren unsere Stärke erreicht haben werden (1).

Ich: Das ist absoluter Unsinn, außerdem haben Sie den Dreadnoughtbau angefangen und der Welt überraschend aufgezwungen. Alle Staaten bauen sie.

Er: Es war ein schwerer Fehler von uns.

Ich: Beim Stapellauf des Dreadnought hat Ihre Presse das Schiff als sicherstes Vernichtungsinstrument für die deutsche Flotte bezeichnet.

Er: Das war ein noch viel größerer Fehler. Aber der Dreadnoughtbau nimmt bei Ihnen so rasche Fortschritte, daß sie in wenigen Jahren, sagen wir 1912 uns an Stärke gleich und sogar überlegen sein werden.

Ich: Das ist ja absoluter Blödsinn. Wer hat Ihnen denn den Unsinn aufgebunden?

Er: Das ist gar kein Unsinn, sondern authentisches Material von der englischen Admirallität.

Völkerrecht verstößt, der das wirtschaftliche Leben eines anderen Staates erdrosselt. Und dem Gedanken des Rechts auf Achtung und Würde widerspricht es ganz entschieden, wenn ein Staat sich grundsätzlich gegen jede Einwanderung eines anderen Staates sperrt, während er Einwanderung aus allen anderen Staaten zuläßt. Der zweite Weg, der sich hier eröffnet, ist die Rechtssprechung des Weltgerichtshofs, der in solchen Fragen rechtsschöpferisch vorgehen muß. Wo das natürliche Recht offenbar auf Seiten des Geschädigten ist, muß der Gerichtshof einfach die Frage verneinen, daß die Angelegenheit unter die ausschließliche Kompetenz desjenigen Staates falle, der die Schädigung des anderen mit Hilfe seiner Souveränität ausübt. Wer den Vorzug hat, die Persönlichkeiten des Weltgerichtshofs aus gemeinsamer Arbeit zu kennen, weiß, daß in ihrem Kreise schon heute Männer zu finden sind, die grundsätzlich für eine rechtsschöpferische Tätigkeit des Welttribunals volles Verständnis haben. Auch hier gilt es so. Vertrauen auf die Entwicklung zu setzen. Freilich ist die Entwicklung dadurch erschwert, daß sich aus der Entstehung des Paktes der Wille seiner Urheber ergibt, die Einmischung fremder Rassen wie die Frage der Tarifzölle nicht internationale Probleme anzusehen.

(Ein Schlußartikel folgt.)

abelle:

Passiva	Goldbilanz 1. 7. 1924	Bilanz 30. 6. 1914	30. 6. 1914
Kapital	G. M. 420 Mill.	M. 360 Mill.	180 Pap.-Million.
Reservfonds	40 "	852 "	+ 320 "
andere Res.	-	279 "	+ 700 000 "
Vermögen	G. M. 400 Mill.	M. 4731 Mill.	33 Pap.-Million.
Banken	270 "	1.40 "	8 "
Posten	041 "	2.01 "	200 192 "
Banknoten	16.40 "	15.85 "	(Bankschuld ?)
andere (einschl.)	(Bksh. 12 90)	(Div. 1.44)	
Pflichtungen ..	G. M. 1951 Mill.	M. 3526 Mill.	
Summe ca.	G. M. 65 - Mill.	M. 82 - Mill.	747 Pap.-Million.
Aktiva	G. M. 3197 Mill.	M. 3196 Mill.	408 "
Bergwerke u. Hütten u. Fabriken	7.86 "	19.64 "	

*) Vergl. Wochenblatt Nr. 45 vom 13. November.

Das Genfer Protokoll

Von Professor Dr. Walter Schücking

III. Die Feststellung des Angreifers.

Zur Aufrechterhaltung des Rechtsfriedens, den das Genfer Protokoll schaffen will, dienen gemeinsame Maßnahmen, die sich gegen den Angreifer richten sollen. Als Angreifer gilt im Falle von Feindseligkeiten derjenige, der sich geweigert hat, das vorgeschriebene friedliche Verfahren anzunehmen oder sich dessen Ausgang zu unterwerfen, zweitens derjenige, der die provisorischen Sicherungsmaßnahmen verletzt hat, die der Völkerbundsrat im Einklang mit Artikel 7 des Protokolls vorgeschrieben hat (vergl. darüber unten), drittens derjenige, der nach einer Feststellung, daß der Streitfall unter die ausschließliche Kompetenz seines Gegners falle, nicht zunächst den Versuch gemacht hat, den Konflikt beim Rat oder der Plenarversammlung anzubringen. Diese Fassung des Art. 10 des Protokolls halte ich für außerordentlich glücklich. Es wird damit für die wichtigsten Fälle eine rechtliche Präsuumtion aufgestellt, von der ausdrücklich gesagt wird, daß sie nur durch eine einmütige gegenteilige Entscheidung des Rates entkräftet werden kann. Die Feststellung, daß die Feindseligkeiten eröffnet von irgend einer Seite, ohne daß die Aktion sich unter die vorgenannten Tatbestände ereignen ließe, dann muß der Rat mit Einstimmigkeit entscheiden, wer der Angreifer ist. Aber auch für den Fall, daß diese Einstimmigkeit nicht zustande kommt, ist die Herbeiführung des Friedens gesichert; denn dann ist es Aufgabe des Rates, den Kriegführenden einen Waffenstillstand vorzuschreiben, dessen Bedingungen er mit einer Drittel-Majorität vorschreiben kann, und derjenige, der im friedlichen Verfahren nicht durchgegriffen wird, nach der richterlichen Entscheidung die Angelegenheit unter die alleinige Kompetenz seines Gegners fällt, ein solches Privileg genießt. Für ihn soll, wie gesagt, nur dann eine rechtliche Präsuumtion des Angriffs sprechen, falls er nach für ihn ungünstigen Entscheidung nicht den Versuch macht, eine friedliche Lösung durch den Rat oder die Plenarversammlung herbeizuführen. Es ist das eine Konzession, die nach schwierigen Verhandlungen Japan gemacht hat, diese Konzession bedeutet doch so gut wie nichts; denn haben früher festgestellt, daß in solchen Fällen die dann berufenen Völkerbundsbehörden nicht das Recht haben, an Parteien irgend eine Lösung des Konfliktes aufzuerlegen, bleibt der betreffende Staat, der seine Souveränität in einem anderen Staat schwer schädigend Weise handhabt, hartnäckig, so wird die weitere Tätigkeit des Völkerbundsorgans nutzlos sein. Greift dann der geschädigte Staat zu den Waffen, so wird dem Rat des Völkerbundes doch auch ohne Vorliegen einer rechtlichen Präsuumtion nichts anderes übrig bleiben, als einstimmig zu konstatieren, daß der geschädigte Staat der Angreifer ist. Sollte dieser Staat selbst im Rat vertreten sein, so zählt seine Stimme natürlich nicht mit. Aber setzt selbst aus Sympathie für ihn oder seine Sache, käme in einem solchen Fall wegen Widerspruchs einzelner Mitglieder des Rates eine einstimmige Entscheidung nicht zustande, so würde der Rat doch mit seinem Gebot des Waffenstillstandes auf Grund einer Zwei-Drittel-Majorität dem geschädigten Staat der sich sein Recht mit den Waffen holen will, in den Arm fallen, ohne daß irgendwie ein sachlich befriedigende Lösung des Staatenkonfliktes selber Platz griffe. Die Stellung des geschädigten Staates bleibt also nach wie vor höchst unbefriedigend. Er hat eben weder ein Recht auf Kriegsführung noch auf einen friedlichen Ausgleich durch eine unparteiische Instanz.

Ein Staat nach den vorausgesetzten Bestimmungen sich des verbotenen Angriffskrieges schuldig gemacht, so soll der Rat den Signatarstaaten den ausdrücklichen Befehl erteilen, gegen den Angreifer unverzüglich die weiter unten zu erörternden Sanktionen anzuwenden. Jeder so aufgeforderte Staat ist von da an beugt, die Rechte eines Kriegsführenden auszuüben, aber wie in dem Kommissionsbericht ausdrücklich gesagt ist, soll seine Gewaltanwendung dem verfolgten Ziele angemessen sein und sich in den Grenzen und Formen halten, die ihm durch den Rat empfohlen worden sind. Im übrigen ist dem Angriffskrieg durch Art. 10 des Protokolls die Verletzung des Statuts einer entmilitarisierten Zone gleichgestellt. Nach dem Kommissionsbericht wendet sich der Geist des Protokolls aber nicht nur gegen den eigentlichen Krieg, sondern gegen jeden Gewaltakt, der sich gegen ein Staatsgebiet richtet, die der eine Staat ohne Zustimmung des anderen verhängt, selbstverständlich ausgeschlossen, eine Bestimmung, die für uns Deutsche nach manchen schmerzlichen Erfahrungen der letzten Jahre besonders wichtig ist. Eine weitere Garantie der Sicherheit gewährt der Art. 7 des Protokolls, der auch bloße Bedrohungen des einen Staates durch den anderen ausschließen will. Zu diesem Zwecke verpflichten sich die Staaten während eines Konfliktes, auf jede Vermehrung ihrer Rüstungen zu verzichten, auf jede Maßnahme zu Lande, zur See oder zu Luft, keine kollektive oder wirtschaftliche Mobilisierung vorzunehmen, werden die geeignet wäre, die Streitigkeit zu verschärfen oder auszuweiten. Ueber die Verletzung dieser Verpflichtung kann auf Grund des Art. 11 des Paktes Beschwerde beim Rat geführt werden. Die von ihm event. in kürzester Frist anzuführenden Untersuchungen müssen von den Signatarmächten möglichst erleichtert, seine provisorischen Anordnungen möglichst befolgt werden. Ungehorsam bedeutet einen Bruch der Sanktionen und des Protokolls und ermächtigt den Rat zu allen Maßnahmen, die geeignet sind, den Weltfrieden zu sichern. Die Aktionsfähigkeit des Rates in solchen Fällen ist durch eine Zweidrittel-Majorität erleichtert, daß er hier bloß mit einer Mehrheit von zwei Dritteln entscheiden kann. Gleiche Kompetenzen besitzt der Rat bei jeder Aktion, die als Angriff auf die Souveränität eines Staates gegen den anderen angesehen werden kann.

Die Exekution.

Was nun die Durchführung der Sanktionen anbelangt oder besser gesagt die internationale Exekution, so hat das

in Lothringen wahrscheinlich noch eine wertvolle Kolonialentschädigung zugebilligt; denn so hat erst auch Herr Poincaré vor dem Weltkrieg sich eine unblutige Lösung der elsass-lothringischen Frage vorgestellt. Wir sehen daraus die ungeheure Tragweite dieser Dinge, und es liegt eine furchtbare Versäumnis darin, daß man trotz der Lehre, die die elsass-lothringische Frage der Welt gegeben hat, jetzt im Genfer Protokoll die Wege versperrt, die beschritten werden müßten, um die durch den Versailler Frieden neu geschaffenen Probleme solcher Art friedlich aus der Welt zu schaffen. Immer wieder ist von der Entente mit Emphase die Welt verkündet, daß der Versailler Friede nichts anderes enthalte als die Inkarnation der Idee der Gerechtigkeit. Ist es da nicht höchst seltsam, daß man so ängstlich bestrebt ist, jede unparteiische Nachprüfung dieser Gerechtigkeit zu verhindern? Also deutlich offenbart sich hier die Tendenz, mit Hilfe des Apparats des Völkerbundes die gegenwärtigen Besitzverhältnisse in Europa, so ungerecht sie auch sind, unter allen Umständen zu stabilisieren. Das entspringt nicht der Liebe zur wahren Gerechtigkeit, die auch zu nationalen Opfern bereit ist, und das ist im letzten Grunde auch ein politisch törichtes Unterfangen; denn die Geschichte lehrt, daß das natürliche Recht, das mit uns geboren, immer wieder siegt über die geschriebene Unrecht. Für einen weitschauenden Politiker kann es sich also nur darum handeln, den Kampf zwischen dem natürlichen und dem historischen Recht auf friedliches Geleise zu bringen. Dazu hätte das Genfer Protokoll uns verhelfen müssen, und das hat es nicht getan. Nur tiefem Schmerz erfahren wir aus dem Kommissionsbericht, daß schließlich in dieser Kardinalfrage sogar Einstimmigkeit der beiden fraglichen Kommissionen geherrscht hat.

Durchaus unbefriedigend ist im Interesse der einseitigen staatlichen Souveränität auch eine andere Kategorie von politischen Konflikten geregelt (vgl. Art. 5). Bei reinen Interessenkonflikten zwischen zwei Staaten handelt es sich vielfach um Tatbestände, bei denen der eine Staat materiellen oder ideellen Interessen eines anderen Staates schwer schädigt, ohne aber nach dem geltenden Völkerrecht sich einer unerlaubten Handlung schuldig zu machen, weil das Völkerrecht noch keine Normen für eine entsprechende Beschränkung seiner Souveränität ausgebildet hat. Auf solche Tatbestände habe ich schon 1917 in meiner Abhandlung über den Weltfriedensbund und die Wiedergeburt des Völkerrechts als eins der wichtigsten Probleme naher Zukunft hingewiesen. Beispiele dafür sind zahlreich und bekannt. Hier mögen nur zwei wiederholt sein: die Erdrosselung der serbischen Ausfuhr durch Oesterreich-Ungarn und die japanische Einwanderung in den Vereinigten Staaten. Ohne gegen das geltende Völkerrecht zu verstoßen, kann ein Staat heute durch seine Zollpolitik einen anderen Staat wirtschaftlich ruinieren oder für seine Einwanderung ein Privilegium odiosum schaffen. Es wäre wünschenswert gewesen, daß auch für derartige Konflikte eine wirkliche Lösung im Genfer Protokoll vorgesehen wäre, indem irgend eine Behörde schiedsrichterlicher Art eingesetzt worden wäre mit der Ermächtigung, in solchen Fällen, wo es sich um offenbare Lücken des bisherigen Völkerrechts handelt, eine Entscheidung nach Billigkeit zu fällen; denn ein geordnetes Gemeinschaftsleben der Staaten auf friedlicher Basis läßt sich nicht denken, wenn nicht der Souveränitätsgedanke eingeschränkt und überwunden wird. Da das Genfer Protokoll grundsätzlich alle Staatenkonflikte einem friedlichen Verfahren unterwirft, so kann freilich zunächst auch in solchen Fällen das typische Verfahren für Staatenkonflikte vor dem Rat in Gang gebracht werden, und jede der Parteien kann im Rahmen dieses Verfahrens, wie oben dargelegt, einen Spruch durch ein unparteiisches Schiedsgericht verlangen. Wenn aber dabei die Behauptung erhoben wird, es handle sich hier um eine Angelegenheit, die nach internationalem Recht unter die ausschließliche Kompetenz des eigenen Staates falle, so müssen die Schiedsrichter über diesen Punkt ein Gutachten des Weltgerichtshofs einholen. Das kann allerdings ja immer verlangt werden, aber in diesem einen Ausnahmefall ist das eingeholte Gutachten des Weltgerichtshofs schlechterdings verpflichtend, das unparteiische Schiedsgericht muß sich den fraglichen Spruch dann in seiner Sentenz zu eigen machen. Mit anderen Worten, solche Konflikte bleiben auch nach dem Genfer Protokoll ungelöst und das natürliche Recht unterliegt abermals einem formalen Recht, das noch so unentwickelt ist wie das gegenwärtige Völkerrecht. Der Bericht der Kommission kann sich für diese Norm des Art. 5 darauf berufen, daß man hier einem Grundsatz treu geblieben ist, der schon in Art. 15 des Paktes aufgestellt ist, aber der Zweck des Genfer Protokolls sollte doch eben der sein, in der Garantie für die befriedigende Erledigung von Staatenkonflikten über die Bestimmungen der Völkerbundsatzungen hinauszukommen, und es liegt ein offenkundiger Widerspruch darin, daß auch hier dem geschädigten Staat das Recht zum Kriege genötigt ist, ohne daß ihm zur Entschädigung dafür eine Instanz gewährt wurde, die den Konflikt in befriedigender Weise löst. Gerade diese Staatenkonflikte vergiften das Leben der Völker am allerschlimmsten. Auf den Protest der Japaner hat man sich der Einsicht von dem unbefriedigenden Charakter der fraglichen Lösung nicht vollständig verschließen können, man hat deshalb den Hinweis auf den Art. 11 des Paktes hinzugefügt, nach dem grundsätzlich Rat und Versammlung sich mit allen Fragen beschäftigen müssen, die den Frieden gefährden, und hat den gefährdeten Staat damit getröstet, daß er auf Grund dieser Bestimmung immer noch das Recht habe, jene Instanzen trotz der ihm ungünstigen Entscheidung anzugehen. Aber das ist eine weiße Salbe, weil in diesem Falle jene Organe des Völkerbundes sich zwar mit dem Konflikt beschäftigen dürfen oder sogar müssen, aber nicht das Recht haben, den Parteien von sich aus zwangsweise irgend eine Lösung aufzuerlegen.

Hier haben wir also auch eine böse Lücke in bezug auf den Schutz des natürlichen Rechtes im Genfer Protokoll. Für ihre Ausfüllung scheinen sich einstweilen nur zwei Wege darzubieten, die am besten miteinander verbunden werden. Den einen Weg muß die Völkerrechtswissenschaft beschreiten, sie muß baldmöglichst Grundsätze entwickeln, nach denen in solchen Fällen eben nicht mehr die Frage als eine solche angesehen wird, die lediglich der einzelstaatlichen Souveränität unterliegt. In der Lehre von den Grundrechten der Staaten ist dafür eine Plattform gegeben. Wenn man z. B. jedem Staate ein Recht auf Existenz zuspricht, so kommt man doch zu dem Resultat, daß auch nach internationalem Recht heute schon ein Zolltarif gegen das

Völkerrecht verstößt, der das wirtschaftliche Leben eines anderen Staates erdrosselt. Und dem Gedanken des Rechts auf Achtung und Würde widerspricht es ganz entschieden, wenn ein Staat sich grundsätzlich gegen jede Einwanderung eines anderen Staates sperrt, während der Einwanderer aus allen anderen Staaten zulässig. Der zweite Weg, der sich hier eröffnet, ist die Rechtsprechung des Weltgerichtshofs, der in solchen Fragen rechtsschöpferisch vorgehen muß. Wo das natürliche Recht offenbar auf Seiten des Geschädigten ist, muß der Gerichtshof einfach die Frage verneinen, daß die Angelegenheit unter die ausschließliche Kompetenz desjenigen Staates falle, der die Schädigung des anderen mit Hilfe seiner Souveränität ausübt. Wer den Vorzug hat, die Persönlichkeiten des Weltgerichtshofs aus gemeinsamer Arbeit zu machen, der weiß, daß in ihrem Kreise schon heute Männer zu finden sind, die grundsätzlich für eine rechtsschöpferische Tätigkeit des Welttribunals volles Verständnis haben. Auch hier gilt es also, Vertrauen auf die Entwicklung zu setzen. Freilich ist die Entwicklung dadurch erschwert, daß sich aus der Entstehungsgeschichte des Paktes der Wille seiner Urheber ergibt, die Einwanderung fremder Rassen wie die Frage der Tarifzölle nicht als internationale Probleme anzusehen.

(Ein Schlußartikel folgt.)

Passiva

	Goldbilanz 1. 7. 1924	Bilanz 30. 6. 1914	Papierbilanz 30. 6. 1923
Staatsschatz	4.0 Mill.	360 Mill.	180 Pap.-Million.
Reservefonds	4.0 "	8.52 "	3.78 "
andere Res.	-	2.79 "	700.000 "
Immobilien	2.70 "	1.40 "	54 "
Umlaufvermögen	0.41 "	2.01 "	33 Pap.-Million.
Umlaufvermögen (Bk. 1920)	16.40 "	15.95 "	200.192 "
Umlaufvermögen (einschl.)	19.1 Mill.	38.36 Mill.	(Bankschuld ?)
Summe ca.	26.5 - Mill.	82. - Mill.	747 Pap.-Million.
Aktiva	31.97 Mill.	3.96 Mill.	408 "
Umlaufvermögen u. Fabrikanten	7.56 "	19.64 "	

Das Wochenblatt Nr. 45 v. 6. Novbr. und Nr. 46 vom 13. Nov.

Das Genfer Protokoll.

Von Professor Dr. Walther Schücking.

(II.)

Die Lücken im Schutz des natürlichen Rechts.

Die früheren Erörterungen haben uns das Bestreben des Genfer Protokolls gezeigt, durch ein lückenloses System des Schiedsgerichtsbarkeit im weitesten Sinne des Wortes, den Rechtsatz der Staaten so auszubauen, daß gleichzeitig die Verbrechen gebrandmarkt werden kann. Die Zuständigkeit der hier vorgesehenen Instanzen erstreckt sich grundsätzlich nicht nur auf Ansprüche, für die irgend ein Recht des Völkerrechts geltend gemacht wird, sondern auch auf rein politische Konflikte. Gewisse Konflikte von Streitigkeiten sind jedoch, wie hier noch einmal wiederholt werden muß, von den vorgesehenen Verfahren ausgenommen, ohne daß der Krieg dafür als Prozessform anerkannt wäre. Das gilt zunächst von den Kriegen, in denen früher der Rat zu einem einstimmigen Beschlusse gelangt ist, das auch nur von einer der Parteien angenommen wurde. Hier handelt es sich nach der Tendenz des Art. 4 des Protokolls um eine res judicata, mit der sich die Betroffenen abzufinden haben. Das würde also gegen Deutschland geltend gemacht werden können, wenn wir später einmal versuchen sollten, auf Grund des Genfer Protokolls die oberschlesische Frage in den für Staatenkonflikte im Genfer Protokoll vorgesehenen Formen neu aufzurollen. So bitter das für uns ist, so kann man doch diesen Grundsatz, daß nicht nach rückwärts hin die Angelegenheiten vor den neuen Instanzen zur Verhandlung gebracht werden sollen, in denen eine formelle Entscheidung der alten Instanzen vorliegt, noch einigermaßen verstehen, und man muß seine Hoffnung darauf setzen, daß die Ueberzeugung von der unbeliedigenden Art der oberschlesischen Entscheidung, der Macdonald in Genf Ausdruck gegeben hat, sich allmählich weitere Kreise erobern wird und daß es dann unter dem Druck der allgemeinen Ueberzeugung doch einmal zu einer Korrektur dieser Entscheidung kommen wird. Erst recht ist es zu verstehen, wenn Konflikte, die sich aus Gewaltmaßnahmen ergeben, die von Signatarmächten im Uebereinstimmung mit dem Völkerbund gegen einen anderen Staat ergriffen werden, grundsätzlich nicht vor die Instanzen gebracht werden können, die durch das Genfer Protokoll für andere Konflikte zuständig gemacht sind. Denn hier handelt es sich ja um eine auf rechtlicher Basis durchgeführte Exekution, und es erscheint unmöglich, daß derjenige, der sich durch seinen Rechtsbruch solche Exekution auf den Hals gezogen hat, nun seinerseits die Exekutionsmaßnahmen wieder als Staatenkonflikt gegenüber den Vollstreckern anlicht. Ganz böse erscheint mir aber die Ausnahme zu Ungunsten einer dritten Kategorie von Streitigkeiten, die zwar nicht im Texte des Art. 4, aber auf Grund der Kommissionsbeschlüsse in dem Kommissionsbericht von Politis gemacht worden ist. Ausgenommen sind nämlich alle Konflikte, die hinauslaufen auf eine Revision der Verträge und internationalen Akte, die sich in Geltung befinden oder die darauf abzielen, den gegenwärtigen Territorialbestand der Signatarstaaten zu verändern. Die Tendenz dieser Idee würde absolut klar sein, auch wenn nicht gewisse Erörterungen innerhalb der Kommission einen deutlichen Fingerzeig gäben. Ein hervorragender Neutraler hatte dort die Frage aufgeworfen, ob, wenn grundsätzlich alle Staatenkonflikte dem geordneten Verfahren des Genfer Protokolls unterworfen sein sollen, dann nicht auch ein Verfahren auf Revision der Friedensverträge, z. B. in bezug auf die Rückgabe des polnischen Korridors in Gang gebracht werden könnte. Unzweifelhaft wäre diese Frage prima facie zu bejahen; denn nicht nur eigentliche Rechtsstreitigkeiten, sondern auch alle politischen Konflikte sollen grundsätzlich, wie immer wiederholt werden muß, nach dem Genfer Protokoll aus der Welt geschafft werden. Dieses Protokoll gewährt, wie wir wissen, wenn auch nur eine Partei darauf besteht, eine unparteiische Instanz, es wäre also von ungeheurer Bedeutung für das deutsche Volk, wenn dieses Prinzip auch für die gerechten Beschwerden Platz griffe, die wir gegen den Inhalt des Versailler Vertrages vorbringen könnten. Ich persönlich zweifle nicht daran, daß ein wissenschaftlich und moralisch höchstehender Weltgerichtshof sich sogar von der juristischen Anechtbarkeit des Versailler Vertrages überzeugen lassen und den Antrag auf Revision als eine eigentliche Rechtsstreitigkeit bewerten würde. Dann wenn der auch das Völkerrecht beherrschende Rechtssatz der Anechtbarkeit der Verträge wegen Zwanges grundsätzlich auf Friedensverträge keine Anwendung findet, weil der Krieg als völkerrechtlicher Prozeß den bei Abschluß des Friedensvertrages ausgeübten Zwang nicht als rechtswidrig erscheinen läßt, so lagen doch die Dinge in Versailles anders. Hier war ein Vorvertrag mit Deutschland über die Grundlagen des Friedens abgeschlossen, und wenn nun gegen uns ein Zwang angedroht wurde, um die Unterzeichnung von Bedingungen zu erreichen, die über jenen Vorvertrag wesentlich hinausgingen, so war dieser Zwang unzweifelhaft rechtswidrig, und der Versailler Vertrag erscheint damit zwar formal rechtsbeständig, aber doch juristisch anfechtbar. Aber auch wer diese Deduktion ablehnen sollte, muß anerkennen, daß die Frage der Revision der Friedensverträge für die betroffenen Staaten eine politische Frage allerersten Ranges ist. Als Grund für die ablehnende Haltung Deutschlands im Haag ist vielfach die Sorge bezeichnet worden, wenn man zu einem System obligatorischer Schiedsgerichtsbarkeit komme, würde Frankreich die elsass-lothringische Frage vor dieses Schiedsgericht bringen. Das war unzweifelhaft eine rein politische Frage, da beim Abschluß des Frankfurter Friedensvertrages keine Verletzung eines Vorvertrages geschehen war. Heute erkennen wir klar, welche ungeheurer Segen es für Deutschland und die ganze Welt gewesen wäre, wenn wir vor dem Weltkrieg eine obligatorische, unparteiische Instanz zur rechtzeitigen Lösung der elsass-lothringischen Frage gehabt hätten. Ein solches Schiedsgericht hätte doch nur darauf abkommen können, daß in den betreffenden Gebieten die 1871 leider nicht geschehene Volksbefragung hätte stattfinden sollen, dann wären uns bei Zusicherung bundesstaatlicher Autonomie wahrscheinlich die deutschsprechenden Lande erhalten geblieben, und das Schiedsgericht hätte uns für etwaige Verluste

seiner Politik zum Vorschein. Tirpitz erkennt die große Gerechtigkeit in London, aber er schützt sie nicht vor der deutschen Politik ein. Er geht darüber hinweg, bekämpft den deutschen Botschafter in London, den Meiternach, der unaufhörlich mahnt, auf diese Tatlücksicht zu nehmen. Er widerspricht dem Kaiser zu alle die Londoner Berichte nur Anlässe sind, den zu beschuldigen. Die Engländer werden sich mit Flotte abfinden, das ist seine Weisheit, unter der zung freilich, daß Deutschland sich durch eine gute nicht mit England? Tirpitz glaubt an Lehren der wie an das Gravitationsgesetz: die Briten, das das die Meere beherrschen will, hat noch jeden neu niedergebort. Spanien, Holland, Frankreich, das rasch emporgekommene Deutschland an der te Geschichte wiederholt sich automatisch. Anre es wäre so. Aber sie wiederholt sich doch nur, die gleichen Voraussetzungen schafft. Diese Vorwar die große deutsche Kriegesflotte, nicht eine riessflotte, sondern die starke Flotte, die von Eng edrohlich angesehen wurde. Damit löste man erst us, die die englische Politik mit voller Kraft gegen d trieb. Es handelte sich nicht darum, sich de id einem faktlosen englischen Ansinnen zu neigen. t freiem Blick die wahren deutschen Interessen zu

Wenige oberschlesische Frage in den für Staatenkonflikte im Genfer Protokoll vorgesehenen Formen neu aufzurollen. So bitter das für uns ist, so kann man doch diesen Grundsatz, daß nicht nach rückwärts hin die Angelegenheiten vor den neuen Instanzen zur Verhandlung gebracht werden sollen, in denen eine formelle Entscheidung der alten Instanzen vorliegt, noch einigermaßen verstehen, und man muß seine Hoffnung darauf setzen, daß die Ueberzeugung von der unbeliedigenden Art der oberschlesischen Entscheidung, der Macdonald in Genf Ausdruck gegeben hat, sich allmählich weitere Kreise erobern wird und daß es dann unter dem Druck der allgemeinen Ueberzeugung doch einmal zu einer Korrektur dieser Entscheidung kommen wird. 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Laurahütte
1924

Die Goldbilanz der Laurahütte.

Berlin, 14. November.

Obwohl die Aufsichtsratsitzung schon vor Wochen stattfand und aus ihr nur notdürftig die Umstellziffer von etwa 2 zu 1, d. h. die Kapitalverkleinerung von \mathcal{M} 500 Mill. auf \mathcal{M} 42 Mill. nebst 4 Mill. Reserve bekannt wurde, ist bis heute der Bericht nicht ausgegeben. Anderweit erlangte Bilanzziffern ermöglichen uns aber einen Einblick in die eingetretenen Veränderungen. Bei der Ver. Königs- & Laurahütte A.-G. in Berlin als einem mit allen seinen wichtigsten Werken zu Polen geschlagenen Großunternehmen (die Katharinenhütte lag schon immer drüben) mußte es besonders instruktiv sein, zu wissen, wie die etwas veränderte Gesamterhaltung die unterschiedlichen Objekte bewertet und also die Zukunft beurteilt — es mußte interessieren, obwohl fast dreiviertel der Aktien in einem derzeitigen Syndikat Weinmann-Bosel gebunden sind, innerhalb welcher Gruppe übrigens der Wiener Finanzier noch wenig Interesse für die Laurahütte-Industriegesellschaft bekundet hat. Zunächst unsere Bilanztafel:

Passiva	Goldbilanz 1. 7. 1924	Bilanz 30. 6. 1914	Papierbilanz 30. 6. 1923
Eigenkapital	\mathcal{M} 420 Mill.	\mathcal{M} 360 Mill.	180 Pap.-Million.
Reservefonds	40 "	852 "	+ 320 "
Wesentliche Res.	—	279 "	+ 700 000 "
			54 "
Vermögen	\mathcal{M} 400 Mill.	\mathcal{M} 4731 Mill.	?
Leihen	270 "	1140 "	33 Pap.-Million.
Hypotheken	041 "	201 "	8 "
Kreditoren	16.40 "	1585 "	200 192 "
(einschl.)	(Bksh. 1290)	(Div. 144)	(Bankschuld ?)
Vorpflichtungen ..	\mathcal{M} 1951 Mill.	\mathcal{M} 3526 Mill.	
Summe ca.	\mathcal{M} 65.— Mill.	\mathcal{M} 82.— Mill.	
Aktiva			
Bergwerke u. Hütten stätten u. Fabriken	\mathcal{M} 3197 Mill.	\mathcal{M} 3796 Mill.	747 Pap.-Million.
	786 "	1964 "	408 "
Anlagebewertung ..	\mathcal{M} 988 Mill.	\mathcal{M} 5360 Mill.	1155 Pap.-Million.
Beteiligungen	\mathcal{M} 170 Mill.	\mathcal{M} 173 Mill.	88 "
Debitoren	990 "	1771 "	163 584 "
Erzeugnisse	650 "	720 "	16 508 "
Material	820 "	244 "	31 131 "
Bestandsbewertung	\mathcal{M} 2370 Mill.	\mathcal{M} 3908 Mill.	
Summe ca.	\mathcal{M} 65.— Mill.	\mathcal{M} 82.— "	

Die Sachlage in Ostoberschlesien ist oft geschildert: polnische Verständnislosigkeit, polnischer Erfahrungsmangel, polnische Verwaltungs- und Steuerwillkür vereinigen sich mit einer chronischen Kapital- und Absatznot, die aus der Finanzlage und aus der Unfähigkeit des Landes herrühren, die Montan-, besonders die Eisenprodukte sämtlicher einbezirkter Riesenbetriebe aufzunehmen. Nur für Kohle, die alte pièce de résistance der Laurahütte, erschloß der Ruhrkampf vorübergehend einen ausreichenden Absatz. In Stahl aber machen der deutsche Westen, die mitteldeutschen Martinwerke und die tschechischen Hütten auf allen erreichbaren außerpolnischen Märkten eine vielfach überlegene Konkurrenz. Falscher Ehrgeiz oder wirtschaftliche Fehlschlüsse hätten die oberschlesischen Montanwerke, die Laurahütte, in ihrer Isolation obenan, in den letzten Jahrzehnten dazu verleitet, ihre angestammten Eisenhütten trotz des Erlöschens der schlesischen Erze, trotz Mangels an einem erstklassigen Hochofenkoks weiterzuentwickeln, statt sie abzubauen. Der Ausweg wurde — außer von Kattowitz und Donnersmark — nicht so sehr in der Entfaltung der reichen Kohlenparlien gesucht, als in der Vertiefung der Verfeinerungsarbeit. In dieser „Bezwingung der Natur“ ist allerdings Bedeutendes geleistet, aber auch viel Geld verbraucht worden, das nunmehr bei Abschnürung des natürlichen Absatzgebietes (mit Versailler Karenzzeit) entweder überhaupt nicht oder nur partiell und unbeständig zu verzinsen ist.

Welche Konsequenzen daraus gezogen werden müssen, zeigen nun die per 30. Juni 1924 vorgenommenen Neuaussätze der Laurahütte, die selbst natürlich als immer noch nicht nostrifiziertes Unternehmen, der deutschen Goldbilanzverordnung untersteht: Die vier in sich selbständigen Eisenbetriebe mit 9 Hochofen und Walzwerken, mit Waggon-, Maschinen- und Brückenbau, sind ziemlich auf ein Drittel ihres Vorkriegsbuchwerts zusammengestrichen worden, auf \mathcal{M} 786 Mill. gegen \mathcal{M} 1964 Mill. Und dabei kann man noch im Zweifel sein, ob der reduzierte Wert sich schon alsbald selbst verzinsen wird; arbeiten doch gerade in den Hütten auch bedeutende, scharf vergrößerte Beträge der Materialien und Erzeugnisse. (820 Mill. + 650 Mill., gegen 244 + 720 Mill. in 1914). Wieweit zur Vergrößerung dieser Bestandsposten die Stagnation des Sommers beitrug und wieweit die Bewertung hiernach dennoch eine vorsichtige wäre, sollte nun der Prüfungsbericht baldigst erweisen. Für die Verwertbarkeit an sich lieferte einen Beitrag die Tatsache, daß nach Preisangaben die Laurahütte soeben mit der Abtragung des in diesem schwierigen Frühjahr aufgenommenen Dollarkredits von ursprünglich etwa \mathcal{M} 12 Mill. einen Anfang gemacht hat, nämlich soweit er vom Bankkonsortium erteilt war. Dieser Kredit ist überhaupt für die Laurahüttenfinanzierung von gewisser Bedeutung. Zwar hatten die schwebenden Verbindlichkeiten auch 1914, wie jetzt, \mathcal{M} 16 Mill., ausgemacht, indessen dürfte keine derartige Bankschuld darunter gewesen sein, und dann wären auch die Refundierungsverhältnisse besser gewesen als jetzt unter der Kapitalarmut der nächstbeteiligten Länder. Von diesen dürfte Deutschland ohnehin seine Rolle als Finanzmarkt mit anderen Ländern teilen müssen, hier speziell aus noch zwei anderen Gründen: erstens kann die polnische industrielle Entwicklung von hier aus kaufmännisch, technisch und juristisch minder gut überschauen werden, die polnischen Behörden drängen fast überall bewährte deutsche Kräfte in nationalökonomisch unverzeihlichem Chauvinismus aus leitenden Stellungen, und zweitens haben die deutschen Banken, selbst wenn sie jedem Anspruch zu genügen imstande wären, augenscheinlich das Interesse an der Gesellschaft — trotz äußerlich starker Vertretung im Aufsichtsrat — etwas verloren, seit die Aktienmehrheit nicht mehr in ihrer engeren Klientele, sondern auf fremden Schultern ruht. Der erwähnte Dollarkredit war in schwerer Zeit eine durchgreifende Hilfe und eine beträchtliche Leistung, er verteilte sich aber, wenn unsere damaligen Aufzeichnungen noch zutreffen, auf mindestens 6 Banken und Firmen, also auf jede nur ein Partikel, und sonst zur Hälfte auf eine vom Großaktionär Weinmann selbst gelieferte Quote. Insofern ist die Laurahütte, wenngleich die mehrfachen Bankvertretungen im Aufsichtsrat und die früheren Minorität gegenüber weiter verpflichtet, in einer Art auf sich allein gestellt für ihre künftige Finanzierung, und darum eben wird sie weiter eine besonders vorsichtige Betriebspolitik treiben müssen. Zurzeit sind, nach zeitweiliger partieller Stilllegung (Königshütte) wieder eine Anzahl Walzbetriebe usw. in flottem Gang; indessen, nach der erreichten Senkung der Arbeiterzahl von 29 000 auf 15 000 dürfte jede größere Hebung der Belegschaft im Eisenschmelzwerk möglichst zu vermeiden sein. Eröffnet sich im Kohlenmarkt ein erweitertes Feld, so liegen die Dinge für die Zechen offenbar gerade umgekehrt. Der Reichtum und die Vorrichtung der Hauptflöze, ihre Betriebskostenverhältnisse und Leistungen gerade werden relativ noch dieselben sein wie früher trotz bestehen gebliebener sozialer Hebung des schlesischen Bergarbeiters. Darin kann vielleicht auch die Rechtfertigung gefunden werden für die Wiedereinstellung der (auf vier Schichtgruppen und ungefähr 35 Maximalkräfte) zu schätzenden Steinkohlenbergwerke zum annähernden Friedenspreise. \mathcal{M} 2 Mill. Minderwert würden als genügend erachtet; der erschlossene Kohlenvorrat dürfte sich in der Tat nicht nennenswert geändert haben. Die gebermte Produktion betrug 1922/23 und ebenso in 1923/24 je 2 1/2 Mill., im Frieden 3,79 Mill. t. Diese Ziffer ist ohne weiteres wieder erreichbar, wenn die Waggengestellung gut bleibt und Nachfrage vorhanden ist. Im westlichen Revier, z. B. bei Harpen, war der Abstand ähnlich: 5,57 Mill. t gegen 8,21 Mill. t. Uebrigens bietet die Harpener Goldbilanz die einzige bisher greifbare Parallele für die Neubewertungen. Harpen hat seine Zechen mit 108 Mill. gegen 152 Mill. ein-

der Rat den Befehl zu Sanktionen auf wirtschaftlichen und finanziellen Verpflichtungen des betroffenen Staates, aber auch auf militärischen Boykott des betroffenen Staates, aber auch auf militärische Maßnahmen gegen ihn unmittelbar wirksam werden. Jeder Signatarstaat hat die Verpflichtung, „loyal und wirksam“ mitzuarbeiten, um der Satzung des Völkerbundes Achtung zu verschaffen und sich jedem Angriffsakt in dem Maße zu widersetzen, das ihm seine geographische Lage und die besonderen Bedingungen seiner Rüstungen erlauben. Man will also bei der Heranziehung zur Exekution, wie der über diese Fragen von Benesch erstattete Bericht ausdrücklich sagt, auf die geographische, ökonomische und soziale Lage jedes Staates, auf den Charakter der Bevölkerung, seine inneren Einrichtungen usw. jede schuldige Rücksicht nehmen, und die einzelnen Länder können in dieser Beziehung im voraus den Rat informieren. Diese Bestimmung ist für uns Deutsche besonders wichtig; denn in den Kreisen unserer Diplomatie ist früher davon gesprochen worden, man könnte uns als Völkerbundsstaat event. nötigen, zum Zweck einer internationalen Exekution, ohne Gasmasken gegen ein fremdes Heer zu fechten, das sich der giftigsten Gase bedient. Davon kann nach dem Genfer Protokoll gar nicht die Rede sein. Ob der einzelne Staat sich mit Recht im Hinblick auf seine besondere Lage irgend einer Maßnahme zur Exekution entzogen hat, würde event. von dem unparteiischen Weltgerichtshof nachzuprüfen sein; denn es würde sich dabei um eine Auslegung des Genfer Protokolls handeln, und alle diese Auslegungsfragen aus dem Protokoll sollen erfreulicherweise dem Weltgerichtshof unterbreitet werden. Er hätte also zu entscheiden, ob die Verpflichtung der Mitarbeit bei der internationalen Exekution „loyalement et effectivement“ ausgeführt ist. Diese Verpflichtungen gehen sich allerdings sehr weit. Die Signatarmächte sollen nach Art. 11 Abs. 3 des Protokolls dem „angegriffenen oder bedrohten Staate zu Hilfe kommen, sich durch Gewährung von Erleichterungen und gegenseitigen Austausch in Bezug auf die Versorgung von Rohstoffen und Waren aller Art, Kreditöffnungen, Transport- und Transitverkehr wechselseitig unterstützen und zu diesem Zweck alle in ihrer Macht stehenden Maßnahmen ergreifen, um die Sicherheit der Verbindungen des angegriffenen oder bedrohten Staates zu Lande oder zur See aufrecht zu erhalten.“ Erscheinen beide am Streit beteiligten Parteien als Angreifer, so sollen sich die Sanktionen gegen beide richten. Andererseits stellt der Kommissionsbericht aber auch fest, daß jeder Staat Herr über seine eigenen Streitkräfte bleibt. Er selbst und nicht der Rat dirigiert sie. Wie Benesch wörtlich sagt, bleibt in Bezug auf die internationale Exekution jeder Staat Richter über das, was er tun will, aber nicht Richter über das, was er tun mußte. Besondere Sanktionen gegen denjenigen, der sich seinen Verpflichtungen entzieht, sind nicht vorgesehen. Soweit diese Exekutionsverpflichtungen freilich schon im Pakt enthalten sind, oder wie in Bezug auf das ganze Protokoll beabsichtigt ist, später hineingearbeitet werden, würde es sich um einen Bruch des Paktes handeln, der den Ausschluß des betreffenden Staates aus dem Völkerbund zur Folge haben könnte. Damit die internationale Exekution wirklich funktionieren kann, sieht Art. 12 des Genfer Protokolls die Aufstellung von Aktionsplänen sowohl für die wirtschaftlichen und finanziellen Sanktionen gegen den Angreiferstaat, wie für die wirtschaftliche und finanzielle Zusammenarbeit zwischen dem Angegriffenen und seinen Helfern vor. Die Arbeit für die Aktionspläne soll sofort in Angriff genommen werden. Für die event. Durchführung militärischer Sanktionen sollen die Staaten im voraus dem Rat Mitteilungen über ihre Machtmittel machen können. Der diese Frage berührende Art. 13 des Protokolls beschäftigt sich dann mit den individuellen Bündnisverträgen. Diese scheinen mir in der Tat in geschickter Weise entgiftet zu sein; denn die verbündeten Kräfte dürfen nur eingreifen im Falle des nach den Grundsätzen des Paktes festgestellten Angriffskriegs, die trutzlichen Verträge aber sollen nicht nur registriert und publiziert, sondern auch für jeden, der ihnen beitreten will, offenhalten werden. Der Völkerbundsrat befiehlt gegebenenfalls die Einstellung der internationalen Exekution und die Wiederherstellung normaler Verhältnisse. Alle Kosten der gesamten Operation werden auf sämtliche Signatarstaaten verteilt, der Angreiferstaat hat die verursachten Personal- und Materialschäden bis zur äußersten Grenze seiner Leistungsfähigkeit zu ersetzen, aber seine territoriale Integrität und seine Unabhängigkeit dürfen nicht angetastet werden.

Die Abrüstung.

Was die eigentliche Abrüstung anbetrifft, so ist diese bekanntlich einer besonderen Konferenz vorbehalten, die vom Völkerbundsrat nach vorheriger Aufstellung und Ueberreichung eines Generalprogramms zum 15. Juni 1925 einberufen werden soll. Die Voraussetzung der Einberufung dieser Abrüstungskonferenz ist aber die Vorfrage, ob wenigstens die Mehrheit der ständigen Ratsmitglieder und zehn andere Staaten bis zum 1. Mai 1925 ihre Ratifikation des Genfer Protokolls vollzogen haben. In Kraft gesetzt werden soll das Protokoll aber erst, wenn der Plan für die Herabsetzung der Rüstungen von der beabsichtigten Konferenz angenommen ist. Gelanget der angenommene Plan aber nicht auch binnen der von der Abrüstungskonferenz festgesetzten Frist zur Ausführung, so wird das Genfer Protokoll wieder hinfällig. Für die Durchführung der Abrüstung sind im Protokoll selbst (Art. 9) entmilitarisierte Zonen empfohlen, zu deren Einrichtung es natürlich der beiderseitigen Zustimmung bedarf. Diese können Gegenstand einer vorübergehenden oder dauernden Kontrolle des Völkerbundes sein. Das gilt auch für die auf Grund älterer Verträge schon bestehenden entmilitarisierten Zonen, z. B. die Rheinlande. Um so mehr befremdet es aber, daß anscheinend hier das einseitige Verlangen des Nachbarstaates zur Aufrichtung einer solchen Völkerbundskontrolle genügen soll. Danach würde also durch einen Beschluß des Rates der Völkerbund einseitig am Rhein zum Gendarm Deutschlands gemacht werden können, was wohl das beste Mittel wäre, um, falls diese Bestimmungen durch den Beitritt Deutschlands für uns praktische Bedeutung erhielten, den Völkerbund von Anfang an in Deutschland gründlich in Mißkredit zu bringen. Die deutsche Vertretung im Rate würde diese Gefahr abwenden.

Die Stellung Deutschlands.

Hier wie bei den anderen von uns offen gerügten Mängeln des Statuts sehen wir die verhängnisvolle Wirkung der Tatsache, daß Deutschland bei diesem weltgeschichtlichen Akt von jeder Mitwirkung ausgeschlossen gewesen ist, und es fragt sich schon deshalb sehr, ob die zurückhaltende Politik Deutschlands gegenüber dem Völkerbund uns nicht mehr Schaden wie Nutzen gebracht hat. Aber es wäre einseitig, das ganze Dokument, aus dem in der Mehrzahl seiner Bestimmungen doch ein guter Wille spricht und das von 55 Staaten aufgerichtet worden ist, lediglich unter dem Geheiß Selbstverständlich liegt eine ungeheure Tragik darin, daß die Stabilisierung der völkerrechtlichen Besitzverhältnisse, auf die im letzten Grunde das Protokoll hinausläuft, in einem Moment eintritt, wo wir durch die ungerechten Bestimmungen der Friedensverträge in unserem nationalen Besitzstand so außerordentlich geschädigt sind. Diese Tatsache ist aber nun einmal eine Konsequenz der völlig verfehlten auswärtigen Politik, die wir vor dem Weltkriege getrieben haben. Es wäre meines Erachtens töricht, deshalb das Genfer Protokoll grundsätzlich abzulehnen; denn schließlich müssen wir uns fragen, ob wir nicht im gegenwärtigen Zustand der Machtlosigkeit selbst an der einstweiligen Stabilisierung ungerechter Grenzen und an der Befriedung der Welt das größte Interesse haben. Die schwere, vor Jahresfrist schon heinabe zur Katastrophe gewordene Gefahr einer weiteren Zersplitterung Deutschlands gibt in dieser Hinsicht dem Einsichtigen viel zu denken. Und endlich müssen wir uns sagen, daß wenn in so kurzer Zeit eine so radikale Umwälzung im Völkerrecht möglich gewesen ist, auch ein Ausbleiben der neuerschaffenen Normen möglich sein muß, der in friedlichen Formen dem natürlichen Recht Deutschlands zum

Paradoxie seiner Politik zum Vorschein. Tirpitz erkennt die zunehmende Gereiztheit in London, aber er schätzt sie nicht als Faktor der deutschen Politik ein. Er reht darüber hinweg. Er bekämpft den deutschen Botschafter in London; den Grafen Metternich, der unzufällig mahnt, auf diese Tatsachen Rücksicht zu nehmen. Er widerspricht dem Kaiser nicht, denn alle die Londoner Berichte nur Anlässe sind, den Flottenbau zu beschleunigen. Die Engländer werden sich mit unserer Flotte abfinden, das ist seine Weisheit; unter der Voraussetzung freilich, daß Deutschland sich durch eine gute Weltpolitik eine starke Stellung gegenüber England schafft. Warum nicht mit England? Tirpitz glaubt an Lehren der Geschichte wie an das Gravitationsgesetz; die Briten, das Inselvolk, das die Meere beherrschen will, hat noch jeden Kontinent niedergebaut. Spanien, Holland, Frankreich, ja war das rasch emporgelkommene Deutschland an der Reihe. Die Geschichte wiederholt sich automatisch. Angenommen, es wäre so. Aber sie wiederholt sich doch nur, wenn man die gleichen Voraussetzungen schafft. Diese Voraussetzung war die große deutsche Kriegesflotte, nicht eine kleine, in denen früher der Rat von England als bedrohlich angesehen wurde. Damit löste man die Feder aus, die die englische Politik mit voller Kraft Deutschland trieb. Es handelte sich nicht darum, sich mützig irgend einem taktlosen englischen Ansinnen zu fügen. Es galt, mit freiem Blick die wahren deutschen Interessen

Das Genfer Protokoll.

Professor Dr. Walther Schücking.
(II.)

Lücken im Schutz des natürlichen Rechts.
 Deren Erörterungen haben uns das Bestreben des Genfer Protokolls gezeigt, durch sein lückenloses System Schutz der Staaten im weitesten Sinne des Wortes, Recht Verbrechen gebrandmarkt werden kann. Die Kriege der hier vorgesehenen Instanzen erstreckt sich nicht nur auf Ansprüche, für die Völkerrecht geltend gemacht wird, sondern auch auf politische Konflikte. Gewisse Konflikte sind jedoch, wie einmal wiederholt werden muß, von den vorgesehene Formen ausgenommen, ohne daß der Krieg als Prozeßform anerkannt wäre. Das ist zunächst in Art. 4 des Protokolls um eine res judicata, mit der Deutschland geltend gemacht werden können, wenn wir die oberschlesische Frage, in den Genfer Protokoll aufzurollen. So bitter das für uns ist, so bittet man doch diesen Grundsatz, daß nicht nach der Verhandlung gebracht werden sollen, in denen eine formelle Entscheidung der alten Instanzen vorliegt, noch einmal die Überzeugung von der unbefriedigenden Art der oberschlesischen Entscheidung, der MacDonald in Genf Ausdruck gegeben hat, sich allmählich weitere Kreise erobern wird und doch einmal zu einer Korrektur dieser Entscheidung kommen wird. Erst recht ist es zu verstehen, wenn Konflikte, die sich aus Gewaltmaßnahmen ergeben, die von Signatarmächten im Staat ergriffen werden, grundsätzlich nicht vor die Instanzen gebracht werden können, die durch das Genfer Protokoll für andere Konflikte zuständig gemacht sind. Denn hier handelt es sich ja um eine auf rechtlicher Basis durchgeführte Exekution, und es erscheint unmöglich, daß derjenige, der sich durch seinen Rechtsbruch solche Exekution auf den Hals gezogen hat, nun seinerseits die Exekutionsmaßnahmen wieder als Staatenkonflikt gegenüber den Vollstreckern anführt. Ganz böse erscheint mir aber die Ausnahme zu Ungunsten einer dritten Kategorie von Streitigkeiten, die zwar nicht im Texte des Art. 4, aber auf Grund der Kommissionsbeschlüsse in dem Kommissionsbericht von Politis gemacht worden ist. Ausgenommen sind nämlich alle Konflikte, die hinauslaufen auf eine Revision der Verträge und internationalen Akte, die sich in Geltung befinden oder die darauf abzielen, den gegenwärtigen Territorialbestand der Signatarstaaten zu verändern. Die Tendenz dieser Idee würde absolut klar sein, auch wenn nicht gewisse Erörterungen innerhalb der Kommission einen deutlichen Fingerzeig gäben. Ein hervorragender Neutraler hatte dort die Frage aufgeworfen, ob, wenn grundsätzlich alle Staatenkonflikte dem geordneten Verfahren des Genfer Protokolls unterworfen sein sollen, dann nicht auch ein Verfahren auf Revision der Friedensverträge, z. B. in bezug auf die Rückgabe des polnischen Korridors in Gang gebracht werden könnte. Unzweifelhaft wäre diese Frage prima facie zu bejahen; denn nicht nur eigentliche Rechtsstreitigkeiten, sondern auch alle politischen Konflikte sollen grundsätzlich, wie immer wiederholt werden muß, nach dem Genfer Protokoll, wie wir wissen, wenn auch nur eine Partei darauf besteht, eine unparteiische Instanz, es wäre also von ungeheurer Bedeutung für das deutsche Volk, wenn dieses Prinzip auch für die gerechten Beschwerden Platz griffe, die wir gegen den Inhalt des Versailler Vertrages vorbringen könnten. Ich persönlich zweifle nicht daran, daß ein wissenschaftlich und moralisch hochstehender Weltgerichtshof sich sogar von der Anfechtbarkeit des Versailler Vertrages überzeugen lassen und den Antrag auf Revision als eine eigentliche Rechtsstreitigkeit bewerten würde. Da wenn der auch das Völkerrecht beherrschende Rechtssatz der Anfechtbarkeit der Verträge wegen Zwanges grundsätzlich auf Friedensverträge keine Anwendung findet, weil der Krieg als völkerrechtlicher Prozeß den bei Abschluß des Friedensvertrages ausgeübten Zwang nicht als rechtswidrig erscheint, läßt, so lagen doch die Dinge in Versailles anders. Hier war ein Vorvertrag mit Deutschland über die Grundlagen des Friedens abgeschlossen, und wenn nur gegen uns ein Zwang angedroht wurde, um die Unterzeichnung von Bedingungen zu erreichen, die über jenen Vorvertrag wesentlich hinausgingen, so war dieser Zwang unzweifelhaft rechtswidrig, und der Versailler Vertrag erscheint damit zwar formal rechtlich beständig, aber doch juristisch anfechtbar. Aber auch wenn diese Deduktion ablehnen sollte, muß anerkennen, daß die Frage der Revision der Friedensverträge für die betroffenen Staaten eine politische Frage allerersten Ranges ist. Als vielfach die Sorge bezeichnet worden, wenn man zu einem System obligatorischer Schiedsgerichtsbarkeit komme, würde Frankreich die elsass-lothringische Frage vor dieses Schiedsgericht bringen. Das war unzweifelhaft eine rein politische Frage; da beim Abschluß des Frankfurter Friedensvertrages keine Verletzung eines Vorvertrages geschehen war. Heute können wir klar, welche ungeheurer Schaden es für Deutschland und die ganze Welt gewesen wäre, wenn wir vor dem Weltkriege eine obligatorische, unparteiische Instanz zur zeitigen Lösung der elsass-lothringischen Frage gehabt hätten. Ein solches Schiedsgericht hätte doch nur darauf abkommen können, daß in den betreffenden Gebieten die 1871-leider nicht geschehene Volksbefragung hätte stattfinden sollen. Dann wären uns bei Zusicherung Bundesgesetzlich

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THE PROTOCOL ON ARBITRATION, SECURITY AND DISARMAMENT

There are a few points about the Protocol on Arbitration, Security and Disarmament that seem particularly open to misunderstanding and question.

For one thing, it is apparently often not understood that the Protocol does not confer any new function on the Court, ^{as regards "domestic jurisdiction"} but merely confirms what has invariably been the practice of the League hitherto: if a party to a dispute before the Council pleads that the matter at issue is a question of domestic jurisdiction in international law, the Council always refers to the Court for an advisory opinion on this point and always holds itself bound by the Court's opinion. It is obvious that unless there were some impartial juridical body to pass on a question of this sort, any State could claim exemption on the score of domestic jurisdiction for almost any question and then refuse to have its claim adjudicated upon.

The protocol is often supposed to mean increased danger of war for Great Britain. In the first place, sanctions under the Protocol are only a clear re-statement of the obligations already contained in Article XVI of the Covenant, making it more difficult to "dodge" these obligations. But presumably Great Britain would in any case find it incompatible with honour to attempt to dodge such an obligation. In the second place, by laying down a complete system of peaceful settlement of disputes to which the contracting parties must solemnly pledge themselves, and by defining as aggression resort to war in defiance of these obligations, the Protocol has greatly diminished the chances of a war breaking out at all: the League is already in its present form strong enough to prevent a war between two small Powers and has frequently done so. Once we get Germany in, and the Protocol together with reduction of armaments in force, the League will be strong enough to prevent a "medium" war, i.e. a war between a small Power

and a Great. The only possibility of war then remaining will be war between Great Powers. Such a war is bound to come sooner or later unless we get all States into the League and make the League, and through it arbitration, supreme in international affairs. The only chance of avoiding such a war in fact is by a League policy, of which the Protocol is the first instalment. And if a war between two Great Powers should occur, whether there is a League or not, we may be certain that ~~in a future war~~ all the Great Powers, including Great Britain, would most certainly be involved. So that, so far from ~~increasing~~ adding any new risks the Protocol diminishes such risks as there are and points to the only way of avoiding such risks altogether.

A third objection is America. It is argued that to enforce League sanctions would be a dangerous and ineffective proceeding without America. As the economic sanctions are already automatic under the Covenant this is really more an argument against the Covenant itself than against the Protocol, which does not introduce any change in this respect. Secondly, the matter should be looked at from the American point of view; Americans are arguing that if the Protocol goes through, the League becomes so strong and is such a serious factor in the life of the world that America cannot afford to remain outside but must associate herself with it in some way. Thirdly, it is almost inconceivable that American opinion would wish to give any aid or comfort to a State solemnly declared an aggressor by the civilised world for resorting to war in defiance of its obligations to arbitrate. Fourthly, even if by some remote chance the American Government in the circumstances wished to assert American rights as a neutral to trade with such a State, they would find their position undermined by the fact that the American Government when it became a belligerent adopted the British view of the rights of a belligerent at sea, and indeed applied it with hitherto unheard-of severity. This fact is being pointed out by American

newspapers as invalidating beforehand the American objection to right of blockade and search. Fifthly, it has never been proposed that the obligation to take sanctions should begin by a declaration of war and a fully-fledged blockade; the system, on the contrary, is thought of as preventive and progressive, i.e. to begin with a warning; then with breaking off of diplomatic relations; then forbidding the raising or quotation of loans of a would-be aggressor on the markets of League States; then cutting off economic and financial relations; then perhaps a "pacific blockade" directed against certain forms of goods and raw materials used for war purposes; and only as a final resort a belligerent blockade and perhaps military sanctions. That is, the whole point of the system of sanctions is not to quell an aggressor after war has started but to deter any State from starting a war, and the initial stages of the sanctions could quite easily be applied preventively (although there would be no 'automatic' obligation to do so) to stop measures such as mobilisation or other preparations for war. Of course, it would be difficult to carry out even mild sanctions without at least the passive goodwill of the United States, but I really think it is not unreasonable to hope for such a degree of co-operation.

The most fruitful source of misunderstanding in the Protocol is the so-called "Japanese Amendment", which I will, therefore, try to explain as clearly as possible:

The "Japanese Amendment" occurs in two places, first of all in the last sentence of Article V of the Protocol:

"If the question is held by the Court or by the Council to be a matter solely within the domestic jurisdiction of the state, this decision shall not prevent consideration of the situation by the Council or by the Assembly under Article XI of the Covenant."

A further reference is contained in Article X of the Protocol, where it is declared that any State shall be presumed to be an aggressor in the event of hostilities having broken out after it has disregarded a

unanimous report of the Council, a judicial sentence or arbitral award, recognising that the dispute between it and the other belligerent state arises out of a matter which is solely within the domestic jurisdiction of the latter. "Nevertheless", says the sentence introduced to satisfy Japan,

"In the last case the state shall only be presumed to be an aggressor if it has not previously submitted the question to the Council or the Assembly, in accordance with Article XI of the Covenant."

The meaning of these sentences so far as regards sanctions is explained on p. 13 of the Politis-Bonds Report, from the beginning of the fourth paragraph down to the bottom of the page. An explanation of what reference to Article XI of the Covenant means, and in general what these two sentences mean from the point of view of peaceful settlement of disputes, is given on pp. 11 and 12 of the same Report (i.e. Part 7 of the Report, entitled "Domestic Jurisdiction of States").

Briefly, the meaning is this: under the original text a state whose dispute with another state had been dismissed on the ground of domestic jurisdiction would, in case hostilities subsequently broke out, have to be considered an aggressor unless unanimously acquitted by the League Council. Under the text as it now stands such a state would "start even" with the other party to the dispute, if it had appealed to the Council or Assembly after the legal decision had gone against it, and neither party would be considered an aggressor unless unanimously condemned by the Council. Failing a unanimous decision by the Council as to which was the aggressor the Council could only enjoin an armistice on both parties, the terms of which would be fixed by a two-thirds majority of the Council. The State that refused the armistice would then be presumed the aggressor, failing a unanimous decision of the Council to the contrary.

That is, the tremendously severe "presumption of aggression" by which in certain cases you are considered an aggressor, if even one state member of the Council takes that view, does not lie against the state that appeals

to the Council or Assembly after being "non-suited" by the Court. It lies only, as is explained on p. 13 of the Politis Report, against a state when resort to war is accompanied (a) by a refusal to accept the procedure of pacific settlement or to submit to the decision resulting therefrom; (b) by violation of the provisional measures enjoined by the Council as contemplated by Article VII of the Protocol, or (c) by disregard of a decision recognising that the dispute arises out of a matter which lies exclusively within the domestic jurisdiction of the other party, and by failure or refusal to submit the question first to the Council or the Assembly.

Now when a question is referred to the Council or Assembly under Article XI of the Covenant these bodies have no power even by a unanimous vote (excluding the disputants) to impose any kind of decision or award on the interested parties. All the Assembly and Council can do is to mediate between the parties, try to conciliate them, discuss the matter with them and persuade them both to accept some kind of formula or agreement. In other words, all the Council and Assembly can do is to give the matter at issue an "international airing" in a conciliatory atmosphere. The Protocol does not therefore give the Council or Assembly or any other body any power whatever even to give an award - let alone impose a decision - on a matter of domestic jurisdiction.


There is one last objection and that is, that the Protocol tends to stereotype the status quo. In the first place, the problem of an international authority so strong as to become a tyranny proscribing all change, is not the problem we have to meet to-day and there is a lot to be said for taking our troubles singly and not all at a time: the trouble to-day is not that the League is too strong but that predatory nationalism is still very much in the ascendant and must be broken and tamed by getting all nations into the League, making the League supreme and enforcing universal compulsory peaceful settlement of all disputes. In the second place, revision of the treaties is not the only way to change the status quo. In any given case you can either change a frontier or make such arrangements

on both sides of it as will render the frontier unobjectionable to both parties. In the matter of changing frontiers nothing can be done at present for political reasons and the whole thing has been left where it is by the Covenant. But the Protocol, together with the rest of any eventual plan for reducing armaments comes up for revision in ten years at most (British adherence, indeed, might be made conditional on reconsideration of the matter in five or ten years). At this Assembly the Resolution was taken to begin developing international law, and this might well include a study in a purely legal atmosphere of the whole question of revising treaties, changing the status quo, etc. In the meanwhile, through the Transit, Health and Financial work of the League, by developing minorities arrangements, by getting all nations into the League and by cultivating the habit of arbitration we can go a good deal to change the status quo and still more to create an atmosphere in which the question of revising treaties may be ^{handled} ~~continued~~ successfully.

THE
MONTHLY SUMMARY
OF THE
LEAGUE OF NATIONS
SUPPLEMENT

October 1924.

PROTOCOL
FOR THE
PACIFIC SETTLEMENT
OF
INTERNATIONAL DISPUTES



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SUPPLEMENT

October 1924.

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I — Protocol for the Pacific Settlement of International Disputes

Animated by the firm desire to ensure the maintenance of general peace and the security of nations whose existence, independence or territories may be threatened;

Recognising the solidarity of the members of the international community;

Asserting that a war of aggression constitutes a violation of this solidarity and an international crime;

Desirous of facilitating the complete application of the system provided in the Covenant of the League of Nations for the pacific settlement of disputes between States and of ensuring the repression of international crimes; and

For the purpose of realising, as contemplated by Article 8 of the Covenant, the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations;

The Undersigned, duly authorised to that effect, agree as follows:

Article 1.

The signatory States undertake to make every effort in their power to secure the introduction into the Covenant of amendments on the lines of the provisions contained in the following articles.

They agree that, as between themselves, these provisions shall be binding as from the coming into force of the present Protocol and that, so far as they are concerned, the Assembly and the Council of the League of Nations shall thenceforth have power to exercise all the rights and perform all the duties conferred upon them by the Protocol.

Article 2.

The signatory States agree in no case to resort to war either with one another or against a State which, if the occasion arises, accepts all the obligations hereinafter set out, except in case of resistance to acts of aggression or when acting in agreement with the Council or the Assembly of the League of Nations in accordance with the provisions of the Covenant and of the present Protocol.

Article 3.

The signatory States undertake to recognise as compulsory, *ipso facto* and without special agreement the jurisdiction of the Permanent Court of International Justice in the cases covered by paragraph 2 of Article 36 of the Statute of the Court, but without prejudice to the right of any State, when acceding to the special protocol provided for in the said Article and opened for signature on December 16th, 1920, to make reservations compatible with the said clause.

Accession to this special protocol, opened for signature on December 16th, 1920, must be given within the month following the coming into force of the present Protocol.

States which accede to the present Protocol after its coming into force must carry out the above obligation within the month following their accession.

Article 4.

With a view to render more complete the provisions of paragraphs 4, 5, 6 and 7 of Article 15 of the Covenant, the signatory States agree to comply with the following procedure :

1. If the dispute submitted to the Council is not settled by it as provided in paragraph 3 of the said Article 15, the Council shall endeavour to persuade the parties to submit the dispute to judicial settlement or arbitration.
2. (a) If the parties cannot agree to do so, there shall, at the request of at least one of the parties, be constituted a Committee of Arbitrators. The Committee shall so far as possible be constituted by agreement between the parties.
(b) If within the period fixed by the Council the parties have failed to agree, in whole or in part, upon the number, the names and the powers of the arbitrators and upon the procedure, the Council shall settle the points remaining in suspense. It shall with the utmost possible despatch select in consultation with the parties the arbitrators and their President from among persons who by their nationality, their personal character and their experience, appear to it to furnish the highest guarantees of competence and impartiality.
(c) After the claims of the parties have been formulated, the Committee of Arbitrators, on the request of any party, shall through the medium of the Council request an advisory opinion upon any points of law in dispute from the Permanent Court of International Justice, which in such case shall meet with the utmost possible despatch.
3. If none of the parties asks for arbitration, the Council shall again take the dispute under consideration. If the Council reaches a report which is unanimously agreed to by the members thereof other than the representatives of any of the parties to the dispute, the signatory States agree to comply with the recommendations therein.
4. If the Council fails to reach a report which is concurred in by all its members, other than the representatives of any of the parties to the dispute, it shall submit the dispute to arbitration. It shall itself determine the composition, the powers and the procedure of the Committee of Arbitrators and, in the choice of the arbitrators, shall bear in mind the guarantees of competence and impartiality referred to in paragraph 2 (b) above.
5. In no case may a solution, upon which there has already been a unanimous recommendation of the Council accepted by one of the parties concerned, be again called in question.
6. The signatory States undertake that they will carry out in full good faith any judicial sentence or arbitral award that may be rendered and that they will comply, as provided in paragraph 3 above, with the solutions recommended by the Council. In the event of a State failing to carry out the above undertakings, the Council shall exert all its influence to secure compliance therewith. If it fails therein, it shall propose what steps should be taken to give effect thereto, in accordance with the provision contained at the end of Article 13 of the Covenant. Should a State in disregard of the above undertakings resort to war, the sanctions provided for by Article 16 of the Covenant, interpreted in the manner indicated in the present Protocol, shall immediately become applicable to it.
7. The provisions of the present article do not apply to the settlement of disputes which arise as the result of measures of war taken by one or more signatory States in agreement with the Council or the Assembly.

Article 5.

The provisions of paragraph 8 of Article 15 of the Covenant shall continue to apply in proceedings before the Council.

If in the course of an arbitration, such as is contemplated by Article 4 above, one of the parties claims that the dispute, or part thereof, arises out of a matter which by international law is solely within the domestic jurisdiction of that party, the arbitrators shall on this point take the advice of the Permanent Court of International Justice through the medium of the Council. The opinion of the Court shall be binding upon the arbitrators, who, if the opinion is affirmative, shall confine themselves to so declaring in their award.

If the question is held by the Court or by the Council to be a matter solely within the domestic jurisdiction of the State, this decision shall not prevent consideration of the situation by the Council or by the Assembly under Article 11 of the Covenant.

Article 6.

If in accordance with paragraph 9 of Article 15 of the Covenant a dispute is referred to the Assembly that body shall have for the settlement of the dispute all the powers conferred upon the Council as to endeavouring to reconcile the parties in the manner laid down in paragraphs 1, 2 and 3 of Article 15 of the Covenant and in paragraph 1 of Article 4 above.

Should the Assembly fail to achieve an amicable settlement :

If one of the parties asks for arbitration, the Council shall proceed to constitute the Committee of Arbitrators in the manner provided in sub-paragraphs (a), (b) and (c) of paragraph 2 of Article 4 above.

If no party asks for arbitration, the Assembly shall again take the dispute under consideration and shall have in this connection the same powers as the Council. Recommendations embodied in a report of the Assembly, provided that it secures the measure of support stipulated at the end of paragraph 10 of Article 15 of the Covenant, shall have the same value and effect, as regards all matters dealt with in the present Protocol, as recommendations embodied in a report of the Council adopted as provided in paragraph 3 of Article 4 above.

If the necessary majority cannot be obtained, the dispute shall be submitted to arbitration and the Council shall determine the composition, the powers and the procedure of the Committee of Arbitrators as laid down in paragraph 4 of Article 4.

Article 7.

In the event of a dispute arising between two or more signatory States, these States agree that they will not, either before the dispute is submitted to proceedings for pacific settlement or during such proceedings, make any increase of their armaments or effectives which might modify the position established by the Conference for the Reduction of Armaments provided for by Article 17 of the present Protocol, nor will they take any measure of military, naval, air, industrial or economic mobilisation, nor, in general, any action of a nature likely to extend the dispute or render it more acute.

It shall be the duty of the Council, in accordance with the provisions of Article 11 of the Covenant, to take under consideration any complaint as to infraction of the above undertakings which is made to it by one or more of the States parties to the dispute. Should the Council be of opinion that the complaint requires investigation, it shall, if it deems it expedient, arrange for enquiries and investigations in one or more of the countries concerned. Such enquiries and investigations shall be carried out with the utmost possible despatch and the signatory States undertake to afford every facility for carrying them out.

The sole object of measures taken by the Council as above provided is to facilitate the pacific settlement of disputes and they shall in no way prejudice the actual settlement.

If the result of such enquiries and investigations is to establish an infraction of the provisions of the first paragraph of the present Article, it shall be the duty of the Council to summon the State or States guilty of the infraction to put an end thereto. Should the State or States in question fail to comply with such summons, the Council shall declare them to be guilty of a violation of the Covenant or of the present Protocol, and shall decide upon the measures to be taken with a view to end as soon as possible a situation of a nature to threaten the peace of the world.

For the purposes of the present Article decisions of the Council may be taken by a two-thirds majority

Article 8.

The signatory States undertake to abstain from any act which might constitute a threat of aggression against another State.

If one of the signatory States is of opinion that another State is making preparations for war, it shall have the right to bring the matter to the notice of the Council.

The Council, if it ascertains that the facts are as alleged, shall proceed as provided in paragraphs 2, 4 and 5 of Article 7.

Article 9.

The existence of demilitarised zones being calculated to prevent aggression and to facilitate a definite finding of the nature provided for in Article 10 below, the establishment of such zones between States mutually consenting thereto is recommended as a means of avoiding violations of the present Protocol.

The demilitarised zones already existing under the terms of certain treaties or conventions, or which may be established in future between States mutually consenting thereto, may at the request and at the expense of one or more of the conterminous States, be placed under a temporary or permanent system of supervision to be organised by the Council.

Article 10.

Every State which resorts to war in violation of the undertakings contained in the Covenant or in the present Protocol is an aggressor. Violation of the rules laid down for a demilitarised zone shall be held equivalent to resort to war.

In the event of hostilities having broken out, any State shall be presumed to be an aggressor, unless a decision of the Council, which must be taken unanimously, shall otherwise declare :

1. If it has refused to submit the dispute to the procedure of pacific settlement provided by Articles 13 and 15 of the Covenant as amplified by the present Protocol, or to comply with a judicial sentence or arbitral award or with a unanimous recommendation of the Council, or has disregarded a unanimous report of the Council, a judicial sentence or an arbitral award recognising that the dispute between it and the other belligerent State arises out of a matter which by international law is

solely within the domestic jurisdiction of the latter State; nevertheless, in the last case the State shall only be presumed to be an aggressor if it has not previously submitted the question to the Council or the Assembly, in accordance with Article 11 of the Covenant.

2. If it has violated provisional measures enjoined by the Council for the period while the proceedings are in progress as contemplated by Article 7 of the present Protocol.

Apart from the cases dealt with in paragraphs 1 and 2 of the present Article, if the Council does not at once succeed in determining the aggressor, it shall be bound to enjoin upon the belligerents an armistice, and shall fix the terms, acting, if need be, by a two-thirds majority and shall supervise its execution.

Any belligerent which has refused to accept the armistice or has violated its terms shall be deemed an aggressor.

The Council shall call upon the signatory States to apply forthwith against the aggressor the sanctions provided by Article 11 of the present Protocol, and any signatory State thus called upon shall thereupon be entitled to exercise the rights of a belligerent.

Article 11.

As soon as the Council has called upon the signatory States to apply sanctions, as provided in the last paragraph of Article 10 of the present Protocol, the obligations of the said States, in regard to the sanctions of all kinds mentioned in paragraphs 1 and 2 of Article 16 of the Covenant, will immediately become operative in order that such sanctions may forthwith be employed against the aggressor.

Those obligations shall be interpreted as obliging each of the signatory States to co-operate loyally and effectively in support of the Covenant of the League of Nations, and in resistance to any act of aggression, in the degree which its geographical position and its particular situation as regards armaments allow.

In accordance with paragraph 3 of Article 16 of the Covenant the signatory States give a joint and several undertaking to come to the assistance of the State attacked or threatened, and to give each other mutual support by means of facilities and reciprocal exchanges as regards the provision of raw materials and supplies of every kind, openings of credits, transport and transit, and for this purpose to take all measures in their power to preserve the safety of communications by land and by sea of the attacked or threatened State.

If both parties to the dispute are aggressors within the meaning of Article 10, the economic and financial sanctions shall be applied to both of them.

Article 12.

In view of the complexity of the conditions in which the Council may be called upon to exercise the functions mentioned in Article 11 of the present Protocol concerning economic and financial sanctions, and in order to determine more exactly the guarantees afforded by the present Protocol to the signatory States, the Council shall forthwith invite the economic and financial organisations of the League of Nations to consider and report as to the nature of the steps to be taken to give effect to the financial and economic sanctions and measures of co-operation contemplated in Article 16 of the Covenant and in Article 11 of this Protocol.

When in possession of this information, the Council shall draw up through its competent organs :

1. Plans of action for the application of the economic and financial sanctions against an aggressor State;
2. Plans of economic and financial co-operation between a State attacked and the different States assisting it;

and shall communicate these plans to the Members of the League and to the other signatory States.

Article 13.

In view of the contingent military, naval and air sanctions provided for by Article 16 of the Covenant and by Article 11 of the present Protocol, the Council shall be entitled to receive undertakings from States determining in advance the military, naval and air forces which they would be able to bring into action immediately to ensure the fulfilment of the obligations in regard to sanctions which result from the Covenant and the present Protocol.

Furthermore, as soon as the Council has called upon the signatory States to apply sanctions, as provided in the last paragraph of Article 10 above, the said States may, in accordance with any agreements which they may previously have concluded, bring to the assistance of a particular State, which is the victim of aggression, their military, naval and air forces.

The agreements mentioned in the preceding paragraph shall be registered and published by the Secretariat of the League of Nations. They shall remain open to all States Members of the League which may desire to accede thereto.

Article 14.

The Council shall alone be competent to declare that the application of sanctions shall cease and normal conditions be re-established.

Article 15.

In conformity with the spirit of the present Protocol, the signatory States agree that the whole cost of any military, naval or air operations undertaken for the repression of an aggression under the terms of the Protocol, and reparation for all losses suffered by individuals, whether civilians or combatants, and for all material damage caused by the operations of both sides, shall be borne by the aggressor State up to the extreme limit of its capacity.

Nevertheless, in view of Article 10 of the Covenant, neither the territorial integrity nor the political independence of the aggressor State shall in any case be affected as the result of the application of the sanctions mentioned in the present Protocol.

Article 16.

The signatory States agree that in the event of a dispute between one or more of them and one or more States which have not signed the present Protocol and are not Members of the League of Nations, such non-Member States shall be invited, on the conditions contemplated in Article 17 of the Covenant, to submit, for the purpose of a pacific settlement, to the obligations accepted by the States signatories of the present Protocol.

If the State so invited, having refused to accept the said conditions and obligations, resorts to war against a signatory State, the provisions of Article 16 of the Covenant, as defined by the present Protocol, shall be applicable against it.

Article 17.

The signatory States undertake to participate in an International Conference for the Reduction of Armaments which shall be convened by the Council and shall meet at Geneva on Monday, June 15th, 1925. All other States, whether Members of the League or not, shall be invited to this Conference.

In preparation for the convening of the Conference, the Council shall draw up with due regard to the undertakings contained in Articles 11 and 13 of the present Protocol a general programme for the reduction and limitation of armaments, which shall be laid before the Conference and which shall be communicated to the Governments at the earliest possible date, and at the latest three months before the Conference meets.

If by May 1st, 1925, ratifications have not been deposited by at least a majority of the permanent Members of the Council and ten other Members of the League, the Secretary-General of the League shall immediately consult the Council as to whether he shall cancel the invitations or merely adjourn the Conference to a subsequent date to be fixed by the Council so as to permit the necessary number of ratifications to be obtained.

Article 18.

Wherever mention is made in Article 10, or in any other provision of the present Protocol, of a decision of the Council, this shall be understood in the sense of Article 15 of the Covenant, namely that the votes of the representatives of the parties to the dispute shall not be counted when reckoning unanimity or the necessary majority.

Article 19.

Except as expressly provided by its terms, the present Protocol shall not affect in any way the right and obligations of Members of the League as determined by the Covenant.

Article 20.

Any dispute as to the interpretation of the present Protocol shall be submitted to the Permanent Court of International Justice.

Article 21.

The present Protocol, of which the French and English texts are both authentic, shall be ratified.

The deposit of ratifications shall be made at the Secretariat of the League of Nations as soon as possible.

States of which the seat of government is outside Europe will be entitled merely to inform the Secretariat of the League of Nations that their ratification has been given; in that case, they must transmit the instrument of ratification as soon as possible.

So soon as the majority of the permanent Members of the Council and ten other Members of the League have deposited or have effected their ratifications, a *procès-verbal* to that effect shall be drawn up by the Secretariat.

After the said *procès-verbal* has been drawn up, the Protocol shall come into force as soon as the plan for the reduction of armaments has been adopted by the Conference provided for in Article 17.

If within such period after the adoption of the plan for the reduction of armaments as shall be fixed by the said Conference, the plan has not been carried out, the Council shall make a declaration to that effect; this declaration shall render the present Protocol null and void.

The grounds on which the Council may declare that the plan drawn up by the International

Conference for the Reduction of Armaments has not been carried out, and that in consequence the present Protocol has been rendered null and void, shall be laid down by the Conference itself.

A signatory State which, after the expiration of the period fixed by the Conference, fails to comply with the plan adopted by the Conference, shall not be admitted to benefit by the provisions of the present Protocol.

In faith whereof the Undersigned, duly authorised for this purpose, have signed the present Protocol

Done at Geneva, on the second day of October, nineteen hundred and twenty-four, in a single copy, which will be kept in the archives of the Secretariat of the League and registered by it on the date of its coming into force.

II — Arbitration, Security and Reduction of Armaments

GENERAL REPORT SUBMITTED TO THE FIFTH ASSEMBLY ON BEHALF OF THE FIRST AND THIRD COMMITTEES

by M. POLITIS (*Greece*) and M. BÉNÈS (*Czechoslovakia*).

I

INTRODUCTION

After being examined for several years by the Third Committee, the problem of the reduction of armaments has this year suddenly assumed a different, a wider and even an unexpected form.

Last year a draft Treaty of Mutual Assistance was prepared, which the Assembly sent to the Members of the League for their consideration. The replies from the Governments were to be examined by the Fifth Assembly.

At the very beginning of its work, however, after a memorable debate, the Assembly indicated to the Third Committee a new path. On September 6th, 1924, on the proposal of the Prime Ministers of France and Great Britain, M. Édouard Herriot and Mr. Ramsay MacDonald, the Assembly adopted the following resolution :

“The Assembly,

“Noting the declarations of the Governments represented, observes with satisfaction that they contain the basis of an understanding tending to establish a secure peace,

“Decides as follows :

“With a view to reconciling in the new proposals the divergences between certain points of view which have been expressed and, when agreement has been reached, to enable an international conference upon armaments to be summoned by the League of Nations at the earliest possible moment :

“(1) The Third Committee is requested to consider the material dealing with security and the reduction of armaments, particularly the observations of the Governments on the draft Treaty of Mutual Assistance, prepared in pursuance of Resolution XIV of the Third Assembly and other plans prepared and presented to the Secretary-General since the publication of the draft Treaty, and to examine the obligations contained in the Covenant of the League in relation to the guarantees of security which a resort to arbitration and a reduction of armaments may require :

“(2) The First Committee is requested :

“(a) To consider, in view of possible amendments, the articles in the Covenant relating to the settlement of disputes;

“(b) To examine within what limits the terms of Article 36, paragraph 2, of the Statute establishing the Permanent Court of International Justice might be rendered more precise and thereby facilitate the more general acceptance of the clause;

and thus strengthen the solidarity and the security of the nations of the world by settling by pacific means all disputes which may arise between States.”

This resolution had two merits, first, that of briefly summarising all the investigations made in the last four years by the different organisations of the League in their efforts to establish peace and bring about the reduction of armaments, and, secondly, that of indicating the programme of work of the Committees in the hope that, with the aid of past experience, they would at last attain the end in view.

The Assembly had assigned to each Committee a distinct and separate task; to the First Committee, the examination of the pacific settlement of disputes by methods capable of being applied in every case; to the Third Committee, the question of the security of nations considered as a necessary preliminary condition for the reduction of their armaments.

Each Committee, after a general discussion which served to detach the essential elements from the rest of the problem, referred the examination of its programme to a Sub-Committee, which devoted a large number of meetings to this purpose.

The proposals of the Sub-Committees then led to very full debates by the Committees, which terminated in the texts analysed below.

As, however, the questions submitted respectively to the two Committees form part of an indivisible whole, contact and collaboration had to be established between the Committees by means of a Mixed Committee of nine members and finally by a joint Drafting Committee of four members.

For the same reason, the work of the Committees has resulted in a single draft protocol accompanied by two draft resolutions for which the Committees are jointly responsible.

Upon these various texts, separate reports were submitted, which, being approved by the Committees respectively responsible for them, may be considered as an official commentary by the Committees.

These separate reports have here been combined in order to present as a whole the work accomplished by the two Committees and to facilitate explanation.

Before entering upon an analysis of the proposed texts, it is expedient to recall, in a brief historical summary, the efforts of the last four years, of which the texts are the logical conclusion.

HISTORICAL STATEMENT

The problem of the reduction of armaments is presented in Article 8 of the Covenant in terms which reveal at the outset the complexity of the question and which explain the tentative manner in which the subject has been treated by the League of Nations in the last few years.

“The Members of the League recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.”

Here we see clearly expressed the need of reducing the burden which armaments imposed upon the nations immediately after the war and of putting a stop to the competition in armaments, which was, in itself, a threat to the peace of the world. But, at the same time, there is recognised the duty of safeguarding the national security of the Members of the League and of safeguarding it, not only by the main-

tenance of a necessary minimum of troops, but also by the co-operation of all the nations, by a vast organisation for peace.

Such is the meaning of the Covenant, which, while providing for reduction of armaments properly so called, recognises at the same time the need of *common action*, by all the Members of the League, with a view to compelling a possible disturber of the peace to respect his *international obligations*.

Thus, in this first paragraph of Article 8, which is so short but so pregnant, mention is made of all the problems which have engaged the attention of our predecessors and ourselves and which the present Assembly has specially instructed us to solve, the problems of *collective security* and the *reduction of armaments*.

Taking up Article 8 of the Covenant, the First Assembly had already outlined a programme. At its head it placed a pronouncement of the Supreme Council :

“In order to diminish the economic difficulties of Europe, armies should everywhere be reduced to a peace footing. Armaments should be limited to the lowest possible figure compatible with national security.”

The Assembly also called attention to a resolution of the International Financial Conference of Brussels held a short time before :

“Recommending to the Council of the League of Nations the desirability of conferring at once with the several Governments concerned with a view to securing a general reduction of the crushing burdens which, on their existing scale, armaments still impose on the impoverished peoples of the world, sapping their resources and imperilling their recovery from the ravages of war.”

It also requested its two Advisory Commissions to set to work at once to collect the necessary information regarding the problem referred to in Article 8 of the Covenant.

From the beginning the work of the Temporary Mixed Commission and of the Permanent Advisory Commission revealed the infinite complexity of the question.

The Second Assembly limited its resolutions to the important, but none the less (if one may say so) secondary, questions of traffic in arms and their manufacture by private enterprise. It only touched upon the questions of military expenditure and budgets in the form of recommendations and, as regards the main question of reduction of armaments, it confined itself to asking the Temporary Mixed Commission to formulate a definite scheme.

It was between the Second and Third Assemblies that the latter Commission, which was beginning to get to grips with the various problems, revealed their constituent elements. In its report it placed on record that :

“The memory of the world war was still maintaining in many countries a feeling of insecurity, which was represented in the candid statements in which, at the request of the Assembly, several of them had put forward the requirements of their national security, and the geographical and political considerations which contributed to shape their policy in the matter of armaments.”

At the same time, however, the Commission stated :

“Consideration of these statements as a whole has clearly revealed not only the sincere desire of the Governments to reduce national armaments and the corresponding expenditure to a minimum, but also the importance of the results achieved. These facts”—according to the Commission—“are indisputable, and are confirmed, moreover, by the replies received from Governments to the Recommendation of the Assembly regarding the limitation of military expenditure.”

That is the point we had reached *two years ago*; there was a *unanimous desire to reduce armaments*. Reductions, though as yet inadequate, had been begun, and there was a *still stronger desire to ensure the security of the world* by a stable and permanent organisation for peace.

That was the position which, after long discussions, gave rise *at the Third Assembly to the famous Resolution XIV* and at the Fourth Assembly *to the draft Treaty of Mutual Assistance*, for which we are now substituting the Protocol submitted to the Fifth Assembly.

What progress has been made during these four years?

Although the Treaty of Mutual Assistance was approved in principle by eighteen Governments, it gave rise to certain misgivings. We need only recall the most important of these, hoping that a comparison between them and an analysis of the new scheme will demonstrate that the First and Third Committees have endeavoured, with a large measure of success, to dispose of the objections raised and that the present scheme consequently represents an immense advance on anything that has hitherto been done.

In the first place, a number of Governments or delegates to the Assembly argued that the guarantees provided by the draft Treaty of Mutual Assistance did not imply with sufficient definiteness the reduction of armaments which is the ultimate object of our work.

The idea of the Treaty was to give effect to Article 8 of the Covenant, but many persons considered that it did not, in fact, secure the automatic execution of that article. Even if a reduction of armaments was achieved by its means, the amount of the reduction was left, so the opponents of the Treaty urged, to the estimation of each Government, and there was nothing to show that it would be considerable.

With equal force many States complained that no provision had been made for the development of the *juridical and moral elements of the Covenant* by the side of material guarantees. The novel character of the charter given to the nations in 1919 lay essentially in the advent of a moral solidarity which foreshadowed the coming of a new era. That principle ought to have, as its natural consequence, *the extension of arbitration and international jurisdiction*, without which no human society can be solidly grounded. A considerable portion of the Assembly asked that efforts should also be made in this direction. The draft Treaty seemed from this point of view to be insufficient and ill-balanced.

Finally, the articles relating to partial treaties gave rise, as you are aware, to certain objections. Several Governments considered that they would lead to the establishment of groups of Powers animated by hostility towards other Powers or groups of Powers and that they would cause political tension. The absence of the barriers of compulsory arbitration and judicial intervention was evident here as everywhere else.

Thus, by a logical and gradual process, there was elaborated the system at which we have now arrived.

The reduction of armaments required by the Covenant and demanded by the general situation of the world to-day led us to consider the question of security as a necessary complement to disarmament.

The support demanded from different States by other States less favourably situated had placed the former under the obligation of asking for a sort of moral and legal guarantee that the States which have to be supported would act in perfect good faith and would always endeavour to settle their disputes by pacific means.

It became evident, however, with greater clearness and force than ever before, that if the security and effective assistance demanded in the event of aggression was the condition *sine quâ non* of the reduction of armaments, it was at the same time the necessary complement of the pacific settlement of international disputes, since the non-execution of a sentence obtained by pacific methods of settlement would necessarily drive the world back to the system of armed force. Sentences imperatively required sanctions or the whole system would fall to the ground.

Arbitration was therefore considered by the Fifth Assembly to be the necessary third factor, the complement of the two others with which it must be combined in order to build up the new system set forth in the Protocol.

Thus, after five years' hard work, we have decided to propose to the Members of the League *the present system of arbitration, security and reduction of armaments*—a system which we regard as being complete and sound.

That is the position with which the Fifth Assembly has to deal to-day. The desire to arrive at a successful issue is unanimous. A great number of the decisions adopted in the past years have met with general approval. There has arisen a thoroughly clear appreciation of the undoubted gaps which have to be filled and of the reasonable apprehensions which have to be dissipated. Conditions have therefore become favourable for arriving at an agreement.

An agreement has been arrived at on the basis of the draft Protocol which is now submitted to you for consideration.

II

ANALYSIS OF THE SCHEME

1. — WORK OF THE FIRST COMMITTEE

(Rapporteur : M. POLITIS)

Draft Protocol for the Pacific Settlement of International Disputes.

Preamble.

The object of the Protocol, which is based upon the resolution of September 6th, 1924, is to facilitate the reduction and limitation of armaments provided for in Article 8 of the Covenant of the League of Nations by guaranteeing the security of States through the development of methods for the pacific settlement of all international disputes and the effective condemnation of aggressive war.

These general ideas are summarised in the preamble of the Protocol.

COMPULSORY ARBITRATION

(Articles 1 to 6, 10, 16, 18 and 19 of the Protocol)

1. — INTRODUCTION

Compulsory arbitration is the fundamental basis of the proposed system. It has seemed to be the only means of attaining the ultimate aim pursued by the League of Nations, viz. the establishment of a pacific and legal order in the relations between peoples.

The realisation of this great ideal, to which humanity aspires with a will which has never been more strongly affirmed, pre-supposes, as an indispensable condition, the elimination of war, the extension of the rule of law and the strengthening of the sentiment of justice.

The Covenant of the League of Nations erected a wall of protection around the peace of the world, but it was a first attempt at international organisation and it did not succeed in closing the circle sufficiently thoroughly to leave no opening for war. It reduced the number of possible wars. It did not condemn them all. There were some which it was forced to tolerate. Consequently, there remained, in the system which it established, numerous fissures, which constituted a grave danger to peace.

The new system of the Protocol goes further. It closes the circle drawn by the Covenant; it prohibits all wars of aggression. Henceforth no purely private war between nations will be tolerated.

This result is obtained by strengthening the pacific methods of procedure laid down in the Covenant. The Protocol completes them and extends them to all international disputes without exception, by making arbitration compulsory.

In reality, the word "arbitration" is used here in a somewhat different sense from that which it has generally had up to now. It does not exactly correspond with the definition given by the Hague Conferences which, codifying a century-old custom, saw in it "the settlement of disputes between States by judges of their own choice and on the basis of respect for law" (Article 37 of the Convention of October 18th, 1907, for the Pacific Settlement of International Disputes).

The arbitration which is now contemplated differs from this classic arbitration in various respects :

(a) It is only part of a great machinery of pacific settlement. It is set up under the auspices and direction of the Council of the League of Nations.

(b) It is not only an instrument for the administration of justice. It is, in addition and above all, an instrument of peace. The arbitrators must no doubt seek in the first place to apply the rules and principles of international law. This is the reason why, as will be seen below, they are bound to consult the Permanent Court of International Justice if one of the parties so requests. But if international law furnishes no rule or principle applicable to the particular case, they cannot, like ordinary arbitrators, refuse to give a decision. They are bound to proceed on grounds of equity, for in our system arbitration is always of necessity to lead to a definitive solution of the dispute. This is not to be regretted, for to ensure the respect of law by nations it is necessary first that they should be assured of peace.

(c) It does not rest solely upon the loyalty and good faith of the parties. To the moral and legal force of an ordinary arbitration is added the actual force derived from the international organisation of which the kind of arbitration in question forms one of the principal elements; the absence of a sanction which has impeded the development of compulsory arbitration is done away with under our system.

In the system of the Protocol, the obligation to submit disputes to arbitration is sound and practical because it has always a sanction. Its application is automatically ensured, by means of the intervention of the Council; in no case can it be thrown on one side through the ill-will of one of the disputant States. The awards to which it leads are always accompanied by a sanction, adapted to the circumstances of the case and more or less severe according to the degree of resistance offered to the execution of the sentence.

2. — NATURE OF THE RULES OF THE PROTOCOL

Article I.

The rules laid down in the Protocol do not all have the same scope or value for the future.

As soon as the Protocol comes into force, its provisions will become compulsory as between the signatory States, and in its dealings with them the Council of the League of Nations will at once be able to exercise all the rights and fulfil all the duties conferred upon it.

As between the States Members of the League of Nations, the Protocol may in the first instance create a dual regime, for, if it is not immediately accepted by them all, the relations between signatories and non-signatories will still be governed by the Covenant alone while the relations between signatories will be governed by the Protocol as well.

But this situation cannot last. Apart from the fact that it may be hoped that all Members of the League will adhere to it, the Protocol is in no sense designed to create among the States which accept it a restricted League capable of competing with or opposing in any way the existing League. On the contrary, such of its provisions as relate to articles of the Covenant will, as soon as possible, be made part of the general law by amendment of the Covenant effected in accordance with the procedure for revision laid down in Article 26 thereof. The signatory States which are Members of the League of Nations undertake to make every efforts to this end.

When the Covenant has been amended in this way, some parts of the Protocol will lose their value as between the said States : some of them will have enriched the Covenant, while others, being temporary in character, will have lost their object.

The whole Protocol will remain applicable to relations between signatory States which are Members of the League of Nations and signatory States outside the League, or between States coming within the latter category.

It should be added that, as the League realises its aim of universality, the amended Covenant will take the place, as regards all States, of the separate regime of the Protocol.

3. — CONDEMNATION OF AGGRESSIVE WAR

Article 2.

The general principle of the Protocol is the prohibition of aggressive war.

Under the Covenant, while the old unlimited right of States to make war is restricted, it is not abolished. There are cases in which the exercise of this right is tolerated; some wars are prohibited and others are legitimate.

In future the position will be different. In no case is any State signatory of the Protocol entitled to undertake on its own sole initiative an offensive war against another signatory State or against any non-signatory State which accepts all the obligations assumed by the signatories under the Protocol.

The prohibition affects only aggressive war. It does not, of course, extend to defensive war. The right of legitimate self-defence continues, as it must, to be respected. The State attacked retains complete liberty to resist by all means in its power any acts of aggression of which it may be the victim. Without waiting for the assistance which it is entitled to receive from the international community, it may and should at once defend itself with its own force. Its interests are identified with the general interest. This is a point on which there can be no doubt.

The same applies when a country employs force with the consent of the Council or the Assembly of the League of Nations under the provisions of the Covenant and the Protocol. This eventuality may arise in two classes of cases : either a State may take part in the collective measures of force decided upon by the League of Nations in aid of one of its Members which is the victim of aggression; or a State may employ force with the authorisation of the Council or the Assembly in order to enforce a decision given in its favour. In the former case, the assistance given to the victim of aggression is indirectly an act of legitimate self-defence. In the latter, force is used in the service of the general interest, which would be threatened if decisions reached by a pacific procedure could be violated with impunity. In all these cases the country resorting to war is not acting on its private initiative but is in a sense the agent and the organ of the community.

It is for this reason that we have not hesitated to speak of the exceptional authorisation of war. It has been proposed that the word "force" should be used in order to avoid any mention of "war"—in order to spare the public that disappointment which it might feel when it found that, notwithstanding the solemn condemnation of war, war was still authorised in exceptional cases. We preferred,

however, to recognise the position frankly by retaining the expression "resort to war" which is used in the Covenant. If we said "force" instead of "war", we should not be altering the facts in any way. Moreover, the confession that war is still possible in specific cases has a certain value, because the term describes a definite and well-understood situation, whereas the expression "resort to force" would be liable to be misunderstood, and also because it emphasises the value of the sanctions at the disposal of the community of States bound by the Protocol.

4. — COMPULSORY JURISDICTION OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE

Article 3.

The general principle of the Protocol could not be accepted unless the pacific settlement of all international disputes without distinction were made possible.

This solution has been found, in the first place, in the extension of the compulsory jurisdiction of the Permanent Court of International Justice.

According to its Statute, the jurisdiction of the Court is, in principle, optional. On the other hand, Article 36, paragraph 2, of the Statute, offers States the opportunity of making the jurisdiction compulsory in respect of all or any of the classes of legal disputes affecting : (a) the interpretation of a Treaty; (b) any question of international law; (c) the existence of any fact which, if established, would constitute a breach of an international obligation; (d) the nature or extent of the reparation to be made for the breach of an international obligation. States have only to declare their intention through the special Protocol annexed to the Statute. The undertaking then holds good in respect of any other State which assumes the same obligation. It may be given either unconditionally or on condition of reciprocity on the part of several or certain other States; either permanently or for a fixed period.

So far such compulsory jurisdiction has only been accepted by a small number of countries. The majority of States have abstained because they did not see their way to accept compulsory jurisdiction by the Court in certain cases falling within one or another of the classes of dispute enumerated above, and because they were not sure whether, in accepting, they could make reservations to that effect.

It was for this reason that the Assembly in its resolution of September 6th, requested the First Committee to render more precise the terms of Article 36, paragraph 2, in order to facilitate its acceptance.

Careful consideration of the article has shown that it is sufficiently elastic to allow of all kinds of reservations. Since it is open to the States to accept compulsory jurisdiction by the Court in respect of certain of the classes of dispute mentioned and not to accept it in respect of the rest, it is also open to them only to accept it in respect of a portion of one of those classes; rights need not be exercised in their full extent. In giving the undertaking in question, therefore, States are free to declare that it will not be regarded as operative in those cases in which they consider it to be inadmissible.

We can imagine possible and therefore legitimate, reservations either in connection with a certain class of dispute or, generally speaking, in regard to the precise stage at which the dispute may be laid before the Court. While we cannot here enumerate all the conceivable reservations, it may be worth while to mention merely as examples those to which we referred in the course of our discussions.

From the class of disputes relating to "the interpretation of a treaty" there may be excluded, for example, disputes as to the interpretation of certain specified classes of treaty such as political treaties, peace treaties, etc.

From the class of disputes relating to "any point of international law" there may be excluded, for example, disputes as to the application of a political treaty, a peace treaty, etc., or as to any specified question or disputes which might arise

as the outcome of hostilities initiated by one of the signatory States in agreement with the Council or the Assembly of the League of Nations.

Again, there are many possible reservations as to the precise stage at which a dispute may be laid before the Court. The most far-reaching of these would be to make the resort to the Court in connection with every dispute in respect of which its compulsory jurisdiction is recognised contingent upon the establishment of an agreement for submission of the case which, failing agreement between the parties, would be drawn up by the Court itself, the analogy of the provisions of the Hague Convention of 1907 dealing with the Permanent Court of Arbitration being thus followed.

It might also be stated that the recognition of the compulsory jurisdiction of the Court does not prevent the parties to the dispute from agreeing to resort to a preliminary conciliation procedure before the Council of the League of Nations or any other body selected by them, or to submit their disputes to arbitration in preference to going before the Court.

A State might also, while accepting compulsory jurisdiction by the Court, reserve the right of laying disputes before the Council of the League with a view to conciliation in accordance with paragraphs 1-3 of Article 15 of the Covenant, with the proviso that neither party might, during the proceedings before the Council, take proceedings against the other in the Court.

It will be seen, therefore, that there is a very wide range of reservations which may be made in connection with the undertaking referred to in Article 36, paragraph 2. It is possible that apprehensions may arise lest the right to make reservations should destroy the practical value of the undertaking. There seems, however, to be no justification for such misgivings. In the first place, it is to be hoped that every Government will confine its reservations to what is absolutely essential. Secondly, it must be recognised that, however restrictive the scope of the undertaking may be, it will always be better than no undertaking at all.

The fact that the signatory States undertake to accede, even though it be with reservations, to paragraph 2 of Article 36 may therefore be held to constitute a great advance.

Such accession must take place at latest within the month following upon the coming into force or subsequent acceptance of the Protocol.

It goes without saying that such accession in no way restricts the liberty which States possess, under the ordinary law, of concluding special agreements for arbitration. It is entirely open to any two countries signatory of the Protocol which have acceded to paragraph 2 of Article 36 to extend still further, as between themselves; the compulsory jurisdiction of the Court, or to stipulate that before having recourse to its jurisdiction they will submit their disputes to a special procedure of conciliation or even to stipulate, either before or after a dispute has arisen, that it shall be brought before a special tribunal of arbitrators or before the Council of the League of Nations rather than to the Court.

It is also certain that up to the time of the coming into force or acceptance of the Protocol accession to paragraph 2 of Article 36, which will thenceforth become compulsory, will remain optional, and that if such accession has already taken place it will continue to be valid in accordance with the terms under which it was made.

The only point which may cause difficulty is the question what is the effect of accessions given to the Protocol if the latter becomes null and void. It may be asked whether such accessions are to be regarded as so intimately bound up with the Protocol that they must disappear with it. The reply must be in the negative. The sound rule of interpretation of international treaties is that, unless there is express provision to the contrary, effects already produced survive the act from which they sprang.

The natural corollary is that any State which wishes to make the duration of its accession to Article 36 dependent on the duration of the Protocol must make an express stipulation to this effect. As Article 36 permits acceptance of the

engagement in question for a specified term only, a State may, when acceding, stipulate that it only undertakes to be bound during such time as the Protocol shall remain in force.

5. — STRENGTHENING OF PACIFIC METHODS OF PROCEDURE

Article 4.

We have, in the second place, succeeded in making possible the pacific settlement of all disputes by strengthening the procedure laid down in the Covenant.

Article 4, paragraph 1.

Action by the Council with a view to reconciliation. — If a dispute does not come within the compulsory jurisdiction of the Permanent Court of International Justice and if the Parties have been unable to come to an agreement to refer it to the Court or to submit it to arbitration, it should, under the terms of Article 15 of the Covenant, be submitted to the Council, which will endeavour to secure a settlement by reconciling the parties. If the Council's efforts are successful, it must, so far as it considers it advisable, make public a statement giving such facts and explanations regarding the dispute and the terms of settlement thereof as it may deem appropriate.

In this connection no change has been made in the procedure laid down by the Covenant. It appeared unnecessary to specify what particular procedure should be followed. The Council is given the utmost latitude in choosing the means most appropriate for the reconciliation of the parties. It may take advice in various quarters; it may hear expert opinions; it may proceed to investigations or expert enquiries, whether by itself or through the intermediary of experts chosen by it; it may even, upon application by one of the parties, constitute a special conciliation committee. The essential point is to secure, if possible, a friendly settlement of the dispute; the actual methods to be employed are of small importance. It is imperative that nothing should in any way hamper the Council's work in the interests of peace. It is for the Council to examine the question whether it would be expedient to draw up for its own use and bring to the notice of the Governments of the signatory States general regulations of procedure applicable to cases brought before it and designed to test the goodwill of the parties with a view to persuading them more easily to reach a settlement under its auspices.

Experience alone can show whether it will be necessary to develop the rules laid down in the first three paragraphs of Article 15 of the Covenant.

For the moment it would appear to be expedient to make no addition and to have full confidence in the wisdom of the Council, it being understood that, whether at the moment in question or at any other stage of the procedure, it will be open to the parties to come to an agreement for some different method of settlement : by way of direct understanding, constitution of a special committee of mediators or conciliators, appeal to arbitration or to the Permanent Court of International Justice.

The new procedure set up by the Protocol will be applicable only in the event of the Council's failing in its efforts at reconciliation and of the parties failing to come to an understanding in regard to the method of settlement to be adopted.

In such case, before going further, the Council must call upon the parties to submit their dispute to judicial settlement or to arbitration.

It is only in the case where this appeal—which the Council will make in the manner which appears to it most likely to secure a favourable hearing—is not listened to that the procedure will acquire the compulsory character which is necessary to make certain the final settlement of all disputes.

There are three alternatives :

- (a) Compulsory arbitration at the request of one of the parties;
- (b) A unanimous decision by the Council;
- (c) Compulsory arbitration enjoined by the Council.

Appropriate methods are laid down for all three cases.

Article 4, paragraph 2.

First case of Compulsory Arbitration. — If the parties, being called upon by the Council to submit their dispute to a judicial or arbitral settlement, do not succeed in coming to an agreement on the subject, there is no question of optional arbitration, but if a single party desires arbitration, arbitration immediately becomes compulsory.

The dispute is then *ipso facto* referred to a Committee of Arbitrators, which must be constituted within such time limit as the Council shall fix.

Full liberty is left to the parties themselves to constitute this Committee of Arbitrators. They may agree between themselves in regard to the number, names and powers of the arbitrators and the procedure. It is to be understood that the word "powers" is to be taken in the widest sense, including, *inter alia*, the questions to be put.

It was not considered desirable to develop this idea further. It appeared to be sufficient to state that any result which could be obtained by means of an agreement between the parties was preferable to any other solution.

It also appeared inexpedient to define precisely the powers which should be conferred upon the arbitrators. This is a matter which depends upon the circumstances of each particular case. According to the case, the arbitrators, as is said above may, fill the rôle of judges giving decisions of pure law or may have the function of arranging an amicable settlement with power to take account of considerations of equity.

It has not been thought necessary to lay this down in the form of a rule. It has appeared preferable to leave it in each case to the parties to agree between themselves to decide the matter according to the circumstances of the case.

Nevertheless, consideration has been given to the possibility that the arbitrators need not necessarily be jurists. It has therefore been decided that, when called upon to deal with points of law, they shall, if one of the parties so desires, request, through the medium of the Council, the advisory opinion of the Permanent Court of International Justice, which must, in such a case, meet with the utmost possible despatch. The opinion of the Court is obtained for the assistance of the arbitrators; it is not legally binding upon them, although its scientific authority must, in all cases, exercise a strong influence upon their judgment. With a view to preventing abusively frequent consultations of this kind, it is understood that the opinion of the Court in regard to disputed points of law can only be asked on a single occasion in the course of each case.

The extension which, in the new system of pacific settlement of disputes, has been given to the advisory procedure of the Court has suggested the idea that it might be desirable to examine whether, even in such cases, it might not be well to adopt the system of adding national judges which at present only obtains in litigious proceedings, and also that of applying to the advisory procedure the provisions of Article 24 of the Statute of the Court relating to withdrawal of judges.

If the parties have not been able to come to an understanding on all or on some of the points necessary to enable the arbitration to be carried out, it lies with the Council to settle the unsettled points, with the exception of the formulation of the questions to be answered, which the arbitrators must seek in the claims set out by the parties or by one of them if the others make default.

In cases where the selection of arbitrators thus falls upon the Council, it has appeared necessary—however much confidence may be felt in the Council's wisdom—to lay down for the selection of the arbitrators certain rules calculated to give the arbitration the necessary moral authority to ensure that it will in practice be respected.

The first rule is that the Council shall, before proceeding to the selection of arbitrators, have regard to the wishes of the parties. It was suggested that this idea should be developed by conferring on the parties the right to indicate their preferences and to challenge a certain number of the arbitrators proposed by the Council.

This proposal was set aside on account of the difficulty of laying down detailed regulations for the exercise of this double right. But it is understood that the Council will have no motive for failing to accept candidates proposed to it by the different parties nor for imposing upon them arbitrators whom they might wish to reject, nor, finally, for failing to take into account any other suggestion which the parties might wish to make. It is indeed evident that the Council will always be desirous of acting in the manner best calculated to increase to the utmost degree the confidence which the Committee of Arbitrators should inspire in the parties.

The second rule is based on the same point of view. It lays down the right of the Council to select the arbitrators and their president from among persons who, by their nationality, their personal character and their experience, appear to furnish the highest guarantees of competence and impartiality.

Here, too, experience will show whether it would be well for the Council to draw up general regulations for the composition and functioning of the compulsory arbitration now in question and of that above referred to, and for the conciliation procedure in the Council itself. Such regulations would be made for the Council's own use but would be communicated to the Governments of the signatory States.

Article 4, paragraph 3.

Unanimous decision by the Council. — If arbitration is refused by both parties the case will be referred back to the Council, but this time it will acquire a special character. Refusal of arbitration implies the consent of both parties to a final settlement of the dispute by the Council. It implies recognition of an exceptional jurisdiction of the Council. It denotes that the parties prefer the Council's decision to an arbitral award.

Resuming the examination of the question, the Council has not only the latitude which it customarily possesses. It is armed with full powers to settle the question finally and irrevocably if it is unanimous. Its decision, given unanimously by all the members other than those representing parties to the dispute, is imposed upon the parties with the same weight and the same force as the arbitration award which it replaces.

Article 4, paragraph 4.

Second case of Compulsory Arbitration. — If the Council does not arrive at a unanimous decision, it has to submit the dispute to the judgment of a Committee of Arbitrators, but this time, owing to the parties being deemed to have handed their case over to the Council, the organisation of the arbitration procedure is taken entirely out of their hands. It will be for the Council to settle all the details, the composition, the powers and the procedure of the Committee of Arbitrators. The Council is of course at liberty to hear the parties and even to invite suggestions from them, but it is under no obligation to do so. The only regulation with which it must comply is that, in the choice of arbitrators, it must bear in mind the guarantees of competence and impartiality which, by their nationality, their personal character and their experience, these arbitrators must always furnish.

Article 4, paragraph 6.

Effect of, and Sanction enforcing, Decisions. — Failing a friendly arrangement, we are, thanks to the system adopted, in all cases certain of arriving at a final solution of a dispute, whether in the form of a decree of the Permanent Court of International Justice or in the form of an arbitral award or, lastly, in the form of a unanimous decision of the Council.

To this solution the parties are compelled to submit. They must put it into execution or comply with it in good faith.

If they do not do so, they are breaking an engagement entered into towards the other signatories of the Protocol, and this breach involves consequences and sanctions according to the degree of gravity of the case.

If the recalcitrant party confines itself to offering passive resistance to the solution arrived at, it will first be the object of pacific pressure from the Council, which must exercise all its influence to persuade it to respect its engagements. If the Council is unsuccessful, it must propose measures calculated to ensure effect being given to the decision.

On this point the Protocol has been guided solely by the regulation contained at the end of Article 13 of the Covenant. The Council may thus institute against the recalcitrant party collective sanctions of an economic and financial order. It is to be supposed that such sanctions will prove sufficient. It has not appeared possible to go further and to employ force against a State which is not itself resorting to force. The party in favour of which the decision has been given might, however, employ force against the recalcitrant party if authorised to do so by the Council.

But if the State against which the decision has been given takes up arms in resistance thereto, thereby becoming an aggressor against the combined signatories, it deserves even the severe sanctions provided in Article 16 of the Covenant, interpreted in the manner indicated in the present Protocol.

Sphere of Application of Methods of Pacific Procedure. — Necessary as the system which we have laid down is for the purpose of ensuring settlement of all disputes, in applying it, the pacific aim which underlies it must be the only guide. It must not be diverted to other purposes and used as an occasion for chicanery and tendentious proceedings by which the cause of peace would lose rather than gain.

A few exceptions to the rule have also had to be made in order to preserve the elasticity of the system. These are cases in which the claimant must be non-suited, the claim being one which has to be rejected *in limine* by the Council, the Permanent Court of International Justice or the arbitrators, as the case may be.

The disputes to which the system will not apply are of three kinds :

Article 4, paragraph 5.

1. The first concerns disputes relating to questions which, at some time prior to the entry into force of the Protocol, have been the subject of a unanimous recommendation by the Council accepted by one of the parties concerned. It is essential to international order and to the prestige of the Council that its unanimous recommendations, which confer a right upon the State accepting them, shall not be called into question again by means of a procedure based upon compulsory arbitration. Failing a friendly arrangement, the only way which lies open for the settlement of disputes to which these recommendations may give rise is recourse to the Council in accordance with the procedure at present laid down in the Covenant.

Article 4, paragraph 7.

2. The same applies to disputes which arise as the result of measures of war taken by one or more signatory States in agreement with the Council or the Assembly

of the League of Nations. It would certainly not be admissible that compulsory arbitration should become a weapon in the hands of an enemy to the community to be used against the freedom of action of those who, in the general interest, seek to impose upon that enemy respect for his engagements.

In order to avoid all difficulty of interpretation, these first two classes of exceptions have been formally stated in the Protocol.

3. There is a third class of disputes to which the new system of pacific settlement can also not be applied. These are disputes which aim at revising treaties and international acts in force, or which seek to jeopardise the existing territorial integrity of signatory States. The proposal was made to include these exceptions in the Protocol, but the two Committees were unanimous in considering that, both from the legal and from the political point of view, the impossibility of applying compulsory arbitration to such cases was so obvious that it was quite superfluous to make them the subject of a special provision. It was thought sufficient to mention them in this report.

6. — ROLE OF THE ASSEMBLY UNDER THE SYSTEM SET UP BY THE PROTOCOL

Article 6.

The new procedure should be adapted to the old one, which gave the Assembly the same powers as the Council when a dispute is brought before it, either by the Council itself or at the request of one of the parties.

The question has arisen whether the system of maintaining in the new procedure this equality of powers between the two organs of the League of Nations is a practical one. Some were of opinion that it would be better to exclude intervention by the Assembly. Finally, however, the opposite opinion prevailed; an appeal to the Assembly may, indeed, have an important influence from the point of view of public opinion. Without going so far as to assign to the Assembly the same rôle as to the Council, it has been decided to adopt a mixed system by which the Assembly is, in principle substituted for the Council in order that, when a dispute is referred to it in conformity with paragraph 9 of Article 15 of the Covenant, it may undertake, in the place of the Council, the various duties provided for in Article 4 of the present Protocol with the exception of purely executive acts which will always devolve upon the Council. For example, the organisation and management of compulsory arbitration, or the transmission of a question to the Permanent Court of International Justice, must always be entrusted to the Council, because, in practice, the latter is the only body qualified for such purposes.

The possible intervention of the Assembly does not affect in any way the final result of the new procedure. If the Assembly does not succeed in conciliating the parties and if one of them so requests, compulsory arbitration will be arranged by the Council in accordance with the rules laid down beforehand.

If none of the parties asks for arbitration, the matter is referred back to the Assembly, and if the solution recommended by the Assembly obtains the majority required under paragraph 10 of Article 15 of the Covenant, it has the same value as a unanimous decision of the Council.

Lastly, if the necessary majority is not obtained, the dispute is submitted to a compulsory arbitration organised by the Council.

In any event, as in the case where the Council alone intervenes, a definitive and binding solution of the dispute is reached.

7. — DOMESTIC JURISDICTION OF STATES

Article 5.

The present Protocol in no way derogates from the rule of Article 15, paragraph 8, of the Covenant, which protects national sovereignty.

In order that there might be no doubt on this point, it appeared advisable to say so expressly.

Before the Council, whatever be the stage in the procedure set up by the Protocol at which the Council intervenes, the provision referred to applies without any modification.

The rule is applied also to both cases of compulsory arbitration. If one of the States parties to the dispute claims that the dispute or part thereof arises out of a matter which by international law is solely within its jurisdiction, the arbitrators must on this point take the advice of the Permanent Court of International Justice through the medium of the Council, for the question thus put in issue is a legal question upon which a judicial opinion should be obtained.

The Court will thus have to give a decision as to whether the question in dispute is governed by international law or whether it falls within the domestic jurisdiction of the State concerned. Its functions will be limited to this point and the question will in any event be referred back to the arbitrators. But, unlike other opinions requested of the Court in the course of a compulsory arbitration—opinions which for the arbitrators are purely advisory—in the present case the opinion of the Court is compulsory in the sense that, if the Court has recognised that the question in dispute falls entirely within the domestic jurisdiction of the State concerned, the arbitrators will simply have to register this conclusion in their award. It is only if the Court holds that the question in dispute is governed by international law that the arbitrators will again take the case under consideration in order to give a decision upon its substance.

The compulsory character of the Court's opinion, in this case, increases the importance of the double question referred to above, in connection with Article 4, relating to the calling-in of national judges, and the application of Article 24 of the Statute of the Court in matters of advisory procedure.

While the principle of Article 15, paragraph 8, of the Covenant is maintained, it has been necessary, in order to make its application more flexible, to call in aid the rule contained in Article 11 of the Covenant, which makes it the duty of the League of Nations, in the event of war or a threat of war, to "take any action that may be deemed wise and effective to safeguard the peace of nations", and obliges the Secretary-General to summon forthwith a meeting of the Council on the request of any Member of the League. It is in this way understood that when it has been recognised that a dispute arises out of a matter which is solely within the domestic jurisdiction of one of the parties, that party or its opponent will be fully entitled to call upon the Council or the Assembly to act.

There is nothing new in this simple reference to Article 11. It leaves unimpaired the right of the Council to take such action as it may deem wise and effectual to safeguard the peace of nations. It does not confer new powers or functions on either the Council or the Assembly. Both these organs of the League simply retain the powers now conferred upon them by the Covenant.

In order to dispel any doubt which may arise from the parallel which has been drawn between Article 15, paragraph 8, and Article 11 of the Covenant, a very clear explanation was given in the course of the discussion in the First Committee.

Where a dispute is submitted to the Council under Article 15 and it is claimed by one party that the dispute arises out of a matter left exclusively within its domestic jurisdiction by international law, paragraph 8 prevents the Council from making any recommendations upon the subject if it holds that the contention raised by the party is correct and that the dispute does in fact arise out of a matter exclusively within that State's jurisdiction.

The effect of this paragraph is that the Council cannot make any recommendation in the technical sense in which that term is used in Article 15, that is to say, it cannot make, even by unanimous report, recommendations which become binding on the parties in virtue of paragraph 6.

Unanimity for the purpose of Article 15 implies a report concurred in by all the members of the Council other than the parties to the dispute. Only a report so concurred in is one which the parties to the dispute are bound to observe, in the sense that, if they resort to war with any party which complies with the recommendations, it will constitute a breach of Article 16 of the Covenant and will set in play the sanctions which are there referred to.

On the other hand, Article 11 is of different scope : first, it operates only in time of war or threat of war; secondly, it confers no right on the Council or on the Assembly to impose any solution of a dispute without the consent of the parties. Action taken by the Council or the Assembly under this article cannot become binding on the parties to the dispute in the sense in which recommendations under Article 15 become binding, unless they have themselves concurred in it.

One last point should be made clear. The reference which is made to Article 11 of the Covenant holds good only in the eventuality contemplated in Article 15, paragraph 8, of the Covenant. It is obvious that when a unanimous decision of the Council or an arbitral award has been given upon the substance of a dispute, that dispute is finally settled and cannot again be brought either directly or indirectly under discussion. Article 11 of the Covenant does not deal with situations which are covered by rules of law capable of application by a judge. It applies only to cases which are not yet regulated by international law. In fact, it demonstrates the existence of loop-holes in the law.

The reference to Article 11 in two of the articles of the Protocol (Articles 5 and 10) has advantages beyond those to which attention is drawn in the commentary on the text of those articles. It will be an incitement to science to clear the ground for the work which the League of Nations will one day have to undertake with a view to bringing about, through the development of the rules of international law, a closer reconciliation between the individual interests of its Members and the universal interests which it is designed to serve.

8. — DETERMINATION OF THE AGGRESSOR

Article 10.

In order that the procedure of pacific settlement may be accompanied by the necessary sanctions, it has been necessary to provide for determining exactly the State guilty of aggression to which sanctions are to be applied.

This question is a very complex one, and in the earlier work of the League the military experts and jurists who had had to deal with it found it extremely difficult.

There are two aspects to the problem : first, aggression has to be defined, and, secondly, its existence has to be ascertained.

The definition of aggression is a relatively easy matter, for it is sufficient to say that any State is the aggressor which resorts in any shape or form to force in violation of the engagements contracted by it either under the Covenant (if, for instance, being a Member of the League of Nations, it has not respected the territorial integrity or political independence of another Member of the League) or under the present Protocol (if, for instance, being a signatory of the Protocol, it has refused to conform to an arbitral award or to a unanimous decision of the Council). This is the effect of Article 10, which also adds that the violation of the rules laid down for a demilitarised zone is to be regarded as equivalent to resort to war. The text refers to resort to war, but it was understood during the discussion that, while mention was made of the most serious and striking instance, it was in accordance with the spirit of the Protocol that acts of violence and force, which possibly may not constitute an actual state of war, should nevertheless be taken into consideration by the Council.

On the contrary, to ascertain the existence of aggression is a very difficult matter, for although the first of the two elements which together constitute aggres-

sion, namely, the violation of an engagement, is easy to verify, the second, namely, resort to force, is not an easy matter to ascertain. When one country attacks another, the latter necessarily defends itself, and when hostilities are in progress on both sides, the question arises which party began them.

This is a question of fact concerning which opinions may differ.

The first idea which occurs to the mind is to make it the duty of the Council to determine who is the aggressor. But, immediately, the question arises whether the Council must decide this question unanimously, or whether a majority vote would suffice. There are serious disadvantages in both solutions and they are therefore unacceptable.

To insist upon a unanimous decision of the Council exposes the State attacked to the loss of those definite guarantees to which it is entitled, if one single Member of the Council—be it in good faith or otherwise—insists on adhering to an interpretation of the facts different from that of all his colleagues. It is impossible to admit that the very existence of a nation should be subject to such a hazard. It is not sufficient to point out that the Council would be bound to declare the existence of aggression in an obvious case and that it could not fail to carry out its duty. The duty would be a duty without a sanction and if by any chance the Council were not to do its duty, the State attacked would be deprived of all guarantees.

But it would also be dangerous to rely on a majority vote of the Council. In that case, the danger would be incurred by the State called upon to furnish assistance and to support the heavy burden of common action, if it still entertained some doubt as to the guilt of the country against which it had to take action. Such a country would run the risk of having to conform to a decision with which it did not agree.

The only escape from this dilemma appeared to lie in some automatic procedure which would not necessarily be based on a decision of the Council. After examining the difficulty and discussing it in all its aspects, the First Committee believes that it has found the solution in the idea of a presumption which shall hold good until the contrary has been established by a unanimous decision of the Council.

The Committee is of opinion that this presumption arises in three cases, namely, when a resort to war is accompanied :

By a refusal to accept the procedure of pacific settlement or to submit to the decision resulting therefrom;

By violation of provisional measures enjoined by the Council as contemplated by Article 7 of the Protocol;

Or by disregard of a decision recognising that the dispute arises out of a matter which lies exclusively within the domestic jurisdiction of the other party and by failure or by refusal to submit the question first to the Council or the Assembly.

In these cases, even if there is not absolute certainty, there exists at any rate a very strong presumption which should suffice for the application of sanctions unless proof to the contrary has been furnished by a unanimous decision of the Council.

It will be noticed that there is a characteristic difference between the first two cases and the third.

In the first two cases the presumption exists when, in addition to a state of war, the special condition referred to is also fulfilled.

In the third case, however, the presumption is dependent upon three conditions : disobedience to a decision, wilful failure to take advantage of the remedy provided in Article 11 of the Covenant, and the existence of a state of war.

This difference is due to the necessity of taking into account the provisions of Article 5 analysed above, which, by its reference to Article 11 of the Covenant,

renders the application of paragraph 8 of Article 15 of the Covenant more flexible. After very careful consideration it appeared that it would be unreasonable and unjust to regard as *ipso facto* an aggressor a State which, being prevented through the operation of paragraph 8 of Article 15 from urging its claims by pacific methods and being thus left to its own resources, is in despair driven to war.

It was considered to be more in harmony with the requirements of justice and peace to give such a State which has been non-suited on the preliminary question of the domestic jurisdiction of its adversary, a last chance of arriving at an amicable agreement by offering it the final method of conciliation prescribed in Article 11 of the Covenant. It is only if, after rejecting this method, it has recourse to war that it will be presumed to be an aggressor.

This mitigation of the rigid character of paragraph 8 of Article 15 has been accepted, not only because it is just, but also because it opens no breach in the barrier set up by the Protocol against aggressive war: it in no way infringes the principle—which remains unshaken—that a war undertaken against a State whose exclusive jurisdiction has been formally recognised is an international crime to be avenged collectively by the signatories of the Protocol.

When a State whose demands have been met with the plea of the domestic jurisdiction of its adversary has employed the resource provided for in Article 11 of the Covenant, the presumption of aggression falls to the ground. The aggression itself remains. It will be for the Council to decide who is responsible for the aggression in accordance with the procedure which will be described below.

Apart from the above cases, there exists no presumption which can make it possible automatically to determine who is the aggressor. But this fact must be determined, and, if no other solution can be found, the decision must be left to the Council. The same principle applies where one of the parties is a State which is not a signatory of the Protocol and not a Member of the League.

If the Council is unanimous, no difficulty arises. If, however, the Council is not unanimous, the difficulty is to be overcome by directing that the Council must enjoin upon the belligerents an armistice the terms of which it will fix if need be by a two-thirds majority and the party which rejects the armistice or violates it is to be held to be an aggressor.

The system is therefore complete and is as automatic as it can be made.

Where a presumption has arisen and is not rejected by a unanimous decision of the Council, the facts themselves decide who is an aggressor; no further decision by the Council is needed and the question of unanimity or majority does not present itself; the facts once established, the Council is bound to act accordingly.

Where there is no presumption, the Council has to declare the fact of aggression; a decision is necessary and must be taken unanimously. If unanimity is not obtained, the Council is bound to enjoin an armistice, and for this purpose no decision properly speaking has to be taken: there exists an obligation which the Council must fulfil; it is only the fixing of the terms of the armistice which necessitates a decision, and for this purpose a two-thirds majority suffices.

It was proposed to declare that, in cases of extreme urgency, the Council might determine the aggressor, or fix the conditions of an armistice, without waiting for the arrival of the representative which a party not represented among its members has been invited to send under the terms of paragraph 5 of Article 4 of the Covenant.

It seemed preferable, however, not to lay down any rule on this matter at present but to ask the special Committee which the Council is to appoint for the drafting of amendments to the Covenant on the lines of the Protocol, to consider whether such a rule is really necessary.

It may in fact be thought that the Council already possesses all the necessary powers in this matter and that, in cases of extreme urgency, if the State invited to send a representative is too far distant from the seat of the Council, that body may decide that the representative shall be chosen from persons near at hand

and shall attend the meeting within a prescribed period, on the expiry of which the matter may be considered in his absence.

The fact of aggression having been established by presumption or by unanimous decision of the Council or by refusal to accept or violation of the armistice, it will only remain to apply the sanctions and bring into play the obligations of the guarantor States. The Council will merely call upon them to fulfil their duty; here, again, there is no decision to be taken but an obligation to be fulfilled, and the question of majority or unanimous vote does not arise.

It is not, indeed, a matter of voting at all.

In order to leave no room for doubt, it has been formally laid down that a State which, at the invitation of the Council, engages in acts of violence against an aggressor is in the legal position of a belligerent and may consequently exercise the rights inherent in that character.

It was pointed out in the course of the discussion that such a State does not possess entire freedom of action. The force employed by it must be proportionate to the object in view and must be exercised within the limits and under the conditions recommended by the Council.

Article 18.

Likewise, in order to avoid any misunderstanding, it has been stipulated, in a special Article, that unanimity or the necessary majority in the Council is always calculated according to the rule referred to on several occasions in Article 15 of the Covenant and repeated in Article 16 of the Covenant for the case of expulsion of a Member from the League, viz., without counting the votes of the representatives of the parties to the dispute.

9. — DISPUTES BETWEEN STATES SIGNATORY AND STATES NON-SIGNATORY OF THE PROTOCOL

Article 16.

As regards the settlement of disputes arising between a State signatory and one or more States non-signatory and non-Members of the League of Nations, the new system has had to be adapted to the former system.

In order that States signatory might enjoy the essential advantages offered by the Protocol, which forbids all wars of aggression, it has been necessary to bring the rule laid down in Article 17 of the Covenant into harmony with the provisions of the Protocol. It has therefore been decided that States non-signatory and non-Members of the League of Nations in conflict with a State signatory shall be invited to conform to the new procedure of pacific settlement and that, if they refuse to do so and resort to war against a State signatory, they shall be amenable to the sanctions provided by Article 16 of the Covenant as defined by the Protocol.

There is no change in the arrangements laid down in the Covenant for the settlement of disputes arising between States Members of the League of Nations of which one is a signatory of the Protocol and the other is not. The legal nexus established by the Covenant between two such parties does not allow the signatory States to apply as of right the new procedure of pacific settlement to non-signatory but Member States. All that signatory States are entitled to expect as regards such other States is that the Council should provide the latter with an opportunity to follow this procedure and it is to be hoped that they will do so. But such States can only be offered an opportunity to follow the new procedure; they cannot be obliged to follow it. If they refuse, preferring to adhere to the procedure laid down in the Covenant, no sanctions could possibly be applied to them.

The above indicated solution of the case of States non-signatory but Members of the League of Nations appears to be so obvious as to require no special mention

in the Protocol. A proposal to make a special mention of the matter was made, but after explanations had been given, the authors withdrew their suggestion, declaring that they would be satisfied with the above reference to the subject.

At first sight the difference in the way it is proposed to treat non-signatories non-Members of the League of Nations and non-signatories Members of the League may cause some surprise, for it would seem that the signatory States impose greater obligations on the first category than on the second. This, however, is only an appearance. In reality, the signatory States impose no obligations on either category. They cannot do so because the present Protocol is *res inter alios acta* for all non-signatory States, whether they are Members of the League of Nations or not. The signatories merely undertake obligations as between themselves as to the manner in which they will behave if one of them becomes involved in a conflict with a third State. But whereas, in possible conflicts with a State non-signatory and non-Member of the League, they are entirely free to take such action as they choose, in conflicts which may arise between them and States non-signatory but Members, like themselves, of the League of Nations, their freedom of action is to some extent circumscribed because both parties are bound by legal obligations arising under the Covenant.

2. — Work of the third Committee.

(*Rapporteur* : M. BENES)

SECURITY AND REDUCTION OF ARMAMENTS

(*Articles 7 to 9, 11 to 15, 17 and 21 of the Protocol.*)

1. — INTRODUCTION

The special work of the Third Committee was to deal with the problem of security (sanctions) and the reduction of armaments.

The work required, above all, important political negotiations. While the question of arbitration only required one political decision of principle, namely, the acceptance of compulsory arbitration, and the remainder was principally a matter of drafting—without question an extremely difficult task—of a scheme for the application of such arbitration, the questions of security and disarmament necessitated long and laborious political negotiations; for they involved fundamental interests, questions of vital importance to the States, engagements so far-reaching as radically to change the general situation of the various countries.

Although in the work of the First Committee the Assembly had distinctly indicated in its resolution of September 6th that there was a likelihood—indeed, a necessity—of amending the Covenant, the work of the Third Committee as regards questions of security and reduction of armaments had, in conformity with the debates of the Assembly, to remain within the framework of the Covenant. Above all, it was a question of developing and rendering more precise what is already laid down in the Covenant. All our discussions, all our labours, were guided by these principles, and a delicate task was thus imposed upon us. But the spirit of conciliation which pervaded all the discussions has permitted us to resolve the two problems which were placed before us. This is, indeed, an important result, and if the solution of the problem of arbitration which has been so happily arrived at by the First Committee be also taken into consideration, we are in the presence of a system, the adoption of which may entirely modify our present political life.

This is the real import of the articles of the Protocol concerning the questions of security and reduction of armaments.

2. — THREAT OF AGGRESSION : PREVENTIVE MEASURES

Article 7.

The pacific settlement of disputes being provided for in the present Protocol, the signatory States undertake, should any conflict arise between them, not to resort to preparations for the settlement of such dispute by war and, in general, to abstain from any act calculated to aggravate or extend the said dispute. This provision applies both to the period preceding the submission of the dispute to arbitration or conciliation and to the period in which the case is pending.

This provision is not unaccompanied by sanctions. Any appeal against the violation of the aforesaid undertakings may, in conformity with Article 11 of the Covenant, be brought before the Council. One might say that, in addition to such primary dispute as is or might be submitted to the Council or to some other competent organ, a second dispute arises, caused by the violation of the undertakings provided for in the first paragraph.

The Council, unless it be of opinion that the appeal is not worthy of consideration, will proceed with the necessary enquiries and investigations. Should it be established that an offence has been committed against the provisions of the first paragraph, it will be the duty of the Council, in the light of the results of such enquiries and investigations, to call upon any State guilty of the offence to put an end thereto. Any such State failing to comply will be declared by the Council to be guilty of violation of the Covenant (Article 11) or the Protocol.

The Council must, further, take the necessary measures to put an end, as soon as possible, to a situation calculated to threaten the peace of the world. The text does not define the nature of these preventive measures. Its elasticity permits the Council to take such measures as may be appropriate in each concrete case, as, for example, the evacuation of territories.

Any decisions which may be taken by the Council in virtue of this Article may be taken by a two-thirds majority, except in the case of decisions dealing with questions of procedure which still come under the general rule of Article 5, paragraph 2, of the Covenant. The following decisions, therefore, can be taken by a two-thirds majority :

The decision as to whether there has or has not been an offence against the first paragraph;

The decision calling upon the guilty State to remedy the offence;

The decision as to whether there has or has not been refusal to remedy the offence;

Lastly, the decision as to the measures calculated to put an end, as soon as possible, to a situation calculated to threaten the peace of the world.

The original text of Article 7 provided that, in the case of enquiries and investigations, the Council should avail itself of the organisation to be set up by the Conference for the Reduction of Armaments in order to ensure respect for the decisions of that Conference. There is no longer any mention of this organisation, but this omission does not prejudice any decisions which the Conference may be called upon to take regarding the matter. It will be entirely free to set up an organisation, if it judges this necessary, and the Council's right to make use of this body for the enquiries and investigations contemplated will, *a fortiore*, remain intact.

Article 8.

Article 8 must be considered in relation to Article 2. Article 2 establishes the obligation not to resort to war, while Article 8, giving effect to Article 10 of the Covenant, goes further. The signatories undertake to abstain from any act which might constitute a threat of aggression against any other State. Thus, every act

which comes within the scope of this idea of a threat of war—and its scope is sufficiently elastic—constitutes a breach of the Protocol, and therefore a dispute with which the Council is competent to deal.

If, for example, one State alleges that another State is engaged in preparations which are nothing less than a particular form of threat of war (such as any kind of secret mobilisation, concentration of troops, formation of armed bodies with the connivance of the Government, etc.), the Council, having established that there is a case for consideration, will apply the procedure which may be defined as the procedure of preventive measures; it will arrange for suitable enquiries and investigations, and, in the event of any breach of the provisions of paragraph 1 being established, will take the steps described in Article 7, paragraph 4.

3. — SECURITY — SANCTIONS

Article II.

(Article II, paragraphs 1 and 2, of the Protocol in its relation to Articles 10 and 16 of the Covenant.)

According to Article 10 of the Covenant, Members of the League undertake to preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

According to Article 16, should any Member of the League resort to war in disregard of its engagements under Articles 12, 13 or 15, all other Members of the League undertake immediately to apply economic sanctions; furthermore, it shall be the duty of the Council to recommend to the several Governments concerned what effective military, naval or air forces the Members of the League shall severally contribute to the armed forces to be used to protect the engagements of the League.

At the time when they were drafted at the Peace Conference in Paris in 1919, these articles gave rise to keen controversy as to the exact scope of the engagements entered into in these provisions, that is to say, as to the nature and extent of the obligations referred to in Article 10, the exact moment at which such obligations arose, and the legal consequences of the Council recommendations referred to in Article 16, paragraph 2. This controversy continued, as is well known, in the debates here in Geneva, where the question has been discussed in previous years.

Article 11 is intended to settle this controversy. The signatories of the present Protocol accept the obligation to apply against the aggressor the various sanctions laid down in the Covenant, as interpreted in Article 11 of the Protocol, when an act of aggression has been established and the Council has called upon the signatory States immediately to apply such sanctions (Article 10, last paragraph). Should they fail so to do, they will not be fulfilling their obligations.

The nature and extent of this obligation is clearly defined in paragraph 2 of Article 11. According to this paragraph, the reply to the question whether a signatory to the Protocol has or has not fulfilled its obligation depends on whether it has loyally and effectively co-operated in resisting the act of aggression to an extent consistent with its geographical position and its particular situation as regards armaments.

The State remains in control of its forces, and itself, and not the Council, directs them, but paragraph 2 of Article 11 gives us positive material upon which to form a judgment as to whether or not the obligation has been carried out in any concrete case. This criterion is supplied by the term : *loyally and effectively*.

In answering the question whether a State has or has not fulfilled its obligations in regard to sanctions, a certain elasticity in the obligations laid down in Ar-

Article 11 allows of the possibility of *taking into account, from every point of view, the position of each State which is a signatory to the present Protocol*. The signatory States are not all in possession of equal facilities for acting when the time comes to apply the sanctions. This depends upon the geographical position and economic and social condition of the State, the nature of its population, internal institutions, etc.

Indeed, during the discussion as to the system of sanctions, certain delegations declared that their countries were in a special situation by reason of their geographical position or the state of their armaments. These countries desired to co-operate to the fullest extent of their resources in resistance to every act of aggression, but they drew attention to their special conditions. In order to take account of this situation, an addition has been made to paragraph 2 of Article 11 pointing out this state of affairs and laying stress on the particular situation of the countries in question. Moreover, Article 13 of the Protocol allows such countries to inform the Council of these matters beforehand.

I would further add that the obligations I refer to are imperfect obligations in the sense that no sanctions are provided for against any party which shall have failed loyally and effectively to co-operate in protecting the Covenant and resisting every act of aggression. It should, however, be emphasised that such a State would have failed in the fulfilment of its duties and would be guilty of a violation of engagements entered into.

In view of the foregoing, the gist of Article 11, paragraphs 1 and 2, might be expressed as follows: Each State is the judge of the manner in which it shall carry out its obligations but not of the existence of those obligations, that is to say, each State remains the judge of what it will do but no longer remains the judge of what it should do.

Now that the present Protocol has defined more precisely the origin, nature and extent of the obligations arising out of the Covenant, the *functions of the Council, as provided in Articles 10 and 16, have become clearer and more definite*.

Directly the Council has called upon the signatories to the Protocol to apply without delay the sanctions provided in Article 11, it becomes a regulating, or rather an advisory, body, but not an executive body. The nature of the acts of aggression may vary considerably; the means for their suppression will also vary. It would frequently be unnecessary to make use of all the means which, according to paragraphs 1 and 2 of Article 11, are, so to speak, available for resisting an act of aggression. It might even be dangerous if, from fear of failing in their duties, States made superfluous efforts. It will devolve upon the Council, which, under Article 13 can be put in possession of the necessary data, to give *its opinion*, should need occur, as to the best means of executing the obligations which arise directly it enjoins the application of sanctions, especially as to the sequence in which the sanctions must be applied.

The practical application of the sanctions would, however, always devolve upon the Governments; the real co-operation would ensue upon their getting into touch, through diplomatic channels—perhaps by conferences—and by direct relations between different General Staffs, as in the last war. The Council would, of course, be aware of all these negotiations, would be consulted and make recommendations.

The difference between the former state of affairs and the new will therefore be as follows:

According to the system laid down by the Covenant:

1. The dispute arises.
2. In cases where neither the arbitral procedure nor the judicial settlement provided for in Article 13 of the Covenant is applied, the Council meets and discusses the dispute, attempts to effect conciliation, mediation, etc.
3. If it be unsuccessful and war breaks out, the Council, if unanimous, has to express an opinion as to which party is guilty. The Members of the

League then decide for themselves whether this opinion is justified and whether their obligations to apply economic sanctions become operative.

4. It then has, *by a unanimous decision, to recommend* military sanctions.

5. If unanimity cannot be obtained, the Council ceasing to take action, each party is practically free to act as it chooses.

According to the new system defined in the Protocol, the situation is as follows :

1. The dispute arises.

2. The system of peaceful settlement provided for by the Protocol comes into play.

3. The Council intervenes, and if, after arbitration has been refused, war is resorted to, if the provisional preventive measures are not observed, etc., the Council decides which party is the aggressor and calls upon the signatory States to apply the sanctions.

4. This decision implies that such sanctions as the case requires—economic, financial, military, naval and air—shall be applied forthwith, and without further recommendations or decisions.

We have therefore the following new elements :

(a) The obligation to apply the necessary sanctions of every kind as a direct result of the decision of the Council.

(b) The elimination of the case in which all parties would be practically free to abstain from any action. The introduction of a system of arbitration and of provisional measures which permits of the determination in every case of the aggressor.

(c) No decision is taken as to the strength of the military, naval and air forces, and no details are given as to the measures which are to be adopted in a particular case. None the less, objective criteria are supplied which define the obligation of each signatory; it is bound, in resistance to an act of aggression, to collaborate *loyally and effectively* in applying the sanctions in accordance with its geographical situation and its particular situation as regards armaments.

That is why I said that *the great omission in the Covenant has been made good*.

It is true that no burden has been imposed on States beyond the sanctions already provided for in the Covenant. But, at present, a State seeking to elude the obligations of the Covenant can reckon on two means of escape :

(1) The Council's recommendations need not be followed.

(2) The Council may fail to obtain unanimity, making impossible any declaration of aggression, so that no obligation to apply military sanctions will be imposed and everyone will remain free to act as he chooses.

We have abandoned the above system and both these loopholes are now closed.

Article II, paragraphs 3 and 4.

Paragraph 3 of Article II has been drafted with a view to giving greater precision to certain provisions of Article II, paragraph 3, of the Covenant. Article 16, paragraph 3, refers to mutual support in the application of financial and economic measures. Article II, paragraph 3, of the present Protocol establishes real economic and financial co-operation between a State which has been attacked and the various States which come to its assistance.

As, under Article 10 of the Protocol, it may happen that both States involved in a dispute are declared to be aggressors, the question arose as to what would be

the best method of settling this problem. There were three alternatives : to apply the principle contained in paragraph 1, which is practically equivalent to making a sort of police war on both parties—or to leave the matter to pursue its course, or, finally, to compel States which disturb the peace of the world to desist from acts of war by the employment of means less severe than those indicated in paragraph 1. It is the last method which has been chosen. Only economic measures will be taken against such States, and naturally they will not be entitled to receive the assistance referred to in Article 11, paragraph 3.

Article 12.

Article 16, paragraph 1, of the Covenant provides for the immediate severance of all trade or financial relations with the aggressor State, and paragraph 3 of the same Article provides, *inter alia*, for economic and financial co-operation between the State attacked and the various States coming to its assistance.

As has already been pointed out, these engagements have been confirmed and made more definite in Article 11 of the Protocol.

But the severance of relations and the co-operation referred to necessarily involve measures so complex that, when the moment arises, doubts may well occur as to what measures are necessary and appropriate to give effect to the obligations assumed under the above provisions. These problems require full consideration in order that States may know beforehand what their attitude should be.

Article 12 defines the conditions of such investigation.

It is not expressly stated that the problem will be examined by the Council in collaboration with the various Governments, but the Council will naturally, if it deems it necessary, invite the Governments to furnish such information as it may require for the purpose of carrying out the task entrusted to it under Article 12.

Article 13, paragraph 1.

The above explanation of Article 11, paragraphs 1 and 2, contains many references to Article 13.

As I have already pointed out, in case sanctions have to be applied, it is highly important that there should exist some organ competent to express an opinion as to the best way in which their obligations could be carried out by the signatories. As you are aware, this organ, according to the Covenant, is the Council. In order that the Council may effectively fulfil this duty, Article 13 empowers it to receive undertakings from States, determining *in advance* the military, naval and air forces which they would be able to bring into action immediately in order to ensure the fulfilment of the obligations in regard to sanctions arising, out of the Covenant and the present Protocol.

It is also necessary to emphasise the fact that the means which the States signatories to the present Protocol have at their disposal for the fulfilment of the obligations arising out of Article 11 vary considerably owing to the differences in the geographical, economic, financial, political and social condition of different States. Information as to the means at the disposal of each State is therefore indispensable in order that the Council may in full understanding give its opinion as to the best method by which such obligations may best be carried out.

Finally, as regards the question of the reduction of armaments, which is the final goal to which our efforts are tending, the information thus furnished to the Council may be of very great importance, as every State, knowing what forces will be available for its assistance in case it is attacked, will be able to judge to what extent it may reduce its armaments without compromising its existence as a State, and every State will thus be able to provide the International Conference for the Reduction of Armaments with very valuable data. I should add, moreover, that Article 13, paragraph 1, does not render it compulsory for States to furnish this

information. It is desirable that States should furnish the Council with this information, but they are at liberty not to do so.

Article 13, paragraphs 2 and 3.

The provisions of Article 13, paragraphs 2 and 3, refer to the special agreements which were discussed at such length last year. In view of the fact that, according to paragraph 2, such agreements can only come into force when the Council has invited the signatory States to apply the sanctions, the nature of these agreements may be defined as follows :

Special agreements must be regarded as the means for the rapid application of sanctions of every kind in a particular case of aggression. They are additional guarantees which give weaker States an absolute assurance that the system of sanctions will never fail. They guarantee that there will always be States prepared immediately to carry out the obligations provided for in Article 11 of the Protocol.

In accordance with Article 18 of the Covenant, it is expressly stated that these agreements will be registered and published by the Secretariat, and it has also been decided that they will remain open for signature to any State Member of the League of Nations which may desire to accede to them.

4. — ENDING OF SANCTIONS : PUNISHMENT OF THE AGGRESSOR

Article 14.

Article 14 is in perfect keeping with the last paragraphs of Articles 10 and 11. In the paragraphs in question, the coming into operation of the sanctions depends upon an injunction by the Council; it therefore also devolves upon the Council to declare that the object for which the sanctions were applied has been attained. Just as the application of the sanctions is a matter for the States, so it rests with them to liquidate the operations undertaken with a view to resisting the act of aggression.

Article 15.

Paragraph 1 is similar to Article 10 of the Draft Treaty of Mutual Assistance drawn up last year.

Paragraph 2 is designed to prevent the sanctions provided for in Article 11 from undergoing any change in character during the process of execution and developing into a war of annexation.

In view of the observations of various delegations regarding the punishment of the aggressor, it should be added that it would be incorrect to interpret this article as meaning that the only penalties to be apprehended by the aggressor as the result of his act shall be the burdens referred to in paragraph 1. If necessary, securities against fresh aggression, or pledges guaranteeing the fulfilment of the obligations imposed in accordance with paragraph 1, might be required. Only annexation of territory and measures involving the loss of political independence are declared inadmissible.

"Territory" is to be taken to mean the whole territory of a State, no distinction being made between the mother-country and the colonies.

5. — REDUCTION OF ARMAMENTS

Articles 17 and 21.

Although it has not been possible to solve the problem of the reduction of armaments in the clauses of the document submitted to the Assembly for approval, our work paves the way to it and makes it possible.

The reduction of armaments will result, in the first place, from the general security created by a diminution of the dangers of war arising from the compulsory pacific settlement of all disputes.

It will also ensue from the certainty which any State attacked will have of obtaining the economic and financial support of all the signatory States, and such support would be especially important should the aggressor be a great Power, capable of carrying on a long war.

Nevertheless, for States which, owing to their geographical position, are especially liable to attack, and for States whose most important centres are adjacent to their frontiers, the dangers of a sudden attack are so great that it will not be possible for them to base any plan for the reduction of their armaments simply upon the political and economic factors referred to above, no matter what the importance of such factors may be.

It has also been repeatedly declared that many States would require to know what military support they could count on, before the convening of the Conference, if they are to submit to the Conference proposals for large reductions of armaments; this might necessitate negotiations between the Governments and with the Council before the meeting of the Conference for the reduction of armaments provided for in Article 17. The undertakings referred to in Article 13 of the Protocol should be interpreted in the light of the above.

In drawing up the general programme of the Conference, it will also be necessary, as stated in paragraph 2 of Article 17, for the Council, apart from other criteria "to take into account the undertakings mentioned".

In view of the close interdependence of the three great problems involved, namely, the pacific settlement of disputes, sanctions against those who disturb the peace of the world; and reduction of armaments, the Protocol provides for the convening by the Council of a general Conference for the Reduction of Armaments and for the preparation of the work of such a Conference. Furthermore, the application of the clauses concerning arbitration and sanctions will be conditional on the adoption by the said Conference of a plan for the reduction and limitation of armaments.

Moreover, in order to preserve the connection between the three big problems referred to above, it is provided that the whole Protocol will lapse in the event of the non-execution of the scheme adopted by the Conference. It devolves upon the Council to declare this under conditions to be determined by the Conference itself.

The last paragraph of Article 21 provides for the case of the partial lapsing of the Protocol after it has been put into force. Should the plan adopted by the Conference be regarded as having been put into effect, any State which fails to execute it, so far as it is concerned, will not benefit by the provisions of the Protocol.

6. — THE COVENANT AND THE PROTOCOL

Article 19.

The present Protocol emphasises and defines certain obligations arising out of the Covenant. Those of which the present Protocol makes no mention are not affected in any manner. They still exist. Examples which might be quoted are those laid down in Article 16, paragraph 3, of the Covenant, namely, the obligation of the States to give one another mutual support in order to minimise the loss and inconvenience resulting from the application of the economic and financial sanctions or the obligation of the States to take the necessary steps to afford passage through their territory to forces which are co-operating to protect the covenants of the League.

Moreover, as the Swiss Delegation suggests, attention should be directed to the fact that the present Protocol does not in any way affect the special position of Switzerland arising out of the Declaration of the Council at London on February 13th, 1920. As the special position of Switzerland is in accordance with the Covenant, it will also be in accordance with the Protocol.

III

CONCLUSION

No further explanations need be added to these comments on the articles. The main principles of the Protocol are clear, as are the detailed provisions.

Our purpose was to make war impossible, to kill it, to annihilate it. To do this, we had to create a system for the pacific settlement of *all disputes* which might arise. In other words, it meant the creation of a system of arbitration from which no international dispute, whether legal or political, could escape. The plan drawn up leaves no loophole; it prohibits wars of every description and lays down that all disputes shall be settled by pacific means.

But this absolute character which has been given to the system of arbitration should also belong to the whole of the scheme, to the treatment of every question of principle. If there were one single gap in the system, if the smallest opening were left for any measure of force, the whole system would collapse.

To this end arbitration is provided for every kind of dispute, and aggression is defined in such a way as to give no cause for hesitation when the Council has to take a decision.

These reasons led us to fill in the gaps in the Covenant and to define the sanctions in such a way that no possible means could be found of evading them, and that there should be a sound and definite basis for the feeling of security.

Finally, the Conference for the Reduction of Armaments is indissolubly bound up with this whole system : *there can be no arbitration or security without disarmament, nor can there be disarmament without arbitration and security.*

The peace of the world is at stake.

The Fifth Assembly has undertaken a work of worldwide political importance which, if it succeeds, is destined profoundly to modify present political conditions. This year great progress in this direction has been made in our work. If we succeed, the League of Nations will have rendered an inestimable service to the whole modern world. Such success depends partly upon the Assembly itself and partly upon individual Governments. We submit to the Assembly the fruit of our labours : a work charged with the highest hopes. We beg the Assembly to examine our proposals with care, and to recommend them to the various Governments for acceptance.

In this spirit and with such hopes do we request the Assembly to vote the draft resolutions 1 and 2 that are presented with this Report.

III. — Resolutions of the Fifth Assembly on the Reduction of Armaments

Arbitration, Security and Reduction of Armaments.

I. THE ASSEMBLY,

Having taken note of the reports of the First and Third Committees on the questions referred to them by the Assembly resolution of September 6th, 1924.

Welcomes warmly the draft Protocol on the Pacific Settlement of International Disputes proposed by the two Committees, of which the text is annexed to this resolution, and

Decides

(1) To recommend to the earnest attention of all the Members of the League the acceptance of the said draft Protocol;

(2) To open immediately the said Protocol in the terms proposed for signature by those representatives of Members of the League who are already in a position to sign it and to hold it open for signature by all other States;

(3) To request the Council forthwith to appoint a Committee to draft the amendments to the Covenant contemplated by the terms of the said Protocol;

(4) To request the Council to convene an International Conference for the Reduction of Armaments, which shall meet at Geneva as provided by the following stipulations of Article 17 of the draft Protocol :

“In preparation for the convening of the Conference, the Council shall draw up, with due regard to the undertakings contained in Articles 11 and 13 of the present Protocol, a general programme for the reduction and limitation of armaments which shall be laid before the Conference and be communicated to the Governments at the earliest possible date, and at the latest, three months before the Conference meets.

“If by May 1st, 1925, ratifications have not been deposited by at least a majority of the permanent Members of the Council and ten other Members of the League, the Secretary-General of the League shall immediately consult the Council as to whether he shall cancel the invitations or merely adjourn the Conference to a subsequent date to be fixed by the Council so as to permit the necessary number of ratifications to be obtained.”

(5) To request the Council to put into immediate execution the provisions of Article 12 of the draft Protocol.

II. THE ASSEMBLY,

Having taken cognisance of the report of the First Committee upon the terms of Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice;

Considering that the study of the said terms shows them to be sufficiently wide to permit States to adhere to the special Protocol, opened for signature in virtue of Article 36, paragraph 2, with the reservations which they regard as indispensable;

Convinced that it is in the interest of the progress of international justice, and consistent with the expectations of the opinion of the world, that the greatest possible number of States should, to the widest possible extent, accept as compulsory the jurisdiction of the Court.

Recommends :

States to accede at the earliest possible date to the special Protocol opened for signature in virtue of Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice.

Conference for the Reduction of Armaments.

I. The Assembly recommends the Council to place the question of Regional Agreements for the Reduction of Armaments on the agenda of the International Conference for the Reduction of Armaments.

II. Whereas the majority of the States which have replied have stated that, with certain exceptions, they have not exceeded the expenditure on armaments shown in their last budgets, and whereas the recommendation addressed to the Governments relates to the period which must elapse before the meeting of the International Conference for the Reduction of Armaments, which is to take place next year :

The Assembly does not consider it necessary to repeat the recommendation regarding the limitation of expenditure on armaments, as this question is to be placed upon the agenda of the International Conference for the Reduction of Armaments.

III. The Assembly is of the opinion :

1. That another technical conference on naval disarmament is unnecessary.

2. That the question of naval disarmament should be discussed as part of the general question of disarmament dealt with by the International Conference proposed in the resolution of September 6th, 1924, adopted by the Fifth Assembly, and that it rests with the Council to settle the programme.

IV. The Assembly requests the Council, in preparing the general programme of the Conference for the Reduction of Armaments provided for in Article 17 of the Protocol, to consider the advisability of including in that programme the following points :

1. General plan for a reduction of armaments in accordance with Article 8 of the Covenant, in particular :

(a) Basis and methods of reduction (budget, peace-time effectives, tonnage of naval and air fleets, population, configuration of frontiers, etc.);

(b) Preparation of a typical budget for expenditure on armaments.

2. Special position of certain States in relation to the reduction of armaments :

(a) Temporary reservations by countries exposed to special risks;

- (b) Recommendation of regional agreements for the reduction (or limitation) of armaments,
- 3. Recommendation of the establishment of demilitarised zones (Article 9).
- 4. Control and investigation of armaments in the contracting States.

The Assembly also requests the Council to instruct the competent organisations of the League to examine the schemes relating to the above questions which have already been submitted to the Third Committee, or which may subsequently be received by the Secretariat, and to take them into consideration in preparing the programme of the Conference.

IV. — Resolution of the Council, october 3rd 1924.

1. With a view to the preparation of the Conference for the Reduction of Armaments, the Council decides to form itself into a Committee. The representatives on the Council who consider that it will not be possible to attend the Committee in person will, as soon as possible, send to the Secretary-General the names of their substitutes on this Committee.

The Committee will hold its first meeting on November 17th, in order to draw up a general programme of the work connected with the application of Article 12 of the Protocol and with the reduction of armaments.

The Governments of the States represented on the Council are requested to give their representatives on the Committee the necessary instructions in order that the general lines of the programme may be laid down during its meeting of November 17th. The Secretary-General will invite the Governments of the States Members of the League not represented on the Council to forward through him to the Committee any suggestions which they may think useful with a view to the preparation of this programme.

2. The Secretariat is requested to collect the data necessary for the economic and financial investigations relative to the application of Article 12 of the Protocol, and is authorised to distribute these data to the competent organs of the League (Economic and Financial Organisation and Transit Organisation) with a view to the work which will subsequently be required of them by the Committee.

The Secretariat will obtain information from the official documents at the disposal of the League or from documents which might, if necessary, be furnished by the Governments.

3. In conformity with the Assembly resolution, and in order to assist the Committee in co-ordinating the preparatory work for the Conference, the Temporary Mixed Commission shall be re-organised and shall take the name of the Co-ordination Commission, and be composed as follows :

- (a) The Committee of the Council (ten members) assisted by;
- (b) The President and one member or two members of each of the three Organisations, Economic Financial and Transit (six members);
- (c) Six members appointed by the Permanent Advisory Commission (six members);
- (d) Two members of the Employers' Group and two members of the Workers' Group of the Governing Body of the International Labour Office, appointed by the latter (four members);
- (e) If considered advisable, a certain number of experts—jurists and others—appointed by the Council.

“The Secretary-General is requested to invite at a suitable moment the above-mentioned organisations to appoint their representatives.”

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LEAGUE OF NATIONS

REPORT

of the

**Temporary Mixed Commission for the Reduction
of Armaments**

2

SUMMARY

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INTRODUCTION.

Among the questions dealt with by the Temporary Mixed Commission for the Reduction of Armaments in 1922-1923, that relating to the preparation of a Treaty of Mutual Assistance designed to ensure a general reduction of armaments was, in conformity with resolutions of the Assembly and the Council, submitted for consideration to the Governments of the various countries whether Members of the League of Nations or not. The question of the limitation of expenditure on armaments during the period of preparation of the general plan for the reduction of armaments was, by a decision of the Council in June 1924, submitted for consideration to the Governments of the Members of the League. The scheme for the limitation of naval armaments by an extension of the principles of the Washington Treaty to non-signatory Powers was also, after technical examination by the Naval Sub-Commission

of the Permanent Advisory Commission, referred by the Council to the various Governments for consideration. Finally, the various questions raised by the statistical study of armaments, and by the interchange of information provided for in the last paragraph of Article 8 of the Covenant, formed the subject, according to the suggestions of the Temporary Mixed Commission, of a resolution of the Council, by virtue of which the Secretariat is submitting this year to the Assembly a Statistical Year Book showing the position of the various countries in the matter of armaments.

The Commission had to examine during the year 1923-1924 the remaining questions, viz., that of the possibility of obtaining local reductions of armaments by means of regional agreements; that of chemical warfare, and the two cognate questions of the control of the international trade in, and the private manufacture of, arms and munitions. The Commission has also had to consider the question of the co-ordination of its work with that of the Permanent Advisory Commission, a question which was raised by a resolution of the last Assembly.

The Commission held two plenary sessions during the year, in February and July respectively. Its members have also examined in committees or sub-commissions the various questions enumerated above. The first Sub-Commission held three sessions (in February at Geneva, in March at Paris, and in July at Geneva) with a view to the preparation of a general text regarding the control of the international trade in arms and munitions. A Committee appointed by this Sub-Commission met twice (in April at Prague and in July at Geneva) to consider the question of the control of the private manufacture of arms. A Committee established by the plenary Commission to examine the question of the co-ordination of the work of the two Commissions met twice (in February and July at Geneva), while the Committee entrusted with the study of chemical warfare held a session at Paris on July 29th.

The Commission deeply regrets the resignation of its chairman, M. VIVIANI, for reasons of health. The Commission desires to express its warm acknowledgement of the great ability and energy shown by M. Viviani in carrying out the duties of his office.

The three Vice-Chairmen provided for in Article 4 of its Rules of Procedure having been elected at its session in February the Commission decided to adopt temporarily a system of rotation among its Vice-Chairmen in respect of the Chairmanship, pending the decision of the Council on this matter.

I. CONTROL OF THE INTERNATIONAL TRADE IN ARMS, MUNITIONS AND IMPLEMENTS OF WAR.

I. REPORT.

At the time of the fourth Assembly, all decisions concerning the measures to be taken in execution of the resolutions of the third Assembly in connection with the control of the international trade in arms were in abeyance pending an answer from the Government of the United States to the letter addressed to it by the Council on May 3rd, 1923. This letter requested the Government of the United States to inform the Members of the League as to the general lines on which it would be willing to co-operate in an attempt to solve on a universal and permanent basis the problem of the control of the international trade in arms. The answer arrived during the Assembly meeting. It was confined to a reiteration of the objections which the Government of the United States had already raised as to the Convention of St. Germain. The Assembly were of opinion that it was the duty of the League of Nations to persevere, and they therefore adopted the following resolution:

"IV. (a) The Assembly recommends that the Temporary Mixed Commission should be invited to prepare a new convention or conventions to replace that of St. Germain for the Control of the Traffic in Arms.

"The Temporary Mixed Commission should be requested to draw up the draft convention or conventions in such a form that they might be accepted by the Governments of all countries which produce arms or munitions of war.

"The Temporary Mixed Commission should, however, also make alternative proposals for a convention or conventions which might be adopted by some of the producing Powers even if others refused their co-operation.

"The Assembly recommends that the Council should invite the United States Government to appoint representatives to co-operate with the Temporary Mixed Commission in preparing the draft convention or conventions."

In its session of December 1923, the Council, having examined this resolution, requested the Temporary Mixed Commission to prepare one or more conventions to replace that of St. Germain, in accordance with the instructions of the Assembly.

The Council, moreover, in fulfilment of the last paragraph of the above resolution, sent to the Government of the United States of America a letter which will be found in Annex I.

In this letter, the President of the Council, after recalling the development of the question and mentioning the fact that, in one of its preceding communications, the Government of the

United States had declared itself to be "in cordial sympathy with efforts to restrict the traffic in arms and munitions of war", invited the Government of the United States to co-operate with the Temporary Mixed Commission in the preparation of the draft convention or conventions suggested by the Assembly. Following upon this invitation, the Minister of the United States at Berne, in a letter (Annex II) addressed to the Secretary-General on February 2nd, 1924, intimated that, on the instructions of his Government, he would himself attend the February session of the Temporary Mixed Commission in order to receive information with regard to the proposals made respecting the draft Convention to be considered by the Commission. When Mr. Grew was appointed Under-Secretary of State, his place was taken by Mr. Gibson his successor at Berne.

The Persian Government, which, in a letter addressed to the Council on September 18th, 1923 (Annex III), had declared itself interested in this question, was also invited by the Council to send a representative to attend the meetings of the Temporary Mixed Commission on the question of the control of the international trade in arms, and was represented by Prince Arfa-ed-Dovleh.

* * *

It should be pointed out that the work undertaken on this subject by the Temporary Mixed Commission was based on two articles of the Covenant: Article 23, which makes the following provision with regard to the control of the international trade in arms :

"Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League :

"(d) Will entrust the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest";

and Article 8, the penultimate paragraph of which reads as follows :

"The Members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety."

The above articles taken together indicate both the object and the method of the work of the Commission on this question.

Its object has been twofold : in the first place, to control the trade in arms and munitions in the countries in which the control of this trade is necessary in the common interest ; in the second place, by controlling the general international trade in arms to prevent as far as possible the evil effects which the Covenant attributed to the private manufacture of munitions and implements of war.

The Commission had before it three texts, *i.e.* the Convention of St. Germain and the draft Conventions of Admiral the Marquis de MAGAZ and M. JOUHAUX. In virtue of the decision of the Assembly it was directed to adopt a text which would be likely to obtain the approval of all States and especially of all great producing countries.

It therefore adopted as a basis for its work the Convention of St. Germain, which was amended and completed, in order to facilitate the adherence of the United States to the future Convention and to develop and strengthen that part of the said Convention which dealt with the control of the general trade by incorporating in the new draft certain fundamental ideas contained in the drafts submitted by Admiral the Marquis de MAGAZ and M. JOUHAUX.

The text finally adopted by the Commission (Annex IV) contains six chapters.

Chapter I, consisting of the first Article of the draft, deals with the definition and enumeration of the arms, munitions and implements of war the international commerce of which is to be controlled. In this task the Temporary Mixed Commission had the advantage of the technical co-operation of the Permanent Advisory Commission, and the classification adopted by the Temporary Mixed Commission has for its basis that which the Permanent Advisory Commission had prepared at its May session in Paris. In this connection, the Temporary Mixed Commission endorses the following remarks to be found in the report of the Permanent Advisory Commission on the subject :

"After considering the arms and munitions in relation to their intended or possible use for war, the Commission decided to form three distinct categories,

"The Commission decided that a first category should be set apart for arms and munitions exclusively designed for war.

"In view of the developments which have been effected in arms manufactured for commercial purposes, and particularly in sporting rifles, there is little difference between sporting and military weapons, and the former have acquired a military value which must be taken into consideration. The Commission accordingly considered it advisable to make a second category to include arms and ammunition which, without being designed exclusively for war, were nevertheless capable of being utilised to some extent for military purposes.

"Lastly, the arms which are not covered by the two previous categories, either because they are not specially designed for war or because they are not capable of being utilised for military purposes, have been put into a third category."

.....

“The Commission has thought it desirable to append a note to the list to the effect that it was considered unnecessary to include therein arms the use of which is prohibited by international law.”

The Temporary Mixed Commission thought it necessary to add to the arms and munitions enumerated in Category I of the classification established by the Permanent Advisory Commission certain implements of war, as well as certain component parts thereof.

Chapter II of the Convention includes all the stipulations relative to the export and transit of arms, munitions and implements of war. Starting from Article II, which establishes a general prohibition, this part of the Convention has for its object the building-up of a system of control subject to which all international movements of the material defined in Article I would have to take place. This system has for its basis the control of the export of material in Category I by means of a licence which the Government of the exporting country is to grant only in the case of direct delivery to a Government which it has recognised as such. The Convention, however, stipulates that under certain conditions component parts may be exported to private manufacturers of arms. The export licence must be as nearly as possible in the form contained in the Annex to the Convention (page 16).

Arms and munitions in Category II may be exported without licence provided that they are not intended for warlike purposes. With this end in view, the Governments of the High Contracting Parties undertake to determine from the size, destination and other circumstances of each consignment of Category II material, whether this material may be intended for war purposes, and in that case to submit it to the same rules which apply to Category I.

The international trade in material placed in Category III is free. The export of this material is, however, prohibited in general to certain maritime and territorial zones which are discussed hereafter.

The international control suggested in the Convention is based on publicity, and the organisation entrusted with it is an International Central Office to be set up by the Council of the League of Nations. This Office will receive from the Governments of importing and exporting countries quarterly returns of the licences mentioned above and will publish them.

Chapter III deals with the importation of material defined in Article I in certain maritime and territorial zones. The main purpose of this chapter is contained in Article 9, which stipulates that the import of all the material defined in Article I is to be prohibited in these zones.

The Commission adopted this principle and settled the text of the two paragraphs of Article 9 which are to be found in the enclosed draft. The Commission, however, was of the opinion that this question required further consideration by the Council. It therefore encloses for information the Minutes of its debates on this point (Annex V), including a number of amendments submitted by the British Delegation to the Permanent Advisory Commission.

As for the territories to be included in the prohibited zones, the Commission was of opinion, in view of the new circumstances which have arisen since the Convention of St. Germain was drawn up, that the question might with advantage be the object of special consideration by the Council. A letter from the representative of Persia on this subject is enclosed in Annex III.

Chapters IV and V deal with the land and sea supervision of the trade and the measures to be taken to carry out the preceding provisions in the prohibited zones. These chapters have been drafted on the basis of the corresponding chapters of the Convention of St. Germain after technical modifications suggested by the Permanent Advisory Commission, and, in the case of the maritime supervision, by the Naval Sub-Commission of the Permanent Advisory Commission.

Finally, Chapter VI of the draft deals with general and protocol provisions.

* * *

Special mention must be made of the alterations to the text of the Convention of St. Germain, made with a view to facilitate the adhesion of the United States to the Convention.

On this subject the Commission took into consideration the opinions put forward by the Government of the United States in the course of a correspondence exchanged between the Secretary of State and the Secretary-General of the League of Nations, as well as of the declarations made by the representatives of the Government of the United States, Mr. GREW, Under-Secretary of State, late Minister at Berne and Mr. Hugh GIBSON, present Minister at Berne, whose assistance to the Commission was greatly appreciated. The objections raised by the United States to the Convention of St. Germain may be divided into three heads :

(1) The Convention of St. Germain does not permit trade in arms with countries which are not parties to the Convention, a provision which would preclude the United States from supplying arms to many American countries, which have not ratified ;

(2) The United States Government cannot subscribe in advance to international obligations which would be dependent on national legislation which the Government cannot guarantee that Congress will enact ; and

(3) The provisions of the Convention in relation to the League of Nations are so closely interwoven with the Convention that they make it impossible for the Government of the United States, which is not a Member of the League of Nations, to ratify the Convention.

The draft which has been prepared has eliminated the first objection. Export of arms

is henceforth permissible, subject to the general conditions laid down in the Treaty, to any Government recognised as such by the Government of the exporting country (Article 3).

In this connection, the Commission had also to consider the advisability of allowing in certain cases the export of arms to belligerents who had not yet acquired a full Government status. This question is closely connected with the very delicate one of the neutrality of the Government of an exporting country in time of war. By the existing rules of international law, the neutrality of a State is not affected if a resident thereof, national or foreign, exports arms or munitions to a belligerent. As soon, however, as, owing to an international convention, an export licence becomes necessary, the question assumes a new complexion since, there occurs a Government intervention in the transaction. The Commission is fully aware of the difficulty thus raised and thinks that it may be solved by means of a new article (Article 25) suspending the provisions of Articles 2 to 6 in the case of material exported or in transit "to or on behalf of any of the belligerents recognised as such by the exporting country and the countries of transit, provided such recognition has been previously communicated to the other High Contracting Parties".

The Commission duly appreciated the force of the second objection, on which Mr. GREW laid special emphasis during the discussions. It seemed impossible to find any solution which would meet all difficulties arising in each particular case. The Commission thinks, however, that the International Convention could be adapted to the requirements of national legislatures by giving to it a certain measure of elasticity by the insertion of a clause permitting partial or conditional adhesion. With this object, the following paragraph has been added to Article 26 :

"Any Government may, on signing or adhering to the present Convention, declare that it accepts its provisions partially or conditionally, provided that the High Contracting Parties consent, and that it does not thereby affect the effectiveness of the supervision of the trade in arms, munitions and implements of war."

The Commission has made a special study of the question of the relations between the High Contracting Parties non-Members of the League of Nations and the League of Nations. This question is closely bound up with that of the constitution of the international organisation which is to secure the publication of licences and transactions relating to the trade in arms. The Commission endeavoured to avoid any solution which would be likely to constitute an obstacle to ratification by the United States. The text which was finally agreed upon lays down that :

"A Central International Office shall be established by the Council of the League for the purpose of collecting, preserving and publishing documents of all kinds delivered by the High Contracting Parties with regard to the trade in and the distribution of, etc...".

The reasons for the choice of this text are as follows :

1. The formation of this organ, its nature and the authority under which it will be placed are not prejudged by the text, nor is the method which the Council may decide upon for its establishment.

2. The Council can therefore decide whether the proposed international organ shall or shall not be placed under the ægis of the League of Nations. The Commission had to bear in mind, on the one hand, the objections of the United States to any control by the League of Nations and, on the other hand, the difficulty that any organisation of the League of Nations would encounter if it proposed a system of international control from which the League of Nations would be excluded. The Commission thought that this was a matter on which the Council alone could decide.

3. The text differs from the Convention of St. Germain in that, while the Convention was forwarded to the United States, which had not then ratified it, as a *ne varietur* whole, this text would only be transmitted to the different States Members or non-Members as a basis for discussion at an international conference, where the present difficulties could be debated. In consequence, the objection to the rôle of the League of Nations, which proved an insurmountable obstacle to the ratification of a cut-and-dried convention by non-Member States would not justify the rejection of a text prepared to serve as a basis for discussion only.

4. Finally, even were the Council to decide to place this organisation under the ægis of the League of Nations (for instance, as a Section of the Secretariat), it is quite possible to conceive solutions acceptable to Governments non-Members by applying the clause of partial or conditional adhesion mentioned above.

* * *

In submitting its draft to the Council, the Commission would point out that its work has been carried out in the light of the observations put forward by the representatives of the Government of the United States and in close co-operation with the Permanent Advisory Commission. In its opinion, this draft constitutes a sufficient basis for the work of the International Conference which both the Assembly and the Council have expressed their intention of convoking.

2. ANNEXES.

Annex I

LETTER FROM THE PRESIDENT OF THE COUNCIL OF THE LEAGUE OF NATIONS TO THE
SECRETARY OF STATE OF THE UNITED STATES OF AMERICA.

Geneva, December 14th, 1923.

I have the honour to acknowledge the receipt of your letter of September 12th, 1923, forwarded by the Legation of the United States in Berne, in answer to the communication sent you by the Acting-President of the Council, dated May 1st.

In that letter the Acting-President of the Council outlined the development of this question. After having recalled the fact that the Convention of St. Germain had been framed with the co-operation of the American Peace Commission, as an adequate solution of the arms traffic question on a world-wide basis, and pointed out that this Convention could not fulfil its aim unless ratified by all the manufacturing Powers, the latter went on to summarise the efforts that were made by the League of Nations to bring about this ratification. It then recalled that, unfortunately, the Government of the United States had found itself unable to ratify the Convention, thereby putting an end to all hopes of ratification by the other chief manufacturing Powers which had been conditional on a general ratification by all of them.

The letter addressed by the Council of the League to the Government of the United States on November 21st, 1923, was then mentioned, as well as your answer of July 28th, 1922, in which you were good enough to inform the Secretary-General that: "while the Government of the United States was in cordial sympathy with efforts to restrict traffic in arms and munitions of war, it found itself unable to approve the provisions of the Convention and to give any assurance of its ratification".

The letter of the Acting-President of the Council quoted the resolution of the third Assembly to the effect that "the Assembly considers it highly desirable that the Government of the United States should express the objections which it has to formulate to the provisions of the Convention of St. Germain, as well as any proposals which it may care to make as to the way in which these objections can be overcome".

Your reply of September 12th, 1923, was received at the moment when the fourth Assembly was dealing with the question. The Assembly, while noting the objections which the Government of the United States raised in connection with the Convention of St. Germain, as outlined in your letter, was, however, confronted with the fact that no proposals were made therein for the solution of the problem on a fresh basis. The first or negative side of the Assembly's resolution was therefore met, but not its second or positive part.

Having, however, in mind the fact that, in a previous letter quoted above, the Government of the United States had expressed itself "in cordial sympathy with efforts to restrict the traffic in arms and munitions of war", the Assembly, in its session of 1923, adopted the following resolution:

"IV. (a) The Assembly recommends that the Temporary Mixed Commission should be invited to prepare a new convention or conventions to replace that of St. Germain for the Control of the Traffic in Arms.

"The Temporary Mixed Commission should be requested to draw up the draft convention or conventions in such a form that they might be accepted by the Governments of all countries which produce arms or munitions of war.

"The Temporary Mixed Commission should, however, also make alternative proposals for a convention or conventions which might be adopted by some of the producing Powers, even if others refused their co-operation. The Assembly recommends that the Council should invite the United States Government to appoint representatives to co-operate with the Temporary Mixed Commission in preparing the draft convention or conventions."

Acting upon this resolution of the Assembly, with which the Council is in entire agreement, I have the honour, on behalf of my colleagues of the Council, to invite the Government of the United States to co-operate with the Temporary Mixed Commission in the preparation of the draft convention or conventions suggested by the Assembly.

In sending this invitation to the Government of the United States, the Council has felt that the problem of the control of the traffic in arms — a problem which, the Federal Government will agree, has an eminently moral and humanitarian character — cannot be entirely solved except with the help of all the great producing countries.

I have the honour to enclose not only the report of the Temporary Mixed Commission to the Council and the report of the Third Committee to the Assembly, both of which deal with the question raised in this letter, but also the resolution of the Council, setting out the constitution and character of the Commission.

(Signed) BRANTING.

Annex II

LETTER FROM THE MINISTER OF THE UNITED STATES IN BERNE TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

Legation of the United States of America, Berne,

February 2nd, 1924.

My dear Sir Eric Drummond,

With reference to the communication addressed to the Secretary of State in December 1923 by M. Branting, Acting-President of the Council of the League of Nations, inviting the Government of the United States to co-operate with the Temporary Mixed Commission in the preparation of the new Convention for the Regulation of the Traffic in Arms, to supersede the Convention of St. Germain, and with reference to my letter to you dated December 15th, 1923, relating to the same subject, I take pleasure in informing you that I have been instructed by my Government to attend the meetings of the Temporary Mixed Commission which open on February 4th, 1924, in order that I may be fully advised with regard to the proposals made and particularly to receive information respecting the draft Convention which it is understood will be considered by the Commission.

I shall, of course, have no authority to bind my Government in any way to whatever conclusions may be reached by the Commission. I shall be glad, however, to transmit to my Government any recommendations which may be formulated, and, in case any appropriate plan is devised, the question of securing necessary legislation will receive proper consideration by the Government of the United States.

(Signed) JOSEPH C. GREW.

Annex III

LETTER FROM HIS HIGHNESS THE PRINCE ARFA-ED-DOVLEH (PERSIA) TO THE PRESIDENT OF THE COUNCIL OF THE LEAGUE OF NATIONS.

Geneva, September 18th, 1923.

Sir,

The Persian Government has instructed me to forward you, on its behalf, a formal declaration relative to the suppression of illicit traffic in arms and ammunition. As a member of the League of Nations, Persia has decided to support any equitable measure or agreement which may assist in the prevention and stoppage of this traffic, against which she has already taken steps in her own territory by means of particularly severe legislation.

As a sovereign State, however, the Persian Government must be in a position to defend its neutrality, to meet such undertakings as may arise under the terms of Article 10 of the Covenant, and, therefore, to import for its own use the arms and ammunition required for the small army of 75,000 men which it deems indispensable for the protection of its frontiers and the fulfilment of its duties of international solidarity within the meaning of the treaty of guarantee now under consideration by the League of Nations.

Chapter II of the St. Germain Convention, which was signed in 1919 by certain Powers and drawn up without the participation of Persia, contains certain stipulations which place our country in a prohibited zone and which are to-day embarrassing the Government by impeding the lawful importation of such arms and ammunition as it requires to carry out its duties. I am instructed to protest officially against Article 6 of the Convention referred to and to point out that Persia was never consulted and that she cannot recognise the validity of any document which disposes of her sovereign rights without her assent.

Persia requests the Council of the League of Nations to assist her in putting an end to this difficulty and at the same time to furnish her with the means of associating herself with any appropriate measures against the illicit traffic in arms and ammunition in general agreement with the other Members of the League or by direct treaty with each of the Powers signatory to the St. Germain Convention, which it is impossible for her to recognise as it stands.

In the hope that the Council will comply with our request and give a favourable consideration to these observations, etc.

(Signed) Prince ARFA-ED-DOVLEH.

Annex IV

**DRAFT CONVENTION FOR THE CONTROL OF THE INTERNATIONAL TRADE IN
ARMS, MUNITIONS AND IMPLEMENTS OF WAR.**

PREAMBLE

Whereas the Convention of Saint Germain signed by the High Contracting Parties therein mentioned has not entered into full force and effect ;

Whereas it is necessary to exercise a general supervision over the international trade in arms, munitions and implements of war, with the object of securing the fullest possible publicity in regard to such trade ;

Whereas the existing treaties and conventions, and particularly the Brussels Act of July 2nd, 1890, regulating the traffic in arms and munitions in certain regions, no longer meet present conditions ;

Whereas a special supervision of the maritime zone adjacent to certain countries is necessary to ensure the efficacy of the measures adopted by the various Governments both as regards the import of arms, ammunition and implements of war into these countries and their export from their own territory ;

Have appointed :

**Chapter I. — DEFINITION OF THE ARMS, MUNITIONS AND IMPLEMENTS OF WAR
THE INTERNATIONAL TRADE OF WHICH IS TO BE CONTROLLED.**

Article 1.

This Convention applies to the following arms, munitions and implements of war :

CATEGORY I.

**1. ARMS AND MUNITIONS, ASSEMBLED OR COMPONENT PARTS,
EXCLUSIVELY DESIGNED FOR LAND, SEA OR AERIAL WARFARE,
WHATEVER THEIR MODE OF EMPLOYMENT.**

(a). — All arms and ammunition which are or shall be comprised in the equipment of the armed forces of the different States, including :

- Pistols and revolvers, automatic or self-loading, and developments of the same, designed for single-handed use or fired from the shoulder, of a calibre greater than 6.5 mm. and length of barrel more than 10 cm. ;
- Rifles, muskets, carbines ;
- Machine-guns, interrupter gears, mountings for machine-guns ;
- Aerial gun sights ;
- Infantry apparatus for the discharge of projectiles ;
- Flame throwers ;
- Cannon, long or short, bomb throwers and mortars of all kinds and their carriages, mountings, recuperators, accessories for mounting and sighting apparatus ;
- Apparatus for the discharge of all kinds of projectiles, bombs, torpedoes, depth charges, etc. ;
- Grenades, bombs, land mines, submarine mines fixed or floating, torpedoes, depth charges ;
- Projectiles of all kinds ;
- Ammunition and appliances for the above arms and apparatus ;
- Bayonets, swords and lances ;

(b). — All arms and ammunition which, after having been employed in the services of the different States, are no longer part of their equipment but remain capable of being utilised for military purposes to the exclusion of any other utilisation.

**2. IMPLEMENTS OF WAR HEREAFTER ENUMERATED AND COMPONENT PARTS
WHICH ARE CAPABLE OF BEING UTILISED ONLY IN THE MANUFACTURE OF THE SAID MATERIAL.**

- Ships of all kinds designed exclusively for war, including submarines and submersibles ;
- Airships, aeroplanes and seaplanes designed exclusively for war ;
- Tanks ;
- Armoured cars.

CATEGORY II.

ARMS AND MUNITIONS, ASSEMBLED OR COMPONENT PARTS, CAPABLE OF USE
BOTH FOR MILITARY AND OTHER PURPOSES.

1. Fire-arms, designed or adapted for non-military purposes, that will fire cartridges that can be fired from fire-arms in Category I.
2. All other rifled, fire-arms, firing from the shoulder, of a calibre of 6 mm. or above, not included in Category I.
3. Ammunition for the arms enumerated above.
4. Gunpowder and explosives.

CATEGORY III.

ARMS AND MUNITIONS HAVING NO MILITARY VALUE.

All the arms and munitions other than those defined in Categories I and II, such as :

Rifled weapons of a calibre of less than 6 mm. designed for firing from the shoulder ;
Revolvers and automatic pistols of a calibre of 6.5 mm. or less and length of barrel of 10 cm. or less ;
Smooth-bore shot guns ;
Double-barrelled shot-guns of which one barrel is rifled, the other smooth-bore ;
Single-shot pistols ;
Fire-arms firing rimfire ammunition ;
Muzzle-loading fire-arms ;
Life-saving rockets.
Guns for whaling or other fisheries ;
Signal and saluting guns.
Humane cattle-killers of all sorts.
Ammunition for the above.

Chapter II. — EXPORT AND TRANSIT OF ARMS, MUNITIONS AND IMPLEMENTS OF WAR.

Article 2.

The High Contracting Parties undertake not to export themselves, and to prohibit the export, of arms, munitions and other implements of war enumerated in Category I, except on the conditions hereinafter mentioned.

Article 3.

Notwithstanding this prohibition, the High Contracting Parties may grant in respect of arms, munitions and implements of war whose use is not prohibited by international law, licences for the export of arms, munitions and implements of war enumerated in Category I, in the following conditions :

1. Licences are not to be granted except for a direct supply to a Government recognised as such by the Government of the exporting country.
2. The Government acquiring the consignment must act through a duly accredited representative.
3. Such representative must produce a written authority from the Government he represents for the acquisition of each consignment, which authority must state that the consignment is required for delivery to that Government for its own use.
4. The form in which this licence shall be given shall, so far as practicable, be that given as an appendix to the present Convention.

Each licence must contain a description sufficient for the identification of the arms, munitions and implements of war to which it relates and the names of the exporter and the acquiring Government, ports of embarkation and disembarkation, means of transport, intended route and destination.

5. A separate licence shall be required for each separate consignment which crosses the frontier of the exporting country, whether by land, water or air, and shall accompany each separate consignment.

6. A return of the licences granted shall be sent quarterly to the Central International Office referred to in Article 8 of the present Convention by the issuing Governments ; importing Governments, when High Contracting Parties, shall also forward quarterly to the Central International Office a return of the same licences enclosing particulars of the heading under which the imported goods will appear in their imports statistics.

Article 4.

Further, licences for the export to private individuals of component parts covered by Category I may be granted on the following conditions :

The said component parts must be exported direct to a recognised manufacturer of war material, duly authorised by his own Government, on a declaration from him to the effect that the said component parts are required by him.

The Government which grants the licence and the Government of the importer's country shall take all adequate precautions to ensure that the said component parts are sent direct to their destination.

The licences granted in the terms of the present Article shall, so far as practicable, be drafted according to the form annexed to the present Convention, and shall conform to the provisions of the present Convention, and particularly to those of Article 8.

Article 5.

Without prejudice to any obligations to which they may have subscribed under international conventions dealing with transit, the High Contracting Parties, when they have reason to believe that any consignment of arms, munitions or implements of war in transit through their territory does not conform to the provisions of the present Convention, undertake to investigate the circumstances and if necessary to prohibit the transit.

Article 6.

Without prejudice to the provisions of Article 7, arms and munitions in Categories II and III may, if the exporter's country so desires, be exported without licence. Provided, nevertheless, that in the case of arms and munitions of Category II the High Contracting Parties hereby undertake to determine from the size, destination and other circumstances of each consignment whether these arms and munitions are intended for war purposes. If such is the case, the High Contracting Parties undertake that the shipments shall become subject to Articles 2 to 5.

Article 7.

The High Contracting Parties further undertake to prohibit the export of arms, munitions and implements of war enumerated in Article 1, to the maritime or territorial zones specified in Article 9.

Nevertheless, the High Contracting Parties may grant export licences, notwithstanding this prohibition, provided that they conform to the provisions of Articles 3 to 5. The competent authorities must satisfy themselves, before issuing the licences, that the arms, munitions or implements of war are not intended for export to any destination or for disposal in any way contrary to the provisions of this Convention.

Article 8.

A Central International Office shall be established by the Council of the League of Nations for the purpose of collecting, preserving and publishing documents of all kinds exchanged by the High Contracting Parties with regard to the trade in and the distribution of arms, munitions and implements of war, as well as the text of all laws, orders and regulations made for the carrying out of the present Convention.

Each of the High Contracting Parties shall publish an annual return of the export licences which each may have granted in respect of arms, munitions and implements of war in pursuance of the present Convention, mentioning the quantities and destination of the arms, munitions and implements of war to which the export licences refer. A copy of this return shall be sent to the Central International Office.

The High Contracting Parties further undertake to forward to the Central International Office all information which they will be in a position to provide relating to consignments under contracts entered into before the coming into force of the present Convention.

*Chapter III. — IMPORT OF ARMS, MUNITIONS AND IMPLEMENTS OF WAR.
PROHIBITED ZONES.*

Article 9.

The High Contracting Parties undertake, each as far as the territory under its jurisdiction is concerned, to prohibit the importation of arms, munitions and implements of war into the following territorial zones, and also to prevent their exportation to, importation and transportation in the territorial zones as well as in the maritime zone defined below.

Special licences for the import of arms, munitions and implements of war into the zones defined above may be issued. In the African zone they shall be subject to the regulations specified in Articles 10 and 11 or to any local regulations of a stricter nature which may be in force.

In the other zones specified in the present Article, these licences shall be subject to similar regulations put into effect by the Governments exercising authority there.

Chapter IV. — SUPERVISION ON LAND.

Article 10.

Arms, munitions and implements of war exported under licence into the prohibited zones shall be admitted only at ports, or other places of entry, designated for this purpose by the authorities of the State, Colony, Protectorate or territory under mandate concerned.

Such arms, munitions and implements of war must be deposited by the importer at his own risk and expense in a public warehouse under the exclusive custody and permanent

control of the Authority and of its agents, of whom one at least must be a civil official or a military or naval officer. No arms, munitions or implements of war shall be deposited or withdrawn without the previous authorisation of the administration of the State, Colony, Protectorate or territory under mandate, unless the arms, munitions and implements of war to be deposited or withdrawn are intended for the forces of the Government or the defence of the national territory.

The withdrawal of arms, munitions or implements of war deposited in those warehouses shall be authorised only in the following cases :

1. For despatch to places designated by the Government where the inhabitants are allowed to possess arms, under the control and responsibility of the local authorities, for the purpose of defence against robbers or rebels.
2. For despatch to places designated by the Government as warehouses and placed under the supervision and responsibility of the local authorities.
3. For individuals who can show that they require them for their legitimate personal use.

Article 11.

In the prohibited zones specified in Article 9, trade in arms, munitions and implements of war shall be placed under the control of officials of the Government and shall be subject to the following regulations :

1. No person may keep a warehouse for arms, munitions or implements of war without a licence.
2. Any person licensed to keep a warehouse for arms, munitions or implements of war must reserve for that special purpose enclosed premises, having only one entry, provided with two locks, one of which can be opened only by the officers of the Government.

The person in charge of a warehouse shall be responsible for all arms, munitions or implements of war deposited therein and must account for them on demand. For this purpose all deposits or withdrawals shall be entered in a special register, numbered and initialled. Each entry shall be supported by references to the official documents authorising such deposits or withdrawals.

3. No transport of arms, munitions or implements of war shall take place without a special licence.

4. No withdrawal from a private warehouse shall take place except under licence issued by the local authority on an application stating the purpose for which the arms or ammunition are required, and supported by a licence to carry arms or by a special permit for the purchase of ammunition. Every arm shall be registered and stamped; the authority in charge of the control shall enter on the licence to carry arms the mark stamped on the weapon.

5. No one shall without authority transfer to another person either by gift or for any consideration any weapon or ammunition which he is licensed to possess.

Article 12.

In the prohibited zones specified in Article 9, the manufacture and assembling of arms, munitions or implements of war shall be prohibited, except at arsenals established by the local Government or, in the case of countries placed under tutelage, at arsenals established by the local Government, under the control of the mandatory Power, for the defence of its territory or for the maintenance of public order.

No arms shall be repaired except at arsenals or establishments licensed by the local Government for this purpose. No such licence shall be granted without guarantees for the observance of the rules of the present Convention.

Article 13.

Within the prohibited zones specified in Article 9, a State which is compelled to utilise the territory of a contiguous State for the importation of arms, munitions or implements of war whether complete or in parts, or of material or of articles intended for armament, shall be authorised on request to have them transported across the territory of such State.

It shall, however, when making any such request, furnish guarantees that the said articles are required for the needs of its own Government, and will at no time be sold, transferred or delivered for private use or used in any way contrary to the interests of the High Contracting Parties.

Any violation of these conditions shall be formally established in the following manner :

(a) If the importing State is a sovereign independent Power, the proof of the violation shall be advanced by one or more of the representatives accredited to it of contiguous States among the High Contracting Parties. After the representatives of the other contiguous States have, if necessary, been informed, a joint enquiry into the facts by all these representatives will be opened, and if need be, the importing State will be called upon to furnish explanations. If the gravity of the case should so require, and if the explanations of the importing State are considered unsatisfactory, the representatives will jointly notify the importing State that all transit licences in its favour are

suspended and that all future requests will be refused until it shall have furnished new and satisfactory guarantees.

The forms and conditions of the guarantees provided by the present Article shall be agreed upon previously by the representatives of the contiguous States among the High Contracting Parties. These representatives shall communicate to each other, as and when issued, the transit licences granted by the competent authorities.

(b) If the importing State has been placed under the mandatory system established by the League of Nations, the proof of the violation shall be furnished by one of the High Contracting Parties or on its own initiative by the mandatory Power. The latter shall then notify or demand, as the case may be, the suspension and future refusal of all transit licences.

In cases where a violation has been duly proved, no further transit licence shall be granted to the offending State without the previous consent of the Council of the League of Nations.

If any proceedings on the part of the importing State or its disturbed condition should threaten the public order of one of the contiguous State signatories of the present Convention, the importation in transit of arms, munitions or implements of war, material and articles intended for armament shall be refused to the importing State by all the contiguous States until order has been restored.

Chapter V. — MARITIME SUPERVISION.

Article 14.

Subject to any contrary provisions in existing special agreements, or in future agreements, provided that in all cases such agreements otherwise comply with the provisions of the present Convention, the sovereign State or mandatory Power shall carry out the supervision and police measures within territorial waters in the prohibited zones specified in Article 9.

Article 15.

Within the prohibited zones specified in Article 9, no native vessel of less than 500 tons (net tonnage) shall be allowed to ship, discharge or tranship arms, munitions or implements of war.

A ship shall be deemed to be native if she is either owned by a native, or fitted out, or commanded by a native, or if more than half of the crew are natives of the countries included in the prohibited zones specified in Article 9.

This provision does not apply to lighters or barges, nor to vessels which are engaged exclusively in the coasting trade between different ports of the same State, Colony, Protectorate or territory under mandate, where warehouses are situated.

All cargoes of arms, munitions or implements of war shipped on the vessels specified in the preceding paragraph must obtain a special licence from the territorial authority, and all arms, munitions and implements of war so shipped shall be subject to the provisions of the present Convention.

This licence shall contain all details necessary to establish the nature and quantity of the items of the shipment, the vessel on which the shipment is to be loaded, the name of the ultimate consignee and the ports of loading and discharge. It shall also be specified thereon that the licence has been issued in conformity with the regulations of the present Convention.

The provisions of this Article do not apply :

(a) To arms, munitions and implements of war conveyed on behalf of a Government either under that Government's authorisation or accompanied by a duly qualified official.

(b) To arms and munitions in the possession of persons provided with a licence to carry arms, provided such arms are for the personal use of the bearer and are accurately described on his licence.

Article 16.

To prevent all illicit conveyance of arms, munitions and implements of war within the prohibited zones defined in Article 9, native vessels of less than 500 tons (net tonnage) :

(a) if not exclusively engaged in the coasting trade between different ports of the same State, Colony, Protectorate or territory under mandate,
or

(b) if not engaged in carrying on behalf of a Government as permitted by Article 15, paragraph (a), and proceeding to or from any point within the said zones,

must carry a manifest of their cargo or similar document specifying the quantities and nature of the goods on board, their origin and destination.

The provisions as to the above-mentioned document shall not apply to vessels only partially decked having a maximum crew of ten men and exclusively employed in fishing within territorial waters.

Article 17.

Authority to fly the flag of one of the High Contracting Parties, within the prohibited zones defined in Article 9, shall not be granted to native vessels of under 500 tons (net tonnage) as defined in Article 15 unless they satisfy all the three following conditions :

- (1) The owners must be nationals of the Power whose flag they claim to fly or a company duly registered under the laws of that Power ;
- (2) They must furnish proof that they possess real estate in the district of the authority to which their application is addressed or must supply a solvent security as a guarantee for any fines to which they may become liable ;
- (3) Such owners, as well as the captain of the vessel, must furnish proof that they enjoy a good reputation, and especially that they have never been convicted of illicit conveyance of the articles referred to in the present Convention.

The authorisation must be renewed every year. It shall contain the indications necessary to identify the vessel, the name, tonnage, type of rigging, principal dimensions, registered number and signal letters. It shall bear the date on which it was granted and the status of the official who granted it.

The initial letters of the port of registration of the native vessel followed by the vessel's registration number in the serial port numbers must be incised and painted in white on black ground on both quarters of each vessel.

The same marks may be painted in black on the sails.

The net tonnage of the native vessel shall also, if practicable, be incised and painted in a conspicuous position inside the hull.

Article 18.

The High Contracting Parties agree to apply the following rules in the maritime zone specified in Article 9.

(1) When a warship belonging to one of the High Contracting Parties encounters outside territorial waters a supposed native vessel of less than 500 tons burden (net tonnage)

- (a) Flying the flag of one of the High Contracting Parties ;
- (b) Flying the flag of a recognised nation ;
- (c) Flying no flag ;

and the Commander of the warship has good reason to believe that the supposed native vessel

- (d) is flying a flag without being entitled to do so ;
- (e) is not lawfully entitled to fly the flag of any recognised nation ;
- (f) is illicitly conveying arms munitions or implements of war.

he may proceed, subject to the conditions indicated in the paragraphs below to verify the nationality of the vessel by examining the document authorising the flying of the flag, if this document exist and also the manifest referred to in Article 16.

Any vessel which presents the appearance of a native build or rig may be presumed to be a native vessel.

(2) With this object, a boat commanded by a commissioned officer in uniform may be sent to visit the suspected vessel, after she has been hailed to give notice of such intention. The officer sent on board the vessel shall act with all possible consideration and moderation. Before leaving the vessel, the officer shall draw up a *procès-verbal* in the form and language in use in his own country. This *procès-verbal* shall state the facts of the case and shall be dated and signed by the officer.

Should there be on board the warship no commissioned officer other than the commanding officer, the above-prescribed operations may be carried out by the warrant, petty or non-commissioned officer at the discretion of the commanding officer.

The captain or master of the vessel visited, as well as the witnesses, shall be invited to sign the *procès-verbal*, and shall have the right to add to it any explanations which they may consider expedient.

(3) In the cases referred to in paragraphs 1 (a) and 1 (b) of this Article, unless the right to fly the flag can be established, the vessel shall be conducted to the nearest port in the zone where there is a competent authority of the Power whose flag has been flown and shall be handed over to such authority.

Should the nearest competent authority representing the Power whose flag the vessel has flown be at some port at such a distance from the point of arrest that the warship would have to leave her station or patrol to escort the detained vessel to that port, the foregoing regulation need not be carried out. In such a case, the vessel may be taken to the nearest port where there is a competent authority of one of the High Contracting Parties of nationality other than that of the warship, and handed over to such authority, and steps shall at once be taken to notify the detention to the competent authority representing the Power concerned.

No proceedings shall be taken against the vessel or her crew until the arrival of the representative of the Power whose flag the vessel was flying or without authority from him.

The suspected vessel may also be handed over to a warship of the nation whose flag she had flown, if the latter consents to take charge of her.

(4) The procedure laid down in paragraph 3 may be followed if, after the verification of the flag and in spite of the manifest being in order, the commander of the warship continues to suspect the native vessel of engaging in the illicit conveyance of arms, munitions or implements of war.

(5) In the cases referred to in paragraph 1 (c) of this Article, if it is ascertained, as a result of the visit made on board the native vessel, that whereas it flew no flag, it was also not entitled to fly the flag of a recognised State, the native vessel shall, unless the innocent nature of her cargo can be established to the satisfaction of the commanding officer of the warship, be conducted to the nearest point in the zone where there is a competent authority of the Power to which the warship which effected the capture belonged, and shall be handed over to such authority.

If it should be established that the vessel was engaged in the illicit conveyance of arms, munitions and implements of war, the vessel and all cargo carried in addition to the arms, munitions and implements of war shall be seized by such authority and disposed of according to its own laws — the destruction of the illicit cargo of arms, munitions and implements of war may be ordered according to the same laws.

Article 19.

The authority before whom the suspected vessel has been brought shall institute a full enquiry in accordance with the laws of his country in the presence of an officer of the detaining warship.

If, however, owing to the duties upon which the warship is engaged, it is not practicable for an officer of this warship to attend this enquiry, an affidavit sworn by the commanding officer of the warship shall be accepted by the authority holding the enquiry in place of the verbal evidence of an officer of the warship.

If it is proved at this enquiry that the flag has been illegally flown but that the vessel is entitled to fly the flag of a recognised State she shall, if that State is one of the High Contracting Parties, be handed over to the nearest authority of that State and in all other cases shall be disposed of by agreement between the State responsible for her detention and the State whose flag she is entitled to fly, and, pending such agreement, shall remain in the custody of the authorities of the nationality of the detaining warship.

If it should be established that the use of the flag by the detained vessel was correct but that the vessel was engaged in the illicit conveyance of arms, munitions and implements of war, those responsible shall be brought before the courts of the State under whose flag the vessel sailed. The vessel herself and her cargo shall remain in charge of the authority directing the enquiry. The illicit cargo of arms, munitions or implements of war may be destroyed in accordance with the laws and regulations drawn up for the purpose.

Article 20.

The High Contracting Parties agree to communicate to the Central International Office specimen forms of the documents mentioned in Articles 15, 16, 17.

Article 21.

Any illicit conveyance or attempted conveyance legally established against the captain or owner of a vessel authorised to fly the flag of one of the signatory Powers, or holding the licence provided for in Article 15, shall entail the immediate withdrawal of the said authorisation or licence.

The High Contracting Parties will take the necessary measures to ensure that their territorial authorities or their consuls shall send to the Central International Office certified copies of all authorisations granted under this Convention to fly their flag as soon as such authorisation shall have been granted, as well as notice of withdrawal of any such authorisation. They also undertake to communicate to the said office copies of the licences provided for under Article 15.

Article 22.

The commanding officer of a warship who may have detained a vessel flying a foreign flag shall in all cases make a report thereon to his Government, stating the grounds on which he acted.

An extract from this report, together with a copy of the procès-verbal, drawn up by the officer, warrant officer, petty or non-commissioned officer sent on board the vessel detained shall be sent as soon as possible to the Central International Office and at the same time to the Government whose flag the detained vessel was flying.

Article 23.

If the authority entrusted with the enquiry decides that the detention and diversion of the vessel or the measures imposed upon her were irregular, he shall fix the amount of the compensation due. If the capturing officer, or the authorities to whom he is subject, do not

accept the decision or contest the amount of the compensation awarded, the dispute shall be submitted to a court of arbitration consisting of one arbitrator appointed by the Government whose flag the vessel was flying, one appointed by the Government of the capturing officer, and an umpire chosen by the two arbitrators thus appointed. The two arbitrators shall be chosen, as far as possible, from among the diplomatic, consular or judicial officers of the High Contracting Parties. These appointments must be made with the least possible delay, and natives in the pay of the High Contracting Parties shall in no case be appointed. Any compensation awarded shall be paid to the person concerned within six months at most from the date of the award.

The decision shall be communicated to the Central International Office.

Chapter VI. — GENERAL PROVISIONS.

Article 24.

The High Contracting Parties who exercise authority over territories within the prohibited zones specified in Article 9 agree to take, so far as each may be concerned, the measures required for the enforcement of the present Convention, and in particular for the prosecution and repression of offences against the provisions contained therein and to appoint the necessary territorial and consular officers or special representatives competent for this purpose.

They shall communicate these measures to the Central International Office and shall inform them of the competent authorities referred to in the preceding Article.

Article 25.

In time of war, Articles 2, 3, 4, 5 and 6 shall be considered as suspended from operation until the restoration of peace so far as concerns any export and transit of arms, munitions or implements of war to or on behalf of any of the belligerents recognised as such by the exporting country and the countries of transit, provided such recognition has been previously communicated to the other High Contracting Parties.

Article 26.

Any Government may, on signing or adhering to the present Convention, declare that it accepts its provisions partially or conditionally, provided that the High Contracting Parties consent and that it does not thereby affect the effectiveness of the supervision of the trade in arms, munitions, and implements of war.

Nevertheless, the Convention shall only apply to Powers availing themselves of the option provided in the previous paragraph if, within the period of one year from the notification by the French Government of the deposit of their ratification (or adherence), partial or conditional, no opposition to such ratification (or adherence) has been raised by any of the Contracting Parties.

Article 27.

All the provisions of former general international Conventions relating to the matters dealt with in the present Convention, including the Convention for the Control of the Trade in Arms and Ammunitions and the Protocol signed at Saint Germain-en-Laye September 10th, 1919, shall be considered as abrogated in so far as they are binding between the Powers which are Parties to the present Convention.

The present Convention shall in no way affect the rights and obligations which may arise out of the provisions either of the Covenant of the League of Nations or of the Treaties of Peace signed in 1919 and 1920 at Versailles, Neuilly, Saint Germain and Trianon or of the Treaty limiting Naval Armaments signed at Washington on February 6th, 1922, and the provisions of Agreements registered with the League of Nations and published by the League up to the date of the coming into force of the present Convention, so far as the Powers which are signatories of or benefit by the said Treaties or Agreements are concerned.

Article 28.

The Council of the League of Nations shall cause to be published an annual report on the operation on the present Convention.

This report shall be presented to the Assembly of the League of Nations.

Article 29.

The present Convention, of which the French and English texts shall both be authentic, is subject to ratification. It shall bear to-day's date and shall be open for signature by the Powers until..... [date].

Each Power shall address its ratification to the French Government, which shall at once notify the deposit of ratification to each of the other signatory Powers.

The instruments of ratification shall then remain deposited in the archives of the French Government.

Article 30.

The High Contracting Parties will use their best endeavours to secure the accession to the present Convention of the other States, whether Members of the League or not. On and after..... [date] the present Convention may be acceded to by any Power. Accession shall be effected by an instrument communicated to the French Government, which shall at once notify such deposit to all Powers which are signatories of or accede to the Convention.

The instruments of accession shall remain deposited in the archives of the French Government.

Article 31.

Disputes between the Parties relating to the interpretation or application of this Convention shall, if they cannot be settled by direct negotiation, be referred for decision to the Permanent Court of International Justice. In case either or both of the Parties to such a dispute should not be parties to the Protocol of Signature of the Permanent Court of International Justice, the dispute shall be referred, at the choice of the Parties, either to the Permanent Court of International Justice or to a court of arbitration.

Article 32.

The present Convention will not come into force until it has been ratified by twelve Powers, among whom shall be the following: Belgium, the United States of America, France, Great Britain, Italy, Japan and Russia.

The date of its coming into force shall be the..... day after the receipt by the French Government of the twelfth ratification. Thereafter, the present Convention will take effect in the case of each Party..... days after the receipt of its ratification or accession.

Article 33.

The present Convention may be denounced by any Party thereto after the expiration of ten years from the date when it came into force in respect of that Party. Denunciation shall be effected by notification in writing addressed to the French Government, which shall forthwith transmit copies of such notification to the other Parties, informing them of the date on which it was received.

A denunciation shall take effect two years after the date on which the notification thereof was received by the French Government, and shall operate only in respect of the notifying State.

Article 34.

The High Contracting Parties agree that, at the conclusion of a period of five years, the present Convention shall, in the light of the experience then gained, be subject to revision upon the request of a third of the said High Contracting Parties.

Appendix.

LICENCE TO EXPORT ARMS, MUNITIONS AND IMPLEMENTS OF WAR.

[Name and address of Exporter].

is hereby authorised to export the following arms munitions and implements of war.

[Here will follow a full description of the arms munitions and implements of war, their number, weight and other necessary data, including the heading under which the exported goods will appear in the export statistics of the exporting country].

To [Name of importing Government].

The above arms munitions and implements of war will be sent by

[Here state whether by sea, rail or air.]

by the proposed following route or routes.

[Here give port or station of embarkation and disembarkation, route and destination, including last port or station of consignment.]

[Name and address of purchasing agent of the importing Government].

[Signature of proper authority of Government of exporting country].

Annex V

EXTRACTS FROM MINUTES AND BRITISH AMENDMENTS RELATIVE TO ARTICLE 9.¹

10th Session of the Temporary Mixed Commission for the Reduction of Armaments.

Extract from Minutes of the 4th meeting, held at Geneva on July 9th, at 3.30 p. m.

In the Chair : Viscount Cecil.

Article 10.

THE CHAIRMAN explained that the article covered prohibited areas, leaving to the Council the task of delimiting these areas. Prince Arfa-ed-Dovleh had drafted a letter on the subject, which the Commission had received, but the article did not in any way prejudice conditions in regard to Persia.

Prince ARFA-ED-DOVLEH made the following declaration which he wished to have inserted in the minutes :

“Persia, since the foundation of the League of Nations, has been one of the countries which requested the honour of forming part of the League. The correct conduct of the Persian Delegation is already known to all the Members of the League. Lord Balfour, in 1922, as first delegate of Great Britain, at the end of the third session of the Assembly, thanked the delegation of Persia for its conciliatory attitude. Our object was, and is, to give loyal service to the League. The prosperity, existence and strength of the League are necessary for our security. From the first day our instructions have been to endeavour to encourage the other nations which do not yet form part of the League to enter the League, and, above all, to encourage the countries adjacent to us in Asia to do so. We are surrounded by four warlike countries who are not Members of the League. Our only hope is founded on the prosperity of the League. If on certain occasions, in the Assembly or in the Commissions of the League, words have been used by delegates of Persia in a somewhat bitter spirit, these words were uttered for the good of the League, as we know what is said of the League of Nations outside, above all in the East and in the vast continent of Asia.

“I have received certain cuttings from the great newspapers of the United States in which the question is discussed of the entrance of this great and powerful nation into the League. The opinion of the newspapers was that, so long as there failed to be equality and justice within the League, the United States should not enter it.

• “It is, therefore, necessary to show by facts and not by empty words that within the League only justice and equality reign if it is desired to gain the sympathy and confidence of the entire world.

“The words of Admiral de Souza, who so courageously defended yesterday the right of the weak nations against the strong, will find an echo, I am sure, in all the corners of the five continents of the globe. Of what use are all our protests and all our just claims if the vote always goes to the stronger? Such a position might endure for a certain time so far as we have no legitimate arm for our defence but justice. A day, however, will come when the consciousness of mankind will awaken and will not allow the affairs of the world to be managed in such a way. It is necessary to reflect seriously on this matter. I venture, in terminating my statement, to address a question to the Commission, and I beg urgently for the honour of a reply :

“Does the Commission admit that the Convention should be applied to the territories of Powers who adhere or give their authorisation to this Convention? Do the High Contracting Parties wish to impose their authority and their control in the colonies of the Powers which do not adhere to the new Convention?”

He would, therefore, ask that the report of the Sub-Commission should be sent to the Council.

THE CHAIRMAN, replying to Prince Arfa-ed-Dovleh, said that all the questions raised by him would be left to the Council to decide. The Council were already acquainted with

¹ Articles 10 and 6 referred to in these minutes are now articles 9 and 7 respectively of the Draft Convention.

these questions and had all the previous documents concerning the position of Persia. Satisfaction would be given to the Prince as regards the insertion of his declaration.

Admiral AUBREY SMITH wished to give certain explanations in regard to the British amendments to Article 10.

M. SCHANZER said that, generally speaking, after a rapid examination, he agreed with the spirit of these amendments but that he did not see how they could be combined with the rest of the Article. In particular, he pointed out that paragraph 5 made the delivery of export licences subject to the consent of the importing countries, though the question of prohibited zones arose.

M. LEBRUN further noted that these amendments appeared to cover the whole of Article 6.

M. SCHANZER did not think that he would be able to vote on the British amendment before a careful examination had been made of it by the Drafting Committee. It was not certain that these amendments entirely covered Article 6 and Article 10.

THE CHAIRMAN recognised that it was difficult to take a decision on the amendments which had not, owing to circumstances, been examined either by the First Sub-Commission or by the Permanent Advisory Commission. He proposed that the discussion should be adjourned.

*Extract from Minutes of the Fifth Meeting held at Geneva on July 10th,
1924, at 10.30 a.m.*

THE CHAIRMAN reopened the discussion on Article 10 and pointed out that it dealt with the very important question of prohibited zones. He reminded the Commission that the First Sub-Commission had proposed to leave the decision on this point entirely to the Council, and he said he was entirely in favour of this proposal. He therefore proposed that the question should be referred to the Council for decision, together with Rear-Admiral Aubrey Smith's very interesting suggestion.

M. DUPRIEZ disagreed with the President's proposal, as he considered that the Commission ought to give its opinion on this Article. Although the Commission might not think itself competent to solve the problem of delimiting the prohibited zones, in his opinion its present task was to draw up a text regarding the regime to be applied to these zones, and on this point the Commission ought to give a definite reply. Personally he thought the Sub-Commission's text was preferable to the British text. It was essential to make a clear distinction between the question of exportation and the question of importation. Article 6 dealt with exportation and Article 10 ought to deal with importation.

In the British proposal, however, the two questions were confused. Moreover, there were unnecessary paragraphs containing reservations to the Articles which had already been voted on the previous day.

There were also objections to paragraph 3 which imposed obligations on the exporting Powers which they would be unable to accept. The Article proposed by the Sub-Commission already imposed certain obligations on countries exporting to the prohibited zones, but the British amendment rendered these obligations altogether too severe. In paragraph 3 (a) it was laid down that in the case of prohibition areas which were under the jurisdiction or tutelage of one of the High Contracting Parties, arms of all kinds, even purely sporting weapons, could not be imported unless the authorities of the country under whose tutelage the importing country stood were prepared to admit their entry. The obligations laid down in paragraph 3 (b) were even more strict. Paragraph 3 (b) laid down that, in the case of prohibition areas which were not under the jurisdiction or tutelage of one of the High Contracting Parties, the authorities of the exporting country would have to satisfy themselves that the arms and munitions were intended for a proper purpose and that the quantity supplied was not greater than that necessary for the maintenance of public order or the defence of the territory against aggression. He thought it would be very difficult for any Government to determine whether these conditions had been complied with.

He therefore had fundamental objections to the British amendment and he proposed that the discussion should be based on Article 6 and Article 10 as proposed by the First Sub-Commission.

M. COBIAN proposed that a stipulation should be inserted in paragraph 3 to the effect that in no case should the importation of arms and munitions into the prohibited zones be allowed without the previous authorisation of the Government exercising jurisdiction or tutelage over the territory in question.

THE CHAIRMAN thought that no good purpose would be served by a discussion on this point, and he again suggested that the question should be referred to the Council, together with the British proposal, which in any case the Commission had not been able to study exhaustively, as it had only been laid before it during this session.

Rear-Admiral AUBREY SMITH explained that this was due to exceptional circumstances, and apologised to the Commission for having been unable to submit his amendment to the First Sub-Commission, or some time before the session.

M. JANCOVICI asked the President to make it clear that the British amendment had not been thoroughly discussed by the Commission, so that it would be quite obvious that the Commission had not expressed any opinion on it.

M. SCHANZER was in favour of referring Articles 6 and 10 and the British amendment to the Council. In that case he thought it would be simpler, and there would be some gain in clearness, if the Drafting Committee did not touch paragraphs 1 and 2 of the amendment.

Count BONIN-LONGARE asked whether he was right in understanding the Chairman to say that the British amendment would be sent as an annex, but not in the form of an opinion expressed by the Commission, nor in that of a text intended to replace entirely the text drafted by the first Sub-Commission.

THE CHAIRMAN said that that was so.

M. DUPRIEZ asked whether, instead of this, the First Sub-Commission's text should be sent to the Council as having been approved by the Temporary Commission, the British proposal being annexed with a note to the effect that the Temporary Commission had not had time to consider it.

THE CHAIRMAN did not think that any discussion on this Article would be of great value ; in his opinion M. Dupriez' fears were unfounded. The Commission could say that the British proposals had been submitted too late for any serious consideration. He again suggested that the British proposal should be sent to the Council as an additional document to this Article, but without comment.

Count HIROSAWA supported the Chairman's proposal, but suggested that Article 10a should be omitted, the question of prohibited zones being an entirely political one.

THE CHAIRMAN pointed out that no Article 10a was drafted by the British Delegation.

M. JOUHAUX wished the Commission to state explicitly that it had expressed no opinion on the British proposal.

THE CHAIRMAN repeated that Article 10 would be sent to the Council with the minutes of the meetings. The Council would accept the British amendment just as it could accept any other amendment which might be submitted to it.

Commandant DELEUZE said that he did not quite understand this procedure, because in Articles 6 and 10 there were two fundamental questions of principle. If no decision was reached on those questions, any examination of the other technical Articles would be valueless.

THE CHAIRMAN pointed out that the first paragraph had already been accepted, and the Drafting Committee had been instructed to insert it either in Article 6 or in Article 10. The second paragraph had also been accepted. The third paragraph had not been accepted but was referred to the Council with the documents relating to Article 10, on which the Council would have to give its opinion.

M. DUPRIEZ said that they had accepted the two fundamental principles, but, as they had laid down the principle of licences, they must also draw up the conditions in which licences would be granted. He accordingly proposed that the Commission should in principle accept the wording drawn up by the First Sub-Commission and transmit to the Council for consideration the British amendment which the Commission itself had not been able to examine exhaustively.

M. SCHANZER proposed the following resolution :

"The Commission adopted the principle of Article 10. In view, however, of the special character of the Article, the Commission decided to forward to the Council the text drafted by the Sub-Commission. The minutes of the meetings, together with the amendments submitted by the British Delegation, are also attached for information."

The resolution was adopted.

Prince ARFA-ED-DOWLEH protested against the inclusion of Persia in the prohibited zones mentioned in Annex III to the British proposal to the P. A. C.

He asked for his protest to be mentioned in the Minutes.

THE CHAIRMAN replied that no mention was made of Persia in the texts then under discussion. Article 10 had been referred to the Council unaccompanied by any proposal regarding the prohibited zones.

Article 10

(Amendments proposed by the British Delegation)

Delete and substitute :

1. The H. C. P. undertake to prohibit the export without licence of the arms and munitions in Categories I, II and III, whether complete or in parts, to the territorial areas and maritime zone defined in Article 10 a.
2. They likewise undertake each, so far as the territory under its jurisdiction is concerned, to prohibit the import and transportation without licence of the same arms and munitions in Categories I, II and III, in the territorial areas and maritime zone defined in Article 10 a.
3. The H. C. P. agree only to grant licences in accordance with the following rules :
 - (a) In the case of those parts of the prohibition areas which are under the juris-

diction or tutelage of one of the H. C. P., the authorities of the exporting country shall, before granting an export licence, satisfy themselves that the arms and munitions for which such licence is requested are intended for a proper purpose and not for disposal in any way contrary to the *objects* of this Convention, and that the authorities of the country under whose tutelage the importing country stands are prepared to admit their entry.

- (b) In the case of those parts of the prohibition areas which are not under the jurisdiction or tutelage of one of the H. C. P. the authorities of the exporting country shall, before granting an export licence, satisfy themselves that the arms and munitions for which such licence is requested are intended for a proper purpose and not for disposal in any way contrary to the objects of this convention or any other international engagement that may exist and, further, that the quantity supplied is not greater than that necessary for the maintenance of public order or the defence of the territory against aggression.
4. Licences for the export of arms and munitions under Category I will be granted only under the conditions specified in Articles 2 and 3.
 5. The issue of licences to import arms and munitions shall be subject to such regulations as the authorities of the importing country may, from time to time, prescribe.
 6. Consignments of arms and munitions in transit shall be subject to the provisions of Article 5.
 7. Nothing in this Article shall affect the conditions under which licences may be issued under Article 6.

II. PRIVATE MANUFACTURE OF ARMS, MUNITIONS AND IMPLEMENTS OF WAR

I. MAJORITY REPORT.

The Commission has continued during the year its investigations into the control of the private manufacture of arms on the basis of the following resolution taken by the fourth Assembly and forwarded to the Commission by the Council :

“The Assembly recommends that the Council should invite the Temporary Mixed Commission to refer its draft for the control of private manufacture of arms and munitions to the Economic Committee of the League for its observations, and that it should also endeavour, in co-operation with the Economic Committee, to draw up draft conventions for this purpose.

“The Assembly recommends that, when the Council has received the report of the Temporary Mixed Commission concerning the arms traffic and private manufacture of arms, it should consider the question of summoning an international conference to draw up conventions on this subject.”

The draft which is referred to in this resolution, and which was submitted to the Commission by Sir Hubert LLEWELLYN SMITH with the following title : “Draft Convention to serve as a basis of consideration at the Conference which may consider both private manufacture and trade in arms”, consists of various general proposals for the regulation of private manufacture.

At its February session, the Commission had on its agenda a draft submitted by one of its members, Colonel CARNEGIE, incorporating Sir Hubert LLEWELLYN SMITH's general proposals and supplementing them with other provisions, the whole being drawn up in the form of an international convention.

The Commission believed that it would be complying with the Assembly's intentions if it studied this more complete draft submitted by Colonel CARNEGIE before asking for the co-operation of the Economic Committee. This is the work to which the Commission has devoted itself throughout the year.

The First Sub-Commission, to which the Commission, after considering the principles contained in the draft, entrusted the detailed investigation of the problem, decided to submit the question to a Committee consisting of the following members of the Commission : Colonel CARNEGIE, M. HODAC, M. JOUHAUX, General de MARINIS and Colonel REQUIN. This Committee, which met at Prague under the chairmanship of M. HODAC, first of all decided that, as the question of the definition of the term “arms and munitions” was at that time under consideration by the Permanent Advisory Commission, it would be advisable to draw the latter's attention to the expediency of defining also the articles to be included in the proposed convention for the control of private manufacture. The Permanent Advisory Commission discussed this question at its May meeting held in Paris. In its report to the Council the Commission put forward the following opinion :

“The Committee of the Temporary Mixed Commission, which met at Prague, expressed the opinion that the list of arms and munitions of war to be drawn up by the Permanent Advisory Committee with a view to the control of the traffic in arms, should be the same as the list of ‘munitions and implements of war’ the private manufacture of which was referred to in Article 8 of the Covenant.

“The Permanent Advisory Commission regrets that it cannot comply with this request to the letter, but it believes that it has complied with the spirit. The Permanent Advi-

sory Commission recalls that, in a report submitted to the Council on May 17th, 1922, it *defined* war material as 'material exclusively designed for war', and drew attention to the technical difficulties which made it impossible to draw up a complete *enumeration*. As the same difficulties stand in the way of drawing up a list for the requirements of the national control of the private manufacture of war material or for any other purpose, the Permanent Advisory Commission, rather than give an incomplete and controversial list of war material, has preferred to draw up a list, which it believes to be complete, of all arms which are or shall be constructed for the purposes of land, sea or aerial warfare, whatever their mode of employment by armies, warships, tanks, aeroplanes, etc. The Permanent Advisory Commission has therefore included in Category I all arms and munitions which might be utilised either by weapons of war, such as warships or tanks, or by weapons not necessarily designed for war, such as aeroplanes."

As to the substance of the question, the Committee thought that it should define the principles which should guide it in its investigation in so far as they could be drawn from the previous work of the Temporary Mixed Commission. The aim of this work is defined in the following paragraph from Article 8 of the Covenant :

"The Members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety."

In regard to the principles which should underlie the measures referred to in this article of the Covenant, there was a certain divergence of views among the members of the Committee on the following two points : (a) The prohibition of private manufacture ; (b) The nature of the control.

The majority of the members held that, as the Committee had been appointed to examine a draft convention for the control of the private manufacture of arms, it should obviously leave out of consideration the question of the prohibition of private manufacture

This majority took the view that, owing to the very nature of the subject, the control of private manufacture should be exclusively national though based on principles common to all countries. International trade in arms, as is clear from the expression itself, extends beyond national frontiers, whereas the private manufacture of arms must be regarded as a purely national matter, the regulation and inspection of which should be left to the national authorities.

At its July session held at Geneva, the Temporary Mixed Commission endorsed the view of the majority of the Committee. Having considered the technical opinion of the Permanent Advisory Commission quoted above, the Commission was of opinion that the material the private manufacture of which would be made subject to control should include the arms, munitions and implements of war enumerated in Category I of Article I of the Draft Convention on the International Trade in Arms, Munitions and Implements of War.

With regard to the principle underlying the Convention, the majority of the Commission also endorsed the theory of national control. Further, in its study of the draft Convention, the Commission has confined itself to those clauses which have a purely technical character, considering that it was unnecessary to deal with the diplomatic or legal clauses required for the purpose of completing an international convention, since these clauses would certainly be similar to those contained in the Convention on the Control of the International Trade in Arms, Munitions and Implements of War. The Commission, however, thought fit to point out that one of these clauses should specify that the rights and obligations resulting from the Treaties of Peace should remain unaffected.

The text drawn up by the Commission is given below :

PRINCIPLES RECOMMENDED AS A BASIS FOR AN INTERNATIONAL CONVENTION ON THE
NATIONAL CONTROL OF THE PRIVATE MANUFACTURE OF ARMS, MUNITIONS
AND IMPLEMENTS OF WAR.

Preamble.

"The Temporary Mixed Commission :

"Bearing in mind that the 'evil effects' of private manufacture mentioned in paragraph 5 of Article 8 of the Covenant can be prevented by means of a control executed in each country by the Government on principles common to all ;

"That the main purpose of this control, while maintaining intact the right of every Government to have recourse to either private or State enterprises for the acquisition of the war material for its own needs, is to :

"(1) Prevent all unauthorised manufacture, and thus complete the Convention for the Control of the International Trade in Arms, Munitions and Implements of War ;

"(2) Prevent all improper and corrupt practices in the course of operations connected with the acquisition of war material by States :

"Submits to the Council of the League of Nations the following principles as a possible

basis for an International Convention on the Control of Private Manufacture of Arms, Munitions and Implements of War :

"I. The war material, the private manufacture of which is to be controlled, shall include the arms, munitions and implements of war of Category I defined in Article I of the Convention for the Control of the International Trade in Arms, Munitions and Implements of War.

"II. The term 'private manufacture' shall apply to any manufacture carried out for the profit of private individuals by an enterprise which is wholly or partially engaged in obtaining contracts for the manufacture and sale of arms, munitions and implements of war in Category I, or any other private enterprise which has for its main object the manufacture and sale of component parts of the above-mentioned articles in Category I.

"III. The manufacture by private enterprise of war material, without the explicit consent of the Government shall be prohibited.

"This consent shall be in the form of a licence granted for a period to be determined by the Government and under the following conditions :

"(a) The licence must stipulate in writing the kind or kinds of war material the holder of a licence is allowed to manufacture ;

"(b) The holder of a licence must communicate to the Government issuing the manufacturing licence, the names, styles and addresses of the proprietor or proprietors in the case of enterprises belonging to a private individual or to the partners in a firm having a collective title and those of the directors and managers in the case of enterprises organised as commercial companies. The Government shall give official publicity to this information ;

"(c) The holder of a licence shall supply to the Government issuing the licence the names of all the enterprises with whom he has concluded agreements or associations of any kind whatever with the view to the production of war material ;

"(d) The holder shall publish annually a report of the enterprise's industrial, commercial and financial operations relating to the manufacture of the material for which the licence has been granted. The Government will decide as to the manner in which the report shall be verified and the extent of its publication ;

"(e) The Government of a State issuing a licence shall have the right to inspect the works of the applicant before and after the issue of the licence and during the period of the licence ;

"(f) The Government reserves, in dealing with a licence-holder, prior claim to the purchase and use of any patent and process and method and composition and any other like thing pertaining to the manufacture of war material.

"IV. The holder of a licence must not be in a position to influence a newspaper, either by owning a sufficient proportion of its capital or by holding any post whatever in its offices. This measure shall apply equally to all directors, managers and high officials of the firm holding the licence.

"The holder of a licence must agree not to carry on propaganda of any kind relating to the war material for which a licence has been granted.

"V. The exercise of a legislative mandate is declared to be incompatible with the simultaneous exercise of the function of director or manager of a private enterprise engaged in the manufacture of war material holding contracts with the State.

"VI. The Governments agree to send to the Central International Office lists of the names and addresses of all enterprises which are licensed by them. The Central International Office shall publish the lists of the licences issued by the Governments as soon as they have been received."

2. MINORITY REPORT.

The undersigned members of the Temporary Mixed Commission regret that they are unable to accept the report of the majority of the Commission concerning the control of the private manufacture of arms. They wish first of all to state that in their opinion the best way to prevent the evil effects which the Covenant recognises as being attendant upon the private manufacture of arms would be absolute prohibition. But even if, in a spirit of conciliation, they were prepared to admit an intermediate solution—namely, that private manufacture should be maintained but should be controlled—they could not accept as a satisfactory solution the confinement of such control within national frontiers. They consider that the international character of the problem cannot possibly be denied. In the first place, amongst the objections enumerated in the report of the Temporary Mixed Commission on September 15th, 1921, as having been raised against the private and uncontrolled manufacture of arms, the following are of a pre-eminently international character, namely :

2. That armament firms have attempted to bribe Government officials, both at home and *abroad* ;
3. That armament firms have disseminated false reports concerning the military and naval programmes of *various countries*, in order to stimulate armament expenditure ;
4. That armament firms have sought to influence public opinion through the control of newspapers in their own and *foreign* countries ;

5. That armament firms have organised *international armament rings* through which the armament race has been accentuated by playing off one country against another;
6. That armament firms have organised *international armament trusts* which have increased the price of armaments sold to Governments.

These quotations from the 1921 Report of the Temporary Mixed Commission would suffice to establish the international character of the problem. But the undersigned consider that no such proof is required, as the international character of the question is openly proclaimed by its being placed in the forefront of those problems which led to the conclusion of the Covenant of the League of Nations. Article 8 of the Covenant contains the paragraph which forms the very basis of the Temporary Mixed Commission's work in this connection. The paragraph reads :

"The Members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. *The Council shall decide how the evil effects attendant upon such manufacture can be prevented*, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety."

This text leaves no shadow of doubt as to the genuinely international character of the control to which the authors and the signatories of the Covenant desired to subject the private manufacture of arms and munitions.

These differences in principle with the majority lead to differences on matters of detail in regard to the text which has been adopted. The undersigned do not think it necessary to dwell on these latter differences ; they would merely observe that in their opinion, for the above-mentioned reasons, the text is inadequate on the following points :

- The international character of the control, and the rôle of the Council of the League of Nations in the matter ;
- The control of the accounts of undertakings for the manufacture of arms and munitions,
- The measures calculated to prevent owners, directors or higher officials of private enterprises for the manufacture of arms exercising undue influence over organs of public opinion and in particular over newspapers ;
- Measures calculated to prevent the establishment of international rings consisting of firms concerned in the manufacture of arms.
- Measures to ensure uniform methods in regard to the national inspection of enterprises for the manufacture of arms and munitions and steps to co-ordinate such efforts by international arrangement.

Signed by Mrs. JANCOVICI, JOUHAUX, OUDEGEEST and THORBERG.

III. CO-ORDINATION OF THE WORK OF THE TWO COMMISSIONS.

At its meeting on December 10th, 1923, the Council forwarded to the Temporary Mixed Commission, for their opinion, Resolution No. VII of the fourth Assembly concerning the co-ordination of the work of the two Commissions, in view of the possible expiration of the mandate of the Temporary Mixed Commission, the resolution being worded as follows :

"The Assembly requests the Council to invite the Temporary Mixed Commission to continue for a further period of one year the work which it has undertaken and to submit its report as early as possible before the meeting of the next Assembly.

"The Assembly is of opinion that it is henceforth the duty of the Council to establish direct co-operation with the Governments with a view to formulating the general plan for the reduction or limitation of armaments which, under Article 8 of the Covenant, must be submitted for the consideration and decision of the several Governments.

"The Assembly requests the Council to regulate and co-ordinate the work of the Temporary Mixed Commission and of the Permanent Advisory Commission, in anticipation of the possible expiration of the mandate of the Temporary Mixed Commission at the next Assembly."

The Commission, after considering this question, decided to submit the following opinion to the Council :

"The Commission is satisfied that the work of the Temporary Mixed Commission is progressing favourably, particularly as regards co-operation between the Temporary Mixed Commission and the Governments of the States Members of the League and between the Temporary Mixed Commission and the Permanent Advisory Commission.

"The Council, by arranging for the simultaneous consideration of different parts of the same problem by the Permanent Advisory Commission and the Temporary Mixed Commission, has greatly contributed to the successful collaboration of these bodies. The Commission further desires to point out that there are six members of the Permanent Advisory Commission who are also members of the Temporary Mixed Commission, and it has been the practice of the Temporary Mixed Commission to put some of these members on its Sub-Committees so as to ensure as perfect a liaison as possible between the two Commissions. In view of these considerations, the Commission does not think that any fundamental change in the method of collaboration

between the Permanent Advisory Commission and the Temporary Mixed Commission is necessary, but it hopes that the existing system will continue to develop on the lines upon which its development has so far proceeded.

"The Commission is of opinion that, until the question of the reduction and limitation of armaments in accordance with Article 8 of the Covenant has been settled by the Council, it is essential to maintain the principle of co-operation in its work on the part of persons selected for their qualifications and experience in the political, economic, financial, industrial, labour and legal fields, and that it is desirable that such persons should be selected, after consultation with the Governments, from the appropriate bodies in the League of Nations and the International Labour Office.

"In conclusion, the Commission does not think that any change in the composition of the Temporary Mixed Commission is at present desirable, though it believes that its numbers are at present a maximum which should not be increased."

IV. CHEMICAL WARFARE.

The second Assembly adopted the following resolution :

"That the Temporary Mixed Commission be asked to examine... whether it is advisable to address an appeal to the scientific men of the world to publish their discoveries in poison gas and similar subjects, so as to minimise the likelihood of their being used in any future war."

This question was examined by the Temporary Mixed Commission for the Reduction of Armaments, and the Commission, after asking the opinion of the Committee on Intellectual Co-operation, decided to appoint a Special Committee to go into the question and draw up a report. This decision was approved by the third Assembly, which adopted the following resolution :

"(a) The Assembly, having considered the report of the Temporary Mixed Commission on the subject of the development of chemical warfare, approves its action in establishing a special Sub-Committee to report on the probable effects of chemical discoveries in future wars, and requests the Council and the Temporary Mixed Commission to take every possible measure to secure the fullest publicity for the report of this Sub-Committee.

"(b) The Assembly requests the Council to recommend the Members of the League and other nations to adhere to the Treaty of Washington (February 6th, 1922), concerning the use of asphyxiating gas and submarines in war and other similar matters."

As regards the second part of this resolution, the Council decided to place the question of the adherence to the Washington Convention on the use of poison gas in war-time on the agenda of the International Conference for the Limitation of Naval Armaments which the Assembly had decided to convene.

In conformity with the first paragraph, the Temporary Mixed Commission set up a Committee of its own members consisting of :

Viscount CECIL,
Admiral SEGRAVE (who was subsequently replaced by Admiral Aubrey SMITH),
General DE MARINIS,
Colonel RÉQUIN.

The Committee proceeded to consider the question, after consulting bacteriological, physiological and chemical experts.

The Temporary Mixed Commission came to the conclusion that it would not be able to publish its report on chemical warfare before the meeting of the fourth Assembly, and the fourth Assembly adopted the following resolution :

"The Assembly awaits with interest the report of the Special Committee on the Probable Effects of Chemical Discoveries in Future Wars, and it again requests the Council and the Temporary Mixed Commission to ensure by all possible means the fullest publicity for the report of the Committee."

The Committee on Chemical Warfare decided to meet in Paris on July 29th, 1924, and the Temporary Mixed Commission authorised the Committee to submit its report to the Council direct.

REPORT OF THE COMMITTEE APPOINTED TO CONSIDER THE QUESTION OF CHEMICAL AND BACTERIOLOGICAL WARFARE.

The Committee was instructed to draw up a report on the "probable effects of chemical discoveries in future wars".

It felt that it might profitably enlarge the scope of its enquiry so as to include bacteriological warfare, and, to assist it in its task, it appealed to chemists, physiologists and bacte-

riologists in various countries, the object of the enquiry being defined for their guidance as follows :

“The aim is to show to the public opinion of the world the effects which would be produced by the most powerful means of destruction placed at the service of modern warfare and by modern science.

“It will be borne in mind that henceforward an armed nation, utilising the whole of its human and material resources, will attempt to strike, not only at the combatants on the enemy's front, but at the whole enemy nation in arms — its population, its riches and its resources of every kind.

“War of this sort, which carries destruction beyond the fighting lines and which renders opposing nations vulnerable to the extreme limits of their territories, has been made possible by the increasing range of modern guns, by the far-reaching activity of air forces and by conveying and disseminating in other ways the means of destruction.

“Without discussing the legitimacy of such practices, we may endeavour to discover what is *possible* in warfare, whether permitted or not by the laws of war, in order that the public may have an accurate conception of the dangers which it has to fear.

“In these circumstances, it is desirable to obtain from the most qualified experts as detailed and complete a statement as possible of the effect which would be produced —

on animal life,
on vegetable life,
on the wealth and resources of all kinds of a country which is attacked at any point of its territory ;

“(1) By chemical warfare by means of the most powerful explosives, chemical products and gases, as already practised and as further developed since the last war ;

“(2) By bacteriological warfare by means of microbes or any other agent, if, in defiance of all human laws, its effectiveness should induce nations to adopt it.”

The following experts have replied to the question thus defined :

Professor André MAYER, of the “Collège de France” ;
» Angelo ANGELI, of the Royal Institution of Higher Studies at Florence ;
» PFEIFFER, of Breslau ;
» J. BORDET, of the Pasteur Institute, Brussels ;
» W. B. CANNON, of the Harvard School of Medicine ;
» Th. MADSEN, of Copenhagen ;
Senator PATERNO, of Rome University ;
M. J. Enrique ZANETTI, of Columbia University, New York.

Their replies have provided the material necessary for the compilation of the present report, which deals successively with the *known* effects of chemical warfare and the *possible* effects of bacteriological warfare.

I. Chemical Warfare.

It is well known that, after the first violation of the Hague Convention, chemical warfare was employed with effect by the belligerents during the last war as extensively as any other arm. It is to be feared that it will be still more so in the future. It should be noted that this form of warfare proved to be effective in circumstances in which other arms would have produced little or no effect.

Professor Angeli writes :

“Though the experience of the recent war has shown that no fortifications or armour can resist the force of modern explosives, the men themselves could at least find safe shelter from them in trenches, caves or dug-outs sunk deep underground. But poisonous gases can go everywhere, both in the open and into the dugouts.”

The various methods employed, the wave or cloud of heavy gas borne by the wind towards the enemy, the firing of poison shells intended to produce clouds of very thick gas in the enemy lines, or to poison the ground, were directed against, and reached, combatants in the front lines. But it is possible to conceive of other methods in the future, such as the dropping from aircraft of bombs or other containers filled with noxious products, which would strike at civilian populations as surely as at combatants. “It is doubtful”, writes Professor André MAYER, “whether the peoples of the world are aware of the power of this weapon and the danger which threatens them”. Professor W. B. CANNON goes still further when he states that “we have seen in the great war nothing approaching the probabilities of destruction of manufacturing centres and civil populations that would be likely in case another great conflict should occur”.

The term “gas” as used in connection with warfare does not correspond to the scientific definition of gases. In reality it includes not only gases but solid or liquid substances which are reduced to powder or spray in the air. These substances produce lesions in the human

body, due to chemical changes quite distinct from the mechanical effects produced by explosives.

Such substances are not by any means rare. The majority are common materials ordinarily manufactured and employed in large quantities for peace-time requirements, so that "there is very little difference between the manufacture of pharmaceutical products and that of injurious substances used in war"¹.

First of all, it will be noted that, as was emphasised by the Government experts at the Washington Conference, "many high explosives produce toxic gases that frequently cause death, as do those termed chemical-warfare gases"².

Apart from this, arms intended to kill or disable an adversary have hitherto attained their object by more or less mechanical means. Their projectiles lacerated the human body and reached vital organs; and the wounds themselves caused asphyxiation to a greater or lesser degree as a result of hæmorrhage. Chemical warfare utilises a greater variety of methods for temporarily or permanently putting a man out of action. The chemicals act on the constituent elements of the tissues and cause changes which finally disturb the normal functions of the body and result in death. We may demonstrate the variety of its effects by taking two extreme cases; for instance, the action of carbon oxychloride, which produces suffocation, pulmonary complications and death, and that of benzyl bromide, the vapours of which, spreading over the ground, cause tears to run and prevent the adversary from opening his eyes, without, however, producing any serious after-effects.

In the first case, the elimination of the adversary is carried to the point of death. In the second case, a temporary suspension of activity is obtained by a mild physiological effect. Between these two extremes, there is a wide range of intermediate effects. We can, however, from the point of view of their physiological action alone, divide these noxious substances into three main categories:

- ° Irritant (*lachrymatory, sneeze-producing and blistering*) agents;
- ° Suffocating or asphyxiating agents;
- ° Toxic agents.

Effects of Irritant Agents.

These bodies possess the property of putting a man out of action without killing him.

(a) *Lachrymatory Agents* deprive a man of one of his essential senses — sight. They produce intolerable pain in the neighbourhood of the external organs of sight and render a man practically blind as long as he remains in the gas-impregnated atmosphere. But, "contrary to public popular opinion, says Professor Zanetti, the blinding effects of these gases is purely temporary, being caused only by irritation of the membrane of the eyelids and not by any deep-seated effect on the eyeball or optic nerve. The effect usually passes in a few hours, or a few days at the most, and although the victim is as completely put out of action as if his eyes were gouged out, there is no record of permanently serious effect being produced thereby".

The efficacy of lachrymatory gas, coupled with its property of not causing permanent disablement, has led to its adoption by police organisations. By its means criminals may be captured without loss of life.

(b) *Sneeze-producing Agents* are arsenical compounds very similar to the cacodylates used in therapeutics: they cause constant and uncontrollable sneezing, attacks of suffocation and intolerable headaches. They drive the men to get rid of their protecting masks, thus exposing them to the action of other toxic products which may be fired concurrently or immediately after the sneeze-producing gas.

(c) *Blistering Agents*. Certain products such as dichlorethyl sulphide, also called "mustard gas" or "Yperite", cause lesions to the skin and mucous membranes which may be of a very serious character. Whenever the skin is exposed even to the vapour exhaled from the slow evaporation of the yperite, blisters appear within a period of two to eight hours; they may merely be small blisters produced by slight exposure or, on the contrary, an extremely serious general blistering of the whole body produced by prolonged exposure to the vapours or actual contact with the liquid. The action of this gas produces necrosis of the mucous membranes and leaves a raw surface extremely susceptible to infection. In short, although the action of blistering gases may be combated, and even in certain cases nullified, this action is nevertheless capable of producing most serious effects on the health of the men who have been subject to it.

Moreover — and this is the principal effect — soil which is saturated with yperite contaminates by contact persons who pass over it or are posted on it. The yperite penetrates the fabric of clothing and turns it into an actual blistering plaster, the blistering properties of which may be communicated by mere contact. The ground and any articles which have been impregnated with the gas remain dangerous for a number of days.

¹ Professor A. MAYER's Report.

² Report of the Sub-Commission on Asphyxiating Gases; Washington, December 8th, 1921.

Effects of Suffocating or Asphyxiating Agents.

So-called suffocating or asphyxiating bodies cause fatal damage to the lungs. Thus chlorine, bromacetone, chloropicrine, carbonic oxychloride and acrolein, when inhaled, cause hæmorrhage into the air cavities of the lungs. Pulmonary œdema causes death in the same manner as drowning, death being attended by very painful spasms. Of all the gases in this category, carbon oxychloride, also known as phosgene, has been the one most effectively employed.

Other agents directly affect the blood, *e.g.* carbon monoxide, which usually causes death by syncope and, contrary to general belief, without pain. This absence of pain, coupled with the unconsciousness of the existence of any lesion, aggravates the dangers, as it is difficult to make the victims realise their serious condition and keep them from making any exertion which would add to the burden of an already overworked heart.

Effects of Toxic Agents.

Finally, the toxic agents of the nervous system, such as derivatives of prussic acid, kill by instantaneously suppressing the functions of the nervous system. The gases of this kind, however, which are at present known only produce this paralysing effect when somewhat highly concentrated.

Multiple or Combined Effects.

It should not be supposed, however — as Professor MAYER very rightly observes — that each of the substances which have been used in warfare possesses only one of the properties enumerated above.

“Most of them combine several. All the lachrymatory and suffocating gases are fatal if taken in large quantities. If the blistering substances, instead of affecting the skin, penetrate into the lungs, they produce fatal lesions. Thus the effect to which we refer when we speak of a lachrymatory or blistering substance is only the predominant effect. The alteration in the strength used — an alteration which may be obtained by changing the charge of the projectile or the concentration of fire — completely transforms the injurious effects. Thus a weak concentration of dichlorethyl sulphide produces a simple inflammation of the eyes and acts like a blister applied to the skin; a strong concentration causes lesions of the eyes which produce blindness and lesions of the lungs which lead to a progressive obstruction of the air channels and to death by slow suffocation. It would, therefore, be a mistake to classify chemical compounds according to the gravity of the symptoms to which they give rise.

“Combined effects’ consisting of various destructive actions may be obtained either by releasing several substances together or from one substance having several properties. In this connection, attention should be drawn to certain combined effects which have long been known and which are produced by explosives and gases. Most modern explosives at the moment of explosion give off gases, many of which are highly toxic, *e.g.* carbon monoxide, which destroys the action of the blood and is a typical asphyxiant. Many cases of asphyxia resulting from explosions in confined spaces were observed in mine warfare.”

After-effects of War Gas.

Although this view is not accepted unanimously, it would appear that lesions caused by noxious agents leave traces which permanently affect the victims. In particular, injury to the lungs may predispose to certain infectious diseases.

Possible Effects of New Discoveries.

The gases mentioned above, the effects of which have been briefly described, are gases which are well known and — it cannot be too often repeated — are in common use in industry in peace-time. But no guarantee can be given that new substances will not be discovered which affect other functions of the body. “It is conceivable”, observes Professor ZANETTI, “that gases may be invented that would impair the digestive functions or, as was actually tried, which would cause severe vomiting or interfere, as carbon monoxide does, with the normal functions of the hemoglobin of the blood in carrying oxygen from the lungs to the tissue.” That, it is true, is only a hypothesis. Senator PATERNO considers that this hypothesis “ought not to be excluded”, but, nevertheless, points out that nothing warrants us to believe that new substances of greater military value than any yet known can be discovered and manufactured on a large scale. “To say that, at the beginning of the war, about thirty asphyxiating gases were known, whereas to-day there are more than 1,000, is for him an entirely valueless argument, seeing that this rapid increase from thirty to 1,000 does not include any recently discovered substances, and that phosgene, chloride of cyanogen and yperite, which occupied the foremost place among the thirty, still occupy the same place among the 1,000. The obvious conclusion to be drawn from this fact is that the fresh researches carried out on the

1,000 substances have proved fruitless", and Professor PATERNO, although he "believes that chemical preparation for warfare in general is indispensable", concludes, as regards the question of asphyxiating gases, "that we must neither *hope nor fear* that the progress of chemistry will lead to any greater success in the discovery of these gases than in discovering explosives."

Effects of Gas on Animals.

- The effects on animals are essentially the same as those on human beings and the differences which have been observed in the sensitiveness of the former are relatively slight.

Effects of Gas on Vegetation.

It would not appear that vegetation is affected by gas. In the experimental fields or in their immediate neighbourhood, the vegetation does not show serious effects from repeated exposure to toxic gases. In the dense forest of the Argonne, which was saturated with gas in the latter stages of the war, the vegetation in the following spring showed no effects whatever.

Effects on other Sources of Wealth.

The following observations are taken from Professor ZANETTI'S report, as he is alone in having considered the effects of gas on a country's sources of wealth.

"The effects", he says, "would be indirect and would be due either to the paralysing action on the human element, as, for example, the shutting-down of factories through the gassing of the surroundings, so as to render them unapproachable to workmen, or to the action of incendiary material, as, for example, the setting on fire of a grain elevator by dropping incendiary aeroplane bombs. It is felt, however, that in both cases the question becomes no longer one of purely chemical action and that, although the introduction of certain new incendiary materials has improved this particular branch, the problem has not been essentially changed by the introduction of chemical warfare, as grain elevators can be set on fire with high-explosive bombs and factories rendered useless by shelling them or bombing them from the air. It is to be remarked, however, that the dropping of a few aeroplane bombs filled with a high-power lachrymatory gas would as effectively shut down a factory, say, a steel mill, for as long as a month without causing any considerable destruction of life or property such as would ensue by long-range shelling or bombing with high explosives.

"In the case of mine pits and galleries, a thorough drenching with a persistent gas, such as mustard gas, or even a simple lachrymatory gas, such as chloracetophenone, would render them unapproachable, except for those duly protected, perhaps for months. The conditions of a mine pit would be ideal for making the gas retain its properties much longer than in the open air, but even under those conditions the gas would eventually be acted on by moisture, even though slowly, and in the course of time would completely disappear. Properly protected disinfecting squads would help along the cleaning of the mine which could resume operations *in a far shorter period than would be the case if the galleries and pits had been blown in with high explosives.*"

To sum up, "no agent is at present known which would produce a chemical destruction of sources of wealth except through its action on the human element connected with the exploitation".

Protection against the Chemical Weapon.

The effects described above are those which would take place *if means of protection were not employed*. Fortunately, however, the development of the means of protection against noxious substances has kept pace with the extension of the use of such substances in war. Protection has been obtained by the use of insulating and filtering apparatus. The insulating contrivance consists of a more or less simplified form of diver's apparatus which insulates the wearer from the external atmosphere and supplies him with the oxygen which he needs. In *theory*, it is a satisfactory solution and one which applies equally to *all noxious agents and all degrees of concentration*. These contrivances, however, inconvenience the combatants to such an extent that they have been discarded for filtering apparatus. The latter rid the air which is breathed of noxious products by interposing a suitable filter in front of the orifices of the respiratory channel. These filters are either absorbent, porous bodies, dissolving liquids, chemical re-agents or actual strainers.

The various forms of filtering apparatus have proved remarkably effective. Masks taken from men who died from gas poisoning, when subjected to laboratory examination, were found not to be "exhausted"; death had taken place in consequence of the mask having been put on too late, improperly adjusted or removed too soon.

However, as Professor Angeli points out :

"If the concentration exceeds a certain limit, even masks become useless ; the men are thus without any means of defence, and, even in those places which were formerly regarded as safest, they cannot escape death".

It is, indeed, essential to the effectiveness of any of these means of protection that those who are to employ them should have them readily at hand and should be trained in their use. Against unprepared and untrained persons the effect of chemical warfare is terrible indeed, as we saw when troops were, at the first use of the chemical arm, suddenly called upon to strive defenceless against a form of attack which, relying on the Hague Convention, they had never contemplated until it was suddenly launched against them. A similar experience would be undergone the first time chemical warfare is employed against civilians.

Protection is still lacking against blistering gases since it would require the wearing of insulated clothing (which would soon prove intolerable), for no filtering clothing exists. The only way, therefore, to obtain protection against blistering gases is immediately to withdraw men who have been subjected to their action, who will at the best remain unfit for military service or other work for several days. Further, no way has been found of providing protection for horses against any poison gas. The large amount of air which they require, their restlessness and the fact that they must have a bit, have made the solution of the problem impossible. Carrier-pigeons, on the other hand, live without difficulty in cages protected by cloth impregnated with re-agents.

Such is the present situation, but there is always the fear that the means of protection may one day prove insufficient.

Summary.

The chemical arm, as employed during the last war with increasing intensity and undeniable efficacy, produces the most varied physiological effects. "There are no conceivable limits to its power, its efficacy, and its variety, any more than there are limits to pharmacology or any other branch of chemistry." But, although its very serious effects on unprotected men may be mitigated by adequate protective measures, the problem of the protection of the civil population remains to be solved.

As the harmful substances employed are in constant use in peace-time, the chemical arm is at the disposal of any great industrial Power possessing chemical factories, a fact which has led Professors ZANETTI and MAYER to draw the following conclusions in their reports.

Professor ZANETTI says: "The extreme facility with which these factories can be transformed almost overnight into factories for chemical warfare material introduces an element of fear and distrust towards a chemically powerful neighbour that can easily be understood by those familiar with the possibilities of chemical warfare." "It gives an immense superiority to any Power with hostile intentions", observes Professor MAYER. "An injurious substance studied in secret (and this study may be carried on anywhere), manufactured in large quantities (and this manufacture can be carried out in any chemical works), and launched unexpectedly against any unprepared population can completely destroy every shadow of resistance."

2. Bacteriological Warfare.

In contradistinction to the chemical arm, the "bacteriological" arm has not been employed in war. Apart from all humanitarian considerations, the reasons for this may be found in the contemplation of the effects it might produce were it ever resorted to, as set forth in the statement drawn up for us by Professors PFEIFFER, BORDET, MADSEN and CANNON. This statement does not, however, constitute the final word on the subject; for, although the conclusions drawn may be comparatively reassuring for the present, they nevertheless direct attention to the possibilities which the development of bacteriological science may offer in the future, and consequently to the importance of not allowing ourselves to be lulled into any false sense of security.

A priori, the effects of the bacteriological arm can neither be measured nor localised; they would reach the civilian population, would cross frontiers, and might reappear or continue even after the cessation of hostilities. It may be said that this arm would be aimed indirectly against all mankind.

Professors PFEIFFER, BORDET and MADSEN, however, are of opinion that such warfare would have little effect on the actual issue of a contest in view of the protective methods which are available for circumscribing its effects.

The pollution of drinking-water by cultures of typhus or cholera germs would be combated by filtering, as already practised in large centres, or by treating the waters of rivers with chlorine. The enemy would have to contaminate, by means of aircraft, the filtered water of the reservoirs directly: this would be a difficult operation and its effects could be frustrated by preventive vaccination.

The propagation of plague by pest-infested rats would be as dangerous for the nation employing this method as for its adversary, as rats pass freely between the lines of both armies. Experience has shown, moreover, that it is possible speedily to check an outbreak of plague. Moreover, the danger of an epidemic of typhus propagated by lice has greatly diminished.

As regards the poisoning of weapons, the experts point out that the germs which could be employed (streptococci or staphylococci, anthrax spores, glanders bacilli, etc.) would not preserve their danger properties if they were prepared a long time beforehand and allowed to dry on metallic surfaces. Nor if placed in a projectile would these germs better resist the shock of discharge, the rise of temperature and the violence of an explosion which destroys

all life. The only method presenting a certain danger would be that of dropping from aeroplanes glass globes filled with germs.

Finally, the majority of the experts are of opinion that bacteriology cannot at present produce infective substances capable of destroying a country's live stock and crops. Professor CANNON, however, does not entirely concur in this latter opinion, since he admits the possibility of aeroplanes disseminating over wide areas parasites capable of ravaging the crops.

In short, the scientists whom we have consulted are of opinion that our present knowledge of hygiene and microbiology would limit the extension of any epidemics which might be spread either among combatants or the civil population, and that such epidemics could not have any decisive influence on the issue of hostilities, although the experts do not consider the bacteriological arm as at present capable of paralysing an enemy's defence. But, while they do not regard this double-edged weapon as particularly formidable at the present moment, other opinions are also current which would justify us in keeping carefully in touch with the progress of bacteriology. Professor BORDET refers to the discovery in the court of the German Legation in Bucarest of cultures of glands with requisite instructions for contaminating the Roumanian cavalry.

*Possible Use of the Chemical Arm against Civilians.*¹

There is one very important aspect of chemical warfare of which we have so far said little in this report, namely, the possible use of poison gas against great cities and other nerve centres of the belligerents. It is difficult to discuss the matter in any detail because so far there has happily been no example of such a thing. Yet it must be admitted that technically there does not appear to be any reason why a poison gas attack from the air or by long-range guns used in modern warfare, either on land or sea, might not be very effectively carried out against a great city. There is every reason to believe that in a future war, aircraft would be much more numerous than in the last and they would be able to carry much heavier weights. However reprehensible such an action might be, there would be nothing technically to prevent them dropping large bombs filled with some heavy poison gas over localities essential to the political or economic life of an enemy country. The gas to be employed would not necessarily be one which only disables human beings for a time, since the object would be to hamper or destroy some continuous activity aimed at by the attack. Mustard gas, for instance, dropped in large quantities would be likely to hang about the cities and slowly penetrate the houses. It is much to be hoped that some means of protecting the civil population from such an attack may be found. But it is right to point out that the problem is a difficult one. To furnish a whole population with gas masks would seem almost impracticable, and methods for collective protection have yet to be proved efficient; yet, short of that, and especially in the absence of any knowledge as to where the attack was to be delivered, no complete protection could be secured. Moreover, heavy poison gases linger, even in the open country, for quite a long time. In a city it is difficult to say how long they might remain, and during all that time the danger would continue.

It may be said that such a development of warfare would be too horrible for use and that the conscience of mankind would revolt at it. It may be so, but, in view of the fact that in modern wars such as the last one the whole population of a country is more or less directly engaged, it may well be that an unscrupulous belligerent may not see much difference between the use of poison gas against troops in the field and its use against the centres from which those troops draw the sinews of war.

Noting, therefore, on the one hand the ever-increasing and varying machinery of science as applied to warfare, and, on the other, the vital danger to which a nation would expose itself if it were lulled into security by over-confidence in international treaties and conventions, suddenly to find itself defenceless against a new arm, it is, in the opinion of the Commission, essential that all nations should realise to the full the terrible nature of the danger which threatens them.

V. REGIONAL AGREEMENTS.

The question of regional agreements, which had already been raised at the third Assembly and had formed the subject of Resolution XV, was discussed at the fourth Assembly and the following resolution was adopted :

“VI. The Assembly:

“In view of Resolution XV of the third Assembly concerning the problem of the reduction of armaments:

“Asks the Council to request the Temporary Mixed Commission to consider the possibility of recommending, concurrently with the general scheme for the reduction of armaments, the negotiation of draft partial agreements for the same purpose, to be submitted for examination and decision to the Governments of the States Members of the League which are in a special geographical position and brought to the notice of States not Members of the League.

¹ This Report is one dealing with chemical warfare only. But it must not be thought that there is any intention of suggesting that an attack by poison gas is the only, or perhaps even the worst form of attack which great cities may have to fear in a future war.

“These draft agreements might, should opportunity arise, provide for reductions of armaments still greater than those provided for by the general scheme.”

This resolution, among others, was referred by the Council to the Temporary Mixed Commission for consideration.

The Commission has noted, in this connection, certain Agreements and Conventions which might be regarded as precedents ; they are :

The Agreement between Great Britain and the United States of America concluded on April 28th, 1817. It provides for the reduction of war vessels on the Canadian Great Lakes to a certain total, which might not be exceeded in the future. The Agreement also fixed the maximum tonnage and armament for all vessels.

The Convention between the Republics of Central America for the Limitation of Armaments (Guatemala, Salvador, Honduras, Nicaragua, Costa Rica), signed at Washington on February 7th, 1923. It laid down the peace effectives of these Republics, which undertook not to exceed these effectives except in case of civil war or threat of invasion, and not to maintain war vessels, other than coast defence vessels, or to possess more than ten military aeroplanes each. The same Convention prohibits the export of arms from one Central American State to another and the use of poisonous gases or poisons in war. Simultaneously with this Convention, a *General Treaty of Peace and Amity* was signed between the five Republics of Central America, by which the High Contracting Parties undertook to preserve complete harmony in their mutual relations and to submit all disputes to an international Central American tribunal.

The Convention between the Argentine Republic and Chile for the Limitation of Naval Armaments, signed at Santiago on May 28th, 1902.

By this Convention the two Powers undertook not to acquire any new war vessels and to endeavour, by means of subsequent agreements, to reduce the number which they already possessed. (These agreements were, in fact, concluded during the following year, 1903.)

Each Government undertook not to increase the numbers of its war vessels during a period of five years without notifying the other State eighteen months in advance. The Convention did not apply to coast defence ships and submarines.

The Argentine and Chile further undertook not to cede war vessels to any other country which was engaged in a dispute with one of themselves.

Simultaneously with this Convention for the Reduction of Naval Armaments, a *General Treaty of Arbitration* was signed between Argentine and Chile, by virtue of which the two countries undertook that any dispute which might arise between them should be submitted to arbitration.

The Continental Treaty for the Avoidance or Prevention of Conflicts between American States was signed at Santiago de Chile on May 3rd, 1923, by the following States :

VENEZUELA	NICARAGUA
PANAMA	BRAZIL
UNITED STATES	COLOMBIA
URUGUAY	CUBA
ECUADOR	PARAGUAY
CHILE	SAN DOMINGO
GUATEMALA	HONDURAS
ARGENTINE	HAITI.

This treaty is often referred to in connection with regional agreements, but, in fact, the Treaty of Santiago does not lay down any fixed total for the military armament of the respective countries. It seeks to ensure the pacific settlement of any disputes which may arise between the different American States by providing that all disputes capable of solution by diplomatic means shall be submitted to a commission of enquiry.

The signatory States undertake not to mobilise or concentrate troops on their frontiers and not to take any military action until six months have elapsed after the report of the commission of enquiry, which is provided for by the Treaty, has been submitted to the Governments concerned.

The Commission was of opinion that, in each of the cases referred to, there existed local conditions specially favourable to the agreements and conventions concluded and that in all these cases the existence of such conditions had of itself led to the conclusion of the agreements. The Commission therefore decided to express the following opinion :

“The Commission notes that, owing to local conditions which are particularly favourable to certain States, the latter may see fit to reduce their armaments, as a result of the conclusion of regional agreements, or even in cases where such agreements do not exist.

“It has no doubt that countries which are placed in the above favourable position have already made, or will not fail to make, reductions without it being necessary to recommend them to do so.

“The Commission does not, in consequence, think that a special recommendation on its part could serve any practical purpose.”

LEAGUE OF NATIONS

**REDUCTION
OF ARMAMENTS**



DEBATE IN THE FIFTH ASSEMBLY

September 4th to 6th, 1924

Information Section,

League of Nations Secretariat,
GENEVA.

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NOTE.

This brochure contains the verbatim record of the speeches delivered in the special debate of the Fifth Assembly of the League of Nations on the subject of the Reduction of Armaments. The debate, under the presidency of M. Motta, First Delegate of Switzerland, opened on the morning of September 4th and concluded on the evening of September 6th.

The Assembly Committees are now in session, considering in detail the relative documents and other points referred to them by the resolution unanimously adopted by the Assembly.

GENEVA, September 11th, 1924.

REDUCTION OF ARMAMENTS

Mr. RAMSAY MACDONALD

*Prime Minister of Great Britain and First Delegate of
the British Empire.*

Mr. President — I am very glad that it has been my good fortune to have an opportunity of taking part in the work of the League of Nations. The League of Nations, both as an organisation and as a spirit, is struggling under somewhat adverse circumstances and I am here to-day as a pledge that the country I represent — Great Britain — will use every means in its power to widen the influence and to increase the authority of the League of Nations.

Ah, my friends, the emotions that come to one as one stands here, facing delegates from over half a hundred nations — many of them devastated, all of them impoverished, owing to the war! — facing delegates battling against those adverse circumstances, and yet hoping against hope very often, determined sometimes when determination appears to be little better than folly, that by our intelligence and by our good-will we shall, through the League of Nations, lay securely and finally the foundations of peace upon earth.

The late war was commended in my country as being a war to end all wars. Alas, the human eye sees but little prospect of that hope and that pledge being fulfilled. I do not know what the Divine mind sees — the Divine mind that sees the future as clearly as you and I can see the present — but I hope it sees more calm confidence in the future, and more happiness in it, than the human mind can see — that human mind which has to nourish its faith upon appearances. If the future is to justify our confidence and our happiness, it will be owing solely to the

draft Treaty even when they are offered in support of it. Certain amendments proposed by certain Governments and described as essential were considered and rejected by the Commission, and if they had not been so rejected the Commission would never have obtained unanimity in the preparation of the draft Treaty.

I may be wrong, but I am profoundly of the opinion that, for these reasons, if such an obligation were imposed upon the nations affiliated to the League it would break the League ; great secessions would take place and a large number of nations that would remain in affiliation to the League would do so with such a reserve that the obligation they had accepted would be of no value whatever. The British Government has, therefore, felt that the last word has not been spoken regarding this draft Treaty and it wishes that the matter shall be further considered.

What assistance can we give now to those preparing the way ? Where does the League stand in its pursuit of peace and of the essential conditions under which arms can be reduced ? I think the first problem is the League itself, its composition. This League, if it is to have the authority to give security, must be a comprehensive League. This League will remain inefficient unless it includes not only the threatened nations but the threatening or the so-called threatening nations. Both must be there.

There are our American friends, remote geographically, blissfully and enviably separated from the troubles that lie at our doors. Europe for the last few years has not offered America a very attractive companionship. If, like a beloved partner, America had found us sitting at its fireside, I am not quite sure that its domestic felicities would have been of the very best kind. I, therefore, never believed that America would do anything but leave us alone, but America has in fact rendered us very valuable help. We have never, so far as I know, asked the assistance of America to do *ad hoc* work, but she has come in and royally given us all the support that she possibly can.

In the recent London Conference, which I think has so splendidly changed the European outlook, America played a most helpful part. One day, not because we are going to appeal to her,

not because we are going to bring pressure to bear upon her but because we ourselves shall have been wise enough to render successful our own efforts for peace, America's own heart will incline her to come in, and then she will find that a welcome and an honoured place are awaiting her in our counsels.

But there is Germany and there is Russia. Now, Germany cannot remain outside the League of Nations.

If I may use a formula that may be misunderstood — I hope it will not be — we cannot afford to allow her to remain outside. There is not a single question regarding armaments, regarding the conditions of peace, regarding security, regarding the safety and the guarantee of the existence of the small nations — not a single one — that we can discuss amongst ourselves, with a menacing vacant chair in our midst.

Neither can Germany remain outside in her own interests. Negotiations with an isolated Berlin can never be effective. The London Conference created a new relationship between Germany and the other European States and that relationship should now be sealed and sanctified by Germany's appearance on the floor of this Assembly.

The League of Nations takes upon itself the first task of creating once again a European system, and that European system never will exist until our late enemies have ceased to be our enemies and have come in to take their co-operative part in that system. I hope that, in spite of the difficulties and the technicalities that still, apparently, remain in the way, this will be done at once.

Let us begin a new era for the League, as I hope we are beginning a new era in Europe. I should like very much, sir, if it were possible, during the three or four weeks that the Assembly will continue its session, that this matter should be taken up, not with an idea of postponing it, but with the idea of settling it now, once and for all.

As regards Russia, the situation is somewhat different. The Russian Soviet Government believes in revolutions; it believes in the dissolution of the old as an essential preliminary to the creation of the new. That being so, I can understand that there

is little attraction for them, in the League of Nations. We are evolutionists. The revolutions in which we believe are the organic revolutions to which life has always to respond if it is to remain adjusted to its new circumstances. This is our view.

But even Russia has changed. It is now making Treaties ; it is now pursuing diplomatic methods. I hope that the agreement reached between the British Government and the Soviet Government of Russia is the first, not only of a series of agreements, but the first indication that the Soviet Government itself is prepared to become part of the co-operating European system, and so complete the authority and influence of the League of Nations.

This is what the League itself wants. Now, what about its work ? How are we going to approach this problem of peace and security ? In talking to friends, Mr. President, I am sometimes appalled to find how little outsiders know about the practical work of the League. If, in their minds, the League makes a mistake — say Silesia — it is blazed abroad in every newspaper throughout the world. If the League gets a rebuff — say — well, perhaps I had better not say — you can fill in the blanks according to your tastes and your knowledge — that too is blazed abroad. The quiet work done by the Committees is realised by very few. I hope that, before the month is over, the world will be better acquainted with our magnificent practical work than it is at present.

In connection with the question of peace and security, I want to mention one matter that gives me much concern. Apart from the great national organisation of arms, there is a very active and a growing illegal and illicit private traffic in and export of arms. This is not satisfactory. The understanding is that these shall not exist ; in certain treaties such practice is absolutely prohibited, and, if I may say it, for any of the Allies to wink at it and not to put their feet hard down upon it is not playing the game.

I hope that all the Powers directly or indirectly concerned in this manufacture and traffic will be frowned upon, without the least hesitation, by all the authorities of the League of Nations. The British Government takes a very firm stand in the matter, and I appeal to you for your support.

This, however, is a side-issue, important though it may be. The main problem is the problem of national security in relation to national armaments. Let us face it as realists — not as sentimentalists or as mere idealists, but as scientific realists, who go right to the root of the whole problem. The superficial school, which imagines that, by putting certain phrases upon paper, it will secure an enforceable obligation, is at once met by the impossibility of giving definitions to two simple words. First of all, there is security. What is security? Secondly, there is aggression. What is aggression?

Consider the latter word: What is aggression? Has any wit yet devised an act which of itself makes first aggression absolutely clear? As a matter of fact, everybody who knows their history knows this: that the ability to assign responsibility for aggression is always about the last thing to emerge, and belongs to the historian who studies and writes fifty years after a war and never to the politician who lives through the beginnings of a war.

We can, however, approach the problem very closely.

The one method by which we can secure, the one method by which we can approximate to an accurate attribution of responsibility for aggression is arbitration, the setting up of a court or, rather, courts—because one court will not suffice for the purpose. There are judicial questions. There are political questions. There are questions that can only be settled by wise and enlightened citizens. There are questions that can only be settled by the trained expert lawyer. A system of arbitration is a system of watching the clouds, a system of warning when a cloud, just the size of a man's hand, appears above the horizon, and the taking of steps at once, not of a military kind but of a rational and judicial kind, to charm it out of existence. The test is, Are you willing to arbitrate? The test is, Are you willing to explain? The test is, Will you come before us and tell us what you propose to do? The test is, Will you expose your commitments? Are you afraid of the world? Are you afraid of daylight, a lover of darkness and timorous lest the world should know what is in your mind? Such is the test, the only test.

We are now passing through a transition period. I do not believe that there is any man in this Assembly, not even my dear good friend Herriot, who feels the burden of that transition period more than I do. We have inherited tremendous responsibilities. God knows that sometimes we feel they are too heavy for us. We have inherited the working of an old system. If we were to issue an instruction that a button should be removed from the vest of some official we should be almost afraid of the result and the repercussion of such a change. The world seems a weary place to us, to those of us who have not the luxury — I hope I shall not be misunderstood — of being Prime Ministers of unitary States, but who have the awful burden of dealing with our own country one day, with a Dominion the next day, with a foreign country the day afterwards, with a mandated territory the day after that, with all the complexities of race, with all the complexities of creed, with all the complexities of historical traditions. There we sit at the same desk day after day, turning at one hour to one question and the next hour to the other — I say, God knows that the burdens of such an office are very often too heavy for a pair of human shoulders to carry.

All the more anxious are we in this transition period to welcome changes. We must hold out one hand to the past and the other hand to the future, and move steadily on, taking the past with us and embracing the prospect of the hopes and comforts which the future gives us.

I must, therefore, be very careful. I am in favour of arbitration. I see nothing else for the world. If we cannot devise a proper system of arbitration, then do not let us fool ourselves that we are going to have peace. Let us go back to the past! Let us go back to competitive armaments! Let us go back to that false, white sepulchre of security through military pacts — there is nothing else for us — and let us prepare for the next war, because that is inevitable!

What is the problem? We must devise more successfully than we have done hitherto the courts that are to operate under a system of arbitration. We must explore more fully than we have

done hitherto the matters that ought to be referred and can be referred to those courts, at any rate to begin with. We must visualise with more accuracy than we have done hitherto the nature of the obligations imposed upon States which arbitrate. For instance, the question has arisen as to whether the Optional Clause in the Statute of the Permanent Court of International Justice would operate in war or in peace. Some of my friends say that it is universal. Others of my friends say: "No, it only operates in peace". That question must be settled and established clearly.

Further, I want to know how far my Government—my colleagues are with me in this—can go, even if some of you do not go so far. Ah, it is that terrible problem of the practical blending of the ideal with the real which presses upon all of us who want to change the mind and the system of Europe.

I should propose that the Article in the Statute of the Permanent Court which deals with arbitration (that is, the Optional Clause) should be very carefully examined by a Commission appointed by us, with a view to its being placed before this Assembly in a somewhat more accurate, expanded and definite form than it now has. It is the desire of the British Government to sign undertakings like the Optional Clause of the Statute of the Permanent Court, but before so great a step is taken, it is proper that the clause should be drafted in the most specific form possible. I have consulted my colleague and also the Governments of the Dominions with a view to considering the points to which I have referred.

An essential condition of security and peace is justice. Justice must be allowed to speak before passion. That is arbitration.

Parallel with this problem of arbitration is the direct problem of armaments themselves. I am very glad — and I think the Assembly will thank me for taking note of this — to see here my old friend the Prime Minister of Denmark (M. Stauning) whose declaration regarding the army and navy of Denmark has really led the way for sane countries all the world over.

As regards naval armaments, America has taken the first step. We came to an agreement there. Sometimes I have heard

things said about a certain review at Spithead a week or two ago. I wonder what the gentlemen who object to the review would have said if I had kept all those ships in my pocket and assured the world that I had none at all. I challenge this Assembly on this question. We came to an agreement at Washington. We signed that agreement. No country which signed that agreement is fulfilling it in the letter and in the spirit with more accuracy and more determination than Great Britain itself. We have fulfilled that agreement as we fulfil all agreements of that character. I think that we might now go further. I hope that Washington is not "weary in its well-doing". I should be very glad to have further communications so that more explorations can be undertaken on the great problem of naval armaments.

Land armaments, however, are far more difficult to deal with, and they touch us here far more intimately. Let us be realists again. Supposing that this Assembly was here and now to convene an International Conference for the reduction of armaments. What would happen? Absolute failure. Why? Because the preparations for it have not been adequately made. We must prepare the way. We must have an atmosphere. We must have a confidence. We must have a machinery. There lies the opportunity for the League from this very moment onward. The London Conference has helped by restoring a reasonable national policy in Europe. If Germany were in the League what a tremendous help that would be! If we had the beginnings of arbitration, well-devised terms of reference, Courts well considered and the larger Powers subscribing to the declaration, what a substantial step forward that would be! All this can be done this year. Why not? What is in the way? Our own fears and our own suspicions. If we would only take our courage in our hands, if the large nations and the small represented here to-day would only meet, would only create the right commission and inspire it with the determination that we had in London that no obstacles should baulk us, the success of that commission would be assured within a year, and the League of Nations would be able to summon the countries to a conference and then, by careful

handling, by patient work and by reasonable consideration, would obtain a successful issue for that Conference.

One of the essentials is that all the nations must be included in the Conference. Another essential is that it must be held in Europe. It will be prolonged and if the really responsible men are to be present they must be not very far from the seats of their own Governments and be able to keep their hands on their national affairs whilst representing the interests of their countries at the Disarmament Conference.

I have one final proposal — and I apologise for the length of time I am taking in addressing you this morning. My final point is this. The Covenant of the League of Nations contains ample provisions for starting arbitration, for the sanctions that are necessary and for all other eventualities that may arise. Alas, the Covenant was drafted immediately after the war and before statesmen were able to see clearly the precise nature of the problems which the nations would have to face a year or two after the Armistice.

What we require now is that the Covenant itself should be elaborated. We do not want a new foundation. Before it is elaborated, it ought to be understood. I was very much surprised to find that some Members of the League of Nations took the view they did of a reference in the letter sent by the British Government to the Secretariat of the League regarding the draft Treaty of Mutual Assistance — the reference to the fact that the Council of the League in military matters could only recommend. I was surprised to find that some people imagined that the British Government was thereby trying to take from the Council some power which it now possesses. This is not true. There was never any such intention. What is wanted is an accurate reading of the Covenant. Those who signed the Covenant, Article 16 for instance, made it perfectly clear that on military matters the Council would only be an advisory body; on economic and other matters the signatories to the Covenant did not even call in the Council, but there and then took upon themselves directly the obligation of acting in a hostile way to nations that did not observe

the provisions of the Covenant. Ah, the Covenant is very much stronger than some of our friends imagine.

The British Government thinks that the matter should now be explored, beginning with the Covenant, applying the Covenant to our present circumstances, and in the spirit of the League of Nations, developing a policy that will give security and reduce armaments.

The British Government stands by the Covenant. The British Government has no wish to reduce the authority of the Council. It rather wishes to extend the authority of the Council consistently with the continued existence and the prosperity of the League. Articles 10, 12, 13, 15 and 16 of the Covenant might well form themselves into a charter of peace if we would only apply them and fill them out.

What is the position in which we find ourselves? We are here preparing, as I see it, for the International Armaments Conference. This ought to be our object. If we can remove the obstacles we shall have done a tremendous amount of work — work which, by its very nature, is bound to be permanent, once it is done, because the reason and the morality of the world will stand by it so loyally.

Here, we are going to make speeches. We are going to lay down our views. The people who will speak are responsible men and women. We have a draft Treaty in front of us. We have the various Governments' criticisms upon that draft Treaty. We have, in addition, a most interesting and profitable American plan. Let us take those as our preparations up to date. Let us hand them over to a commission that will prepare for the Armaments Conference and let us see to it that even before we rise, before the Assembly breaks up, some substantial progress shall be made in co-ordinating these ideas and in producing from their apparent diversities some measure of agreement and consent.

During the next few months let us work in our own countries, hard and sleeplessly, to remove all obstacles; if that is done I am sure that the League will never require to apologise for itself in the eyes of the world. We here are practical men, responsible

for Governments and responsible for the welfare of our nations and there is not a single one of us who will sacrifice national welfare. Fortunately, it is not necessary, because the higher the standard of welfare of any nation, the more valuable is that nation as a co-operator with other nations in the European system. The world expects much of us. Can we not have the courage to give the world what it expects ?

History is full of invasions, full of wars and of aggressions and there have always been pacts, always military guarantees and always military security. The history of the world is a history which shows the nations always ready for war and always at war, and the one is absolutely essentially and organically connected with the other. History is full of the doom of nations which have trusted that false security.

Above all, I appeal to the small nations, to the leaders of the small nations which maintain the frame of historical and personal individuality in a military world. Pacts or no pacts, you will be invaded ; pacts or no pacts, you will be crushed ; pacts or no pacts, you will be devastated. The certain victim of a military age and the military organisation of society, is the small nation which depends upon its moral claims in order to live. Evil will be made upright and entirely free to do its work, if you fling yourselves once more into that security which has never made you secure since the world started.

Our interests for peace are far greater than our interests in creating a machinery of defence. A machinery of defence is easy to create but beware lest in creating it you destroy the chances of peace. The League of Nations has to advance the interests of peace. The world has to be habituated to our existence ; the world has to be habituated to our influence ; we have to embody in the world confidence in the order and the rectitude of law, and then nations — with the League of Nations enjoying the authority, with the League of Nations looked up to, not because its arm is great but because its mind is calm and its nature just — can pursue their destinies with a feeling of perfect security, none daring to make them afraid. This is the outlook,

and this is the policy by which the British Government stands and to which it invites the League of Nations to adhere.

M. SKRZYNSKI

First Delegate of Poland and Minister for Foreign Affairs.

Mr. President, ladies and gentlemen — I must confess that I rise to speak with feelings of deep emotion. Ever since the Assembly of the League of Nations first met, I have encountered each year ever-increasing numbers of my compatriots who look to this platform with heavy but expectant hearts, always hoping to hear words which would be no less than deeds.

In past years this place has been occupied by distinguished men who have one and all kindled a torch of faith, trust and idealisation that lights the way for all who are met here to-day and who share the same noble ideals of peace and justice. The task imposed, however, upon the representatives of countries such as mine, when they rise to speak in this Assembly, is far easier.

There is no need for me to speak on broad and general issues. I wish to explain to you simply and frankly how my country, and public opinion in my country, interpret the abstract words that are on the lips of all ; for even when we agree upon general ideas, we still have to reach agreement as to their application. Only thus can we avoid the error of those peoples who, in ancient days, assembled to erect a tower to the skies, and failed, because they could not reach an understanding.

Again, we cannot possibly offer the excuse that was theirs and plead that we cannot all speak the same tongue. We all speak one tongue—some of us, perhaps, better than others. We are agreed, too, upon general principles.

I trust that my words will be received as the contribution of a humble workman adding some lesser stone to a great building which has been designed and planned by others.

Before explaining the attitude of the Polish Government and of public opinion in my country towards the problem of the

reduction of armaments, I would remind the Assembly that Poland may be said to have had the mournful privilege of being the forerunner of this great idea. Disarmament was the daily topic in every political assembly. We said — and it was a truism — that a disarmed country could not possibly be attacked, since it could not arouse mistrust and ill-will on the part of its neighbours.

That was in the eighteenth century. We came too early into a world that was old. You know what happened.

I will merely remind you that Poland was partitioned by men who had words of peace upon their lips. Frederick the Great spoke of the necessity of Peace, and Poland must be partitioned, it was said, to prevent a war between two empresses about Turkey. There were constant allusions to “equality” but never a word of “law”. What was meant was the equality of the shares into which Poland was divided!

My excuse in turning back to history must be that history is, after all, the key to the future. Having said so much of the psychological history of my country, let me now turn to the present.

Before speaking of the Polish Government, I would beg you to realise Poland's position in regard to the question of peace. I will give you a brief survey of what the Polish people think. I will try, in a few words, to picture to you the silence that, above the roar of towns, the clamour of journalistic rivalry, and the din of factories, broods over the field whither the peaceful peasant betakes him day by day at dawn, to till the soil, ready, but only if compelled, to turn soldier—and one of the best soldiers in the world, if we may believe our friends or, for that matter, our enemies.

Of such is the soil of Poland ; such is the psychological foundation of past and present, wherein the roots of the tree of peace are deep implanted.

This being so, no Polish Government can do otherwise than collaborate with the other nations in helping to bring about the reign of peace.

It is in this light that we view the grave difficulties that are menacing the world — the terrible crises in finance, in economics

and in production, that have culminated in an appalling situation, in strife and contention between men who wish to work and cannot.

We feel that we are powerless to give effective aid in the search for a solution of the immense problem of labour. But that does not alter the fact that this problem must be solved, because upon it depends the power that drives the world. The power upon which man's future rests, the power latent in human energy is dependent upon this great problem, which can only be solved in a stable and secure world.

This leads us to the second great problem confronting the world : Disarmament.

Disarmament is impossible unless security and stability are general throughout the world. Only then can work be found for those who cannot use their energies unless they really feel the confidence that is born of complete security and stability.

The picture which I am attempting to present of the problems of to-day would be incomplete without a reference to the red line which divides the map of Europe. On our eastern border, the horizon is still tinged with red. Is it the dawn of a new day, or is it the red glow of fire upon a starless sky ? The collective wisdom of the world must find an answer to the question.

I now come to the Treaty of Mutual Assistance. We have, of course, accepted it in deference to the distinguished men who planned it with a view to the practical application of the articles of the Covenant of the League regarding security. We have accepted it, although we consider that there are certain points, in particular, the definition of aggression, which require further precision. How could we reject it ? The draft Treaty, as the British Prime Minister said this morning, is really an attempt to interpret and amplify the articles of the Covenant.

There is one point in the Treaty of Mutual Assistance which may give rise to controversy ; I refer to the complementary agreements. Open to criticism though this part of the Treaty may be, it would not of itself have led us to reject the whole. Pacifists are entitled to argue that we must at all costs avoid setting up anything resembling the international structure of the

past. It is exceedingly difficult to give its due weight to such a controversial matter ; but it is my impression that these complementary agreements can never be considered as a prime factor. They are, on the contrary, simply an effect of the present state of affairs, and the reason for their inclusion, their *fons et origo*, is that universal solidarity has not yet been realised, there are, as yet, no adequate guarantees of peace and security.

When once we have secured moral disarmament, when once the federation of the world is an accomplished fact, these agreements will lose their purpose, but until then a nation that is resolved to endure cannot be expected to neglect its security.

The theme of peace leads us to consider the problem of justice, which was so eloquently expounded by the British Prime Minister this morning. Lest there should be any doubts in your minds, I wish to declare at the outset, on behalf of Poland, that, when some formula has been found by means of which a would-be aggressor can be brought to his knees before the bench of international justice, we shall be ready immediately to sign such a formula.

But what is justice ? Of course there is justice based on a recognised code of law ; but there is another kind which is not based on any recognised law ; it can also be called justice, but it cannot be mentioned where peace is concerned, for justice in the abstract, without law, means revolution.

I look forward with confidence to the day when it will be possible to introduce into international life some such procedure as is practised in national life. The establishment of the Permanent Court of International Justice is an important move in the right direction. On December 13th, 1920, the Assembly formally approved the Statute of the Court of International Justice. That day was a memorable one in the evolution of international life, for it marked a definite breach with the old traditions by which after the jurists had prepared their cases, the national interests were guided by certain fixed considerations.

There is one other point upon which the British Prime Minister rightly laid stress. All the incalculable political elements which

lead to the outbreak of war must be taken into consideration, and we must see that a system of arbitration is organised here and now to prevent further conflicts arising from the present trend of events, the conflicting interests and the misunderstandings which cloud the atmosphere of Europe.

Arbitration : That is the watchword of the future. We believe in it, we consider it a factor that will make for security and stability. I rejoiced this morning when I heard the British Premier raise arbitration on high and proclaim its inviolability.

Arbitration means clearly-defined situations. We cannot, of course, begin to consider here and now in what manner we are to evolve the rules of international law ; one point, however, we can discern even at this stage, namely, that it will be necessary to apply to international law the principles and ideas which have formed the basis of legal practice, according to the *esprit des lois* ever since the time of Montesquieu, and, first and foremost among these principles, the independence of judges.

What do we mean by the independence of judges ? Not that they are proof against political or material influences ; in that respect they are above suspicion. But the more closely a judge is bound by a fixed code, by an accepted law, the greater his independence.

In certain countries where there is no written code, custom is a yet more powerful law. In international life, however, we cannot rely on custom, for the main purpose of our Assembly is to break with tradition. The international judge, then, must owe his independence to the fact that he is bound by a fixed, recognised and clearly-defined code.

This recognised code is, of course, that constituted by the treaties. But if the peoples are one day unanimously to agree to entrust the settlement of political disputes to compulsory arbitration, and so to consent to transfer part of their sovereign rights to another authority — which must clearly be the Council of the League — they will naturally not do so unless the judge before whom they must appear can base his judgment on a clear and definite code, backed by sanctions, affording a guarantee

to all countries and recognising the inviolability of established treaties and territorial statutes. To do otherwise would simply be to take a leap in the dark.

Such is the case for arbitration.

I may, of course, be told that all this is obvious ; that no one would dream of disputing such matters. I do not maintain that they can be disputed and I am quite willing to admit that they are obvious, that public law is recognised, is valid and that it rests upon treaties which have been signed and are accepted by all. Nevertheless, it may occasionally be said that a treaty was a mistake, or that, in view of the conditions under which it was concluded, it must in course of time be amended. I will venture to cite a high authority, a great statesman at the Congress of Vienna in 1815, at which the affairs of the world were settled for a long time to come. The future was being discussed and he was told that precautions were useless, because the matter in question was obvious. His reply was : " If it is obvious when spoken, it will be still more obvious in writing."

In short, firmly though I believe in a peace based on justice, I do not think that any human tribunal can become a temple of peace unless it is built on the corner-stone that you have laid here in this Assembly.

And why ? Because this temple of peace, to be a temple of justice, must guard within its walls the public law of Europe, the sacred charter written in the blood of soldiers and the blood of martyrs.

I must ask pardon for having detained you so long. I should like in conclusion to summarise the position in a few words.

Our attitude towards the problems of disarmament and peace is as follows :

We are convinced that disarmament will bring lasting benefit to mankind. We desire peace. But what is needed to bring peace and disarmament, what is likewise needed to solve the problem of under-production and the lack of markets, is stability, security.

Our ardent desire is that the nations should unite to solve this problem ; but we are also convinced that, without such unity, we

shall be faced with failure. It is through the League alone that unity will be achieved, the League alone can call the world in council on disarmament.

We must begin with moral disarmament. This League which you have built is like an arch, through which we see in the far but sunlit distance the generations of to-morrow. All can pass beneath the arch, but for no one shall it be the Caudine Forks ; if, and only if, all the world works with a will to build the arch solidly and well, then, I am convinced that the League will become in very truth the arch of a triumphant peace.

Mr. MATTHEW CHARLTON

Delegate of Australia.

Mr. President, ladies and gentlemen — I intend to be very brief in my remarks, confining myself to the question of disarmament. I have been a strong supporter of the League of Nations from its inception and I listened with pleasure to the eloquent opening address of the Acting President outlining what had been accomplished by the League.

I beg to congratulate the Right Honourable the Prime Minister of Great Britain on the very able address which he delivered this morning. During his few months of office he has done yeoman service in establishing better international relations, and his efforts are greatly appreciated by the people.

Considering the gigantic problems with which it has had to deal, the League has done valuable work during the five years of its existence. It must, however, be remembered that, at the inception of the League, the principal problem which concerned the people was that of disarmament and peace, and we must ask ourselves the question as to how far we have succeeded in this connection, since Europe to-day is a much greater armed camp than it was in 1913, since there are over one million additional men under arms, notwithstanding the fact that the Treaty of Versailles provided for the reduction of armaments in some countries.

This state of affairs means a considerably increased military cost to be borne by the respective nations, in addition to the very heavy load of indebtedness incurred by the recent war, and leads the public mind to doubt whether the League will be able to achieve its object. It is therefore a matter of urgency that something tangible should be done at this meeting of the Assembly to deal with the paramount question of disarmament, which is the foundation upon which all other matters rest.

It is very difficult to solve such a problem when so many nations remain outside the League and it is very doubtful whether, at present, America, Germany, Russia and Turkey would be prepared to join the League if invited. In this connection, I entirely agree with the remarks of the Right Honourable the Prime Minister of Great Britain as to the League issuing an invitation to Germany during the present session. In view of the recent agreement on reparations, she may now be prepared to accept such an invitation.

It is, therefore, the duty of this Assembly to formulate some scheme for the purpose of bringing all nations together to discuss the question of disarmament; it is clear that, so long as certain nations, adjacent to those which are members of the League, are armed to the teeth, all must for their own security maintain a strong military organisation.

In this connection, I agree with the suggestion of the Right Honourable the Prime Minister of Great Britain as to holding a World Conference, but I differ from him in regard to procedure. I am strongly of the opinion that the atmosphere has been created and that this is the psychological moment for the League, which is composed of fifty-four nations, to issue an invitation to all countries to meet at a given date to discuss the question of disarmament.

Such an invitation, in all probability, would meet with a favourable response; representative men would thereby be enabled to present their views, an atmosphere would thus be created which would tend to establish more cordial relations between nations, and bring about that spirit of sweet reason-

ableness which is so necessary if an agreement providing for a scheme of general disarmament is to be reached — a scheme whereby the nations would be relieved of heavy military expenditure and a scheme which might eventually induce all nations to come within the jurisdiction of the League.

Already much has been achieved outside the League. The Washington Conference, which was limited to nations interested in the Pacific, decided on the reduction of capital ships, but this decision does not relieve those nations of military expenditure, inasmuch as additions may be made to the other branches of the navy.

Neither did the Conference take any definite action on the question of air and military defences. These are questions that cannot be definitely settled except by the co-operation of all nations under a general scheme of disarmament.

Recently the London Conference was held under the very able guidance of the Right Honourable the Prime Minister of Great Britain and an agreement was reached in regard to the question of reparations which relieves the position considerably as far as France and other nations are concerned.

One cannot help but sympathise with France owing to the great devastation which she suffered during the recent war, and I can well understand her anxiety regarding her future security — an anxiety which, no doubt, has much to do with France's advocacy of the Treaty of Mutual Assistance.

This anxiety should be removed if a World Conference were held and provision made whereby every nation would be committed to a general reduction of armaments, leaving all matters of international dispute to be settled by arbitration or any other method that may be devised.

I earnestly appeal to delegates who, I am sure, have a sincere desire to eradicate the barbarous method of warfare and to institute some means of dealing, without recourse to war, with those international troubles which must inevitably occur from time to time.

If this is not done, it will only be a matter of time when the public confidence in the utility of the League of Nations to secure peace will be dissipated and the energy and good work accomplished by those who played such a prominent part in the effort to obviate further wars will be of no avail ; we shall then gradually drift back to the condition of things which existed in 1914, and, should another great war occur, it may end our present-day civilisation.

I want to say to my fellow delegates that I stand here to-day not as a representative of the Government. I have the honour to be the leader of the Australian Labour Party, which is His Majesty's Opposition in the Commonwealth Parliament, and am here by invitation of the Australian Government. The Australian Government has set an example which, I think, should be followed by every country in the world. If you want to secure peace, you must realise that this is no party question but is a matter which should be devoid of all party significance and should be dealt with from a national point of view.

Governments come and Governments go—there are changes day after day—but in regard to this question it should remain for ever ; that can only be done by recognising that every political force should be represented at these particular Conferences. I do not know to what extent this is the case as regards this Assembly. I am a stranger amongst you, but I want to say that, in my view, if the League of Nations is to be a success, you must see that every line of political thought in your different countries is represented here so that all the different parties in your countries will be welded together and common action thereby secured in regard to this particular question.

I want to say, further, that if we are to live up to our promises, if the statements made by leading public men during the war and at its close, to the effect that it was a war to end war, are to be realised, we must act. If the statements then made to the effect that the sacrifices of those who took part in the war would not be in vain are to be realised, something must be done immediately. We cannot permit procrastination. Five years have gone

by and the time has arrived when we should take some definite action. If we do not, we shall see the beginning of the end of one of the best institutions that has ever been created, for already I realise that four or five of your Members are not represented at this gathering.

We find that the cost of defence is increasing in every country and the expenditure of the League is also growing, but, if the latter spent double the present amount, it would be a mere bagatelle if it were able to bring about effective disarmament. The public sees that military expenditure is increasing year after year, and whilst we know that good work has been done and is being done, thanks to the gentlemen who have played such a prominent part in connection with this League, we cannot make the public feel as we feel. The people want to see something tangible done; they want to see a movement in the direction of disarmament; they want to see the load which they are carrying removed as far as possible. That can only be done by taking decisive action.

I do not know your form of procedure; I do not know whether resolutions can be moved here at this meeting, but I say this: It would ill become me, as I do not represent a Government, and have not taken a leading part in your deliberations previously, to move a resolution, but I think that a resolution should emanate in some way from this body calling upon the Council to take immediate steps to invite all the nations of the world to a Conference without delay for the purpose of discussing disarmament. The people in all parts of the world will thereby see that this League is living, that it is attempting something, and that, no doubt, something definite will be decided.

I only put those views briefly before you so that you may know the attitude which is adopted by the Party that I have the honour to lead in Australia. We are in favour of the League of Nations and we want to see it make good. But we do say that if there is to be delay year after year, disaster will overtake the League. This, therefore, is the psychological moment. Let us

strike whilst the iron is hot! Let something be done towards the convening of a World Conference. You will thereby be laying the foundations of your League, and the questions with which you have been dealing and those with which you have to deal will be resting on a solid foundation. The only solid foundation is disarmament and a universal peace.

JONKHEER VAN KARNEBEEK

*First Delegate of the Netherlands, Minister for Foreign Affairs
and former President of the Assembly.*

Mr. President, ladies and gentlemen — The Netherlands Government has twice had the honour of setting forth its views on the problems of security and the reduction of armaments within the scheme laid down in the Covenant of the League of Nations. Its willingness to contribute its share towards the solution of this complex and difficult problem is unquestioned. The military organisation of the Netherlands is now being reduced but the Government would welcome an opportunity of reducing it still further and thus lightening the heavy burden of national expenditure.

As regards the Treaty of Mutual Assistance, the Netherlands Government has every respect for the motives of those Powers whose views are different from its own. It is ready, indeed, to admit the justice of those motives; but, as it stated in its last note, it cannot support them. My Government has given its reasons and I will not recapitulate them. Most States have stated their views, and the question with which we are faced, the question which has given rise to this debate, is the course which the League is to take in these circumstances.

I do not claim to represent a Power which can produce a solution of the problem. Others, more authoritative and bearing greater responsibilities, have been called upon to show us the way. We have heard some and we have still to hear others, and I earnestly hope that they will point out a fresh road and show us whither it leads.

I do not propose to discuss the League in general terms. My feelings and views in this matter, and those of my country, are well known. The uncertainty which still hovers over the League does not cause me disquiet. The League will last because it lives. It lives because it was bound to be. It was bound to be, because mankind has entered upon an era of inter-relationship, and even States cannot stand aside.

But I venture to address you now because, whatever the practical outcome of our deliberations, we must not allow the nations which are listening to us to think that the Covenant, which is the fountainhead of our powers, the foundation on which we stand, cannot provide the conditions essential to solve the problem of armaments and peace. We cannot allow them to think that the League is unequal to its task. This would be not merely a misfortune, but something worse—an unpardonable blunder.

What is the aim of the Covenant ?

In my opinion Article 12 of the Covenant is the corner-stone around which the whole edifice is built. Article 12 contains the undertaking that no Member shall have resort to war until the dispute in question has been submitted to arbitration or mediation by the Council, and until a period of three months after the award by the arbitrators or the report by the Council. Such is the law by which we are governed at present, and we must always bear it in mind.

The Peace Conference of 1899 produced a permanent organisation for the peaceful solution of international disputes, and at the same time left the Powers free to avail themselves of it or not at their own discretion.

The second Conference, held in 1907, improved the mechanism of that organisation.

Since that time ideas have progressed, and events have taken place that have awakened international consciousness.

In 1919, the Covenant of the League was drawn up, imposing upon an exhausted humanity the alternative obligations of arbitration and mediation in any dispute likely to lead to a rupture.

Since that time we have therefore been under obligation to find a peaceful solution for all international disputes. Such is the progress we have achieved, and the League of Nations is its symbol. Temporisation, mediation and judicial procedure—these are the means imposed by the Covenant upon the Members of the League in order to prevent war. It is surely our urgent duty to elaborate and develop these means by special treaties.

You will realise, therefore, that even though war is not necessarily abolished in the Covenant, and even allowing for cases where it would still be legally admissible according to the Covenant, yet by virtue of the system established under the Covenant it is subjected to such conditions that there is virtually no longer any possibility of war, provided that the engagement we have all taken is observed and that our promises are kept.

But, someone will say, supposing the engagement is not kept? Article 16 of the Covenant anticipates this case, but is that enough? Is not the draft Treaty of Mutual Assistance evidence that some doubt seems to exist on this point?

Permit me to ask a question. Assuming that the Treaty of Mutual Assistance had been accepted, have we reason to suppose that at the very moment when it was to be enforced, the serious obligations which it entails would be fulfilled, and that there would be no breaches and no defections? Why should this Treaty be more immune from those doubts which you considered it necessary to take especially into account in connection with Article 12 of the Covenant? Should we not sooner or later be driven to resort once more to a supplementary agreement? And where would this end?

When we are faced by a problem as vital to mankind as that with which we are dealing to-day, we are entitled to say all that is in our minds. I am afraid that if the Members of the League cannot keep the engagement provided for in Article 12 of the Covenant, no other agreement can save them. This must have been the idea in Lord Balfour's mind when he stated in the House of Lords last spring with reference to the draft Treaty of Mutual Assistance: "The draft Treaty, if carried out, was an attempt to

buttress up one treaty with another. If all the signatories to the Covenant of the League of Nations acted in the spirit of that Covenant, there would be no war and no danger of war."

The observance of Article 12 of the Covenant will be found to constitute one of the chief guarantees of future international security. "No war without previous appeal to arbitration or mediation"—that is the first commandment; and the second: "After the arbitral award or the report of the Council, wait three months."

Whatever resolutions we may adopt, either at this Assembly or afterwards, whatever efforts we make, there is one thing upon which we are all agreed, namely, that we must be imbued through and through with the spirit of those commandments to which we have of our own free will pledged ourselves. They must be proclaimed aloud, so that all, and especially our children to whom we hand on our heritage, may know the real meaning of the League of Nations, and may hold that knowledge up before those in whose hands their destinies are placed. In so doing we shall be adding weight to the sanctions, for there is and can be no more powerful weapon than an enlightened public opinion.

We are on the hospitable soil of a country where, centuries ago, a solemn oath was taken, marking the beginning of the national liberty and of the common political life of the inhabitants. If at this Fifth Assembly we declare our common determination to respect Article 12 of the Covenant, we take, as it were, an oath to obey its commandments; if, in addition, we all agree to accept the obligatory jurisdiction of the Permanent Court of International Justice, as provided for in Article 36 of its Statute, and if, finally, we succeed in enlisting in our ranks all the nations of the world, the Fifth Assembly will not have met in vain, and the world can look forward with renewed confidence towards the reduction of armaments which is laid down in Article 8 of the Covenant.

The Third Committee, which is now meeting again, profiting by the suggestions made in the course of this discussion, will press forward with its all-important work, and will seek to bring conflicting opinions into line and explore new possibilities, thus

bringing nearer the reduction of armaments prescribed by the Covenant.

This is a heavy task—heavier perhaps than is generally realised—but we must never forget all that the Covenant means to us, nor the ground we have already won, nor the pact to which we have set our hands. Not until we look deep into the Covenant do we see its great wisdom and its moderation. The resources which it offers are immense and are adequate to provide, as time requires, all that is necessary to complete that work of peace for which it was created. The outlook affords us every ground for hope.

M. STAUNING,

Prime Minister of Denmark.

Mr. President, ladies and gentlemen — It is with feelings of keen pleasure that I have attended the first meetings of the Fifth Assembly, and I would like to make a few remarks on the eloquent speech which the Prime Minister of Great Britain delivered this morning.

I regret that I have not been able to prepare my own speech in French or English, and that, owing to the pressure of my public duties, I must leave Geneva to-morrow morning; to my deep regret, therefore, I cannot attend the whole of the discussion on the important question now before us. I therefore crave your indulgence if I speak to-day in my own language.

The pleasure which I feel in attending your meetings is all the greater because I regard the League of Nations as the realisation of the great ideal of peace, justice and international co-operation.

The hopes of all mankind centre around the vital issue which we are now discussing, because the nations throughout the world are hoping to see the horrors and cruelties of war brought to an end for ever.

Like Mr. MacDonald, I hope that we shall soon see representatives of all nations assembled in this hall to solve the great problems of justice, and so to secure world peace.

The serious economic evils that have arisen in every country, even in neutral countries, have in these last years been fraught with most serious consequences. It would therefore be a blessing indeed if all peoples could be brought to discuss these problems together and so find a satisfactory solution.

It gave me great satisfaction to hear the British Premier emphasise so forcibly the principle of compulsory arbitration.

The small States have long cherished the hope that this principle would be generally adopted, and they see in the triumph of this idea the only effective guarantee for their cultural and economic development.

In my own country all political parties have for long been striving to secure the settlement by arbitration of all international disputes ; Denmark, by the treaties of arbitration which she has concluded, has evinced her firm intention of contributing her share towards the realisation of this principle.

In the name of the whole Danish nation, I give my support to the eloquent words that were pronounced from this platform.

The present Government of Denmark, guided by the principle of arbitration which, as Mr. MacDonald has said, forms the only really effective guarantee of peace, has considered the possibility of a complete reform of its military and naval system. I am absolutely convinced that all nations have only one desire, the maintenance of peace. The whole Danish nation is inspired by this desire and the Danish Government, therefore, hopes that Parliament also will acquiesce.

The plans are not yet complete, but it is intended to effect a radical transformation of our military forces. They will no longer be instruments of war ; the army and navy will be replaced by an arm which will simply maintain the surveillance of the frontiers and territorial waters.

Such is the plan that the Danish Government proposes to submit to the next session of Parliament. We trust that the path that we are about to follow will lead us to the exalted goal towards which all our efforts are directed : disarmament and compulsory arbitration—that is, the end of the regime of wars and victory for the principles of universal peace and justice.

M. EDOUARD HERRIOT,

First Delegate and Prime Minister of France.

Mr. President, ladies and gentlemen — It is with a profound sentiment of respect for the majesty of this Assembly that I now come before it to speak in the name of France.

More than ever since the recent general election my country has displayed its desire for peace, not only for itself, but for all nations, and more especially for those represented here by their most qualified representatives ; nations which claim the right to work in peace and honour ; nations, all of them, with equal rights, the smallest having the right to the same consideration as the greatest.

Within the family of States leagued together to protect themselves against the terrible scourge of war, France offers her wholehearted collaboration. Her own destiny has frequently been interrupted by the shock of arms. She knows only too well the sacrifice, the mourning, and, it must also be said, the injustice which result from war. She knows only too well how, if war gives birth to heroism, it also brings in its train immorality ; her one desire, in fulfilment of the solemn oaths which were sworn at the close of the last great conflict, is to see the end of this barbarism.

France, then, is strictly faithful, not only to the letter, but to the spirit of the Covenant which is placed in the forefront of the Treaty of Versailles and is guaranteed by the most honourable signatures in the world : it is a Covenant of co-operation, a Covenant of security, a Covenant of justice, a Covenant of right, founded upon a series of correlated ideas which cannot be separated without mutilating the whole. It is by thinking over and putting in force the articles of this solemn instrument that France seeks for the rules which are to guide her future action and her foreign policy.

First of all let us be just to the work that has been done. As a newcomer among you, I see and appreciate it perhaps better than you yourselves.

The idea of peace is not new. We see it imprinted on the minds of the noblest men of all ages, and, at the end of the great convulsions of history, even on the minds of the most realist of men. The originality of the League of Nations consists in this: that in four years it has rendered important services and has peacefully settled the most critical disputes with an authority which no one has seriously been able to contest.

Undoubtedly, it has not yet attained the zenith of its power, but France believes that to strengthen the League we must observe the laws that govern all organic evolution, that is to say, we must take the greatest care not to destroy the achievements and the hopes that are the outcome of its early years.

When, after a long discussion, the Third Assembly adopted, with the signature of the adherent States, the famous Resolution XIV of the Third Committee, which was the origin of the draft Treaty of Mutual Assistance, its action was based on Article 8 of the Covenant, which provides for the reduction of national armaments to the lowest point consistent with national safety. Thus, disarmament and security are united together in the Covenant itself.

On this idea was founded the Treaty of Mutual Assistance, which makes a war of aggression an international crime. The Treaty thus marks enormous progress—the introduction into public law of the conception of crime which hitherto had existed only in private law; the creation of a bond among the Powers which are the victims of aggression, provided that they really are the victims and have fulfilled all their international obligations.

I would further observe that Article 3 of the draft Treaty covers not merely actual war but policies likely to lead to war—not merely aggression, but the threat of aggression.

It is an important fact that eighteen countries have already accepted the scheme and that most of the replies have been in favour of the principle of assistance. If there are still some who object, France, so far from being discouraged, feels—and I trust you will agree—that a study of the difficulties before us, if undertaken in that spirit of cordial collaboration to which my friend

Mr. MacDonald alluded yesterday and of which he at once proceeded to set the example, should enable us to go forward and to resolve the deadlock at which, it is suggested in some quarters, we have arrived.

A number of objections have been raised to the draft Treaty. I will deal only with the more important.

One objection is that the guarantees provided by the scheme appear to be inadequate; another, that the obligations to be assumed by each country are left indeterminate; a third that, under the terms of the draft Treaty, it is not possible to determine with certainty, or even to determine at all, which State is the aggressor.

I may say at once that, in our view, the most serious of these objections is that concerned with the determination of the aggressor State. It is urged that even the report of the Third Committee itself does not provide a satisfactory definition, and the best proof of this is that M. Benes' admirable work has had to be supplemented by a commentary on the definition of a case of aggression.

The author of the commentary admits his difficulties. Mobilisation has become an extremely complicated affair. The horrible part of modern war, of the possible war that we are anxious at all costs to avoid, is that on the first day on which it raises its head it takes sole and undisputed possession of a country. It demands not merely its men, but even its raw materials; it seizes its industries, even those which had always seemed adapted only for purposes of peace. In the past the violation of frontiers used to be the sole and final touchstone; but it is no longer sufficient. There are no frontiers to warfare in the air, not even to the atrocities of chemical warfare.

We admit that it is an extremely intricate and perplexing task to determine which State is the aggressor. For that reason, France was gratified yesterday to observe that Great Britain gave her powerful support to the idea of arbitration—an idea which we ourselves recently urged in London since we were convinced that it was the only means of exploring and solving the formidable problem of reparations.

Our action in accepting the idea of arbitration is wholly in accordance with the peculiar tradition of our country, which was magnificently upheld at The Hague conferences by my eminent friend, M. Léon Bourgeois.

Moreover, as M. Van Karnebeek, the Netherlands Foreign Minister, pointed out yesterday, the notion of arbitration is already embodied in Article 12 of the Covenant, whereby all Members of the League agree that, if there should arise between them any dispute likely to lead to a rupture, they will submit it either to arbitration or to enquiry by the Council.

We earnestly hope, therefore, that one of the acts of the Fifth Assembly will be to accept the principle of arbitration which will once again settle our difficulties, since henceforth the aggressor will be the party which refuses arbitration.

How can the principle which we have postulated, the principle which is to govern the discussions of the Fifth Assembly, be applied? It is not for me to define its application here or now; that task rests with your Committees. There is still much to be done in this direction, and you may rely upon the co-operation of the French delegates. It is for your representatives to work out a coherent system of arbitration. I do not think that there is any need for a special Committee; your ordinary bodies—the First and Third Committees—are, to my mind, so constituted that the matter can be left to them. Here, again, France remains faithful to her axiom, her golden rule: "Never destroy, but always improve!"

Turning to another subject, I need hardly say that we firmly support all the measures proposed for the control of the traffic in arms with a view to restricting and hampering those secret preparations for war which are our main anxiety at a time when war is so largely dependent upon industry, however peaceful the latter may superficially appear.

Nor do we raise any objection to the reconsideration of Article 36 of the Statute of the Permanent Court of International Justice; I refer to the article which authorises States to recognise the jurisdiction of the Court as obligatory. Mr. MacDonald was quite right in urging that this clause should be amended; but this again

is a delicate task, requiring detailed work on the part of the Committees.

France therefore, having proposed it in London, views with the utmost satisfaction the extended application of the principle of arbitration, which must henceforth be made the keystone of international public law.

Only the other day we worked in an atmosphere of what I may call brotherly co-operation for the introduction of this principle into a diplomatic instrument. It would be to our credit if at this Assembly we could do something towards the application of the same principle to the solution of infinitely vaster problems, for on their solution depends the future peace of the nations, which it is your duty, at least your moral duty, to assure.

We must speak with clearness and candour, and before this high Assembly, which has assumed such heavy moral responsibilities, it is necessary courageously to face all the elements in the problem of peace.

Arbitration is essential, but it is not sufficient. It is a means, but not an end. It does not entirely fulfil the intentions of Article 8 of the Covenant, which, if I may again remind you, are security and disarmament.

We in France regard these three terms—arbitration, security, and disarmament—as inseparable; and these three words would be but empty abstractions did they not stand for living realities created by our common will.

At all times and for all peoples war has been a dreadful reality; we must now make a reality of peace. I use definite terms because I feel that we are now faced by the greatest of all our duties to mankind, if we wish our work to be regarded by posterity as something more than the barren proceedings of some vast and sterile academy. Arbitration must not be made a snare for trustful nations.

If upon the foundation of this trust you desire to establish a final charter to govern international relations, you must, of your free will, afford protection to all countries that loyally observe their bond—if necessary, the smallest country—against the deceit

and menaces of force. A great nation can, if need be, protect itself unaided ; a small nation cannot.

We Frenchmen believe—and in speaking thus I am expressing a moral rather than a political idea—we Frenchmen believe that a nation which accepts arbitration ; which, notwithstanding the uncertainties and risks that still exist in the world, sets this example of willingness to accept the dictates of justice ; we Frenchmen believe that such a nation, be it great or small, has a right to security.

Arbitration, as my friend Mr. MacDonald has said, is justice without passion. In that I recognise the nobility of his mind. But justice must not be divorced from might. Might must not be left in the ruthless grasp of injustice.

In this Assembly, where nothing should be said that is not serious and noble, nothing that is not the outcome of thought and good sense, let me recall to you the sublime thought of Pascal, whose intellect has not only dominated France, but all countries where thought and faith are held in honour.

Pascal said—and his words should, I think, serve as a watchword for the League of Nations : “Justice without might is impotent. Might without justice is tyranny. Justice without might is unavailing, for the wicked are ever with us. Might without justice stands condemned. We must therefore mate justice with might and to that end we must ensure that what is just is mighty and that what is mighty is just.”

To mate justice with might is, I believe, the highest duty incumbent upon us, if we desire to create a work which shall not be merely that of a barren idealism, however excellent its intentions, if we wish to afford the nations that reality which they demand of us with an anxiety born of their losses, their sufferings, their sorrows and their fear of future troubles.

I need no arguments to show that innocent intentions are not enough to safeguard a nation. The proofs are here before our eyes. They speak to us. Let us listen to them !

The great and renowned nation whose guests we are, has held aloof from the disputes that have drained the blood of Europe.

Are we to ask that nation to abandon, without compensation, the protection assured to her by the hardy valour of her stout-hearted sons ?

Again, did not Belgium give evidence of her desire to stand apart from the clash of arms ? Did she not endeavour to serve as a link between the great nations of Europe and of the world ? Was she not, by her initiative, her intellect, her nobility and her charm, the chief centre of international life ? But remember the sequel. Can we a second time ask a nation to wait, if necessary, four long years in exile ?

No, we do not believe that force alone can bring security. We do not under-value the importance of the economic and financial sanctions prescribed in Article 16 of the Covenant. We must strive to create in all countries a new spirit which will feel for the public crime of war the same abhorrence as is now felt for the crimes of individuals.

In one of the replies to the draft Treaty—that of the Netherlands, I think—it is stated that the international community must be created. I agree. But the gospel doctrine of peace and brotherhood taught to mankind at the dawn of our era—the kindest, the most potent message ever received—has never yet sufficed to avert the bloodshed of war.

To-day more than ever before, on the morrow of the world war, we are passing—if I may repeat what others have said—through a period of transition and we must observe the utmost caution. To temper realism and idealism with wisdom, to hold the balance between them with calm reason, to adjust them, to reconcile them—this is assuredly one of the most difficult tasks of the League but, to fulfil it, all that we need do is loyally to observe Article 8 of the Covenant. This is what the people of France unanimously desire, most of all those who fought in the war. This is, I am convinced, what all countries desire when they ask you, when they ask us all, to give them, at long last, security to earn their daily bread in peace. Let us, then, give them this daily peace which they have earned in the bitterness of their suffering and the sufferings of past ages.

Arbitration, security, disarmament: the three words are, we hold, closely inter-connected. Without real international solidarity we shall, we believe, never attain that international community which we passionately desire, which we are resolved to create, to perpetuate, to organise conformably with the laws which govern life and being. Without international solidarity there will never be international peace. Through international solidarity alone shall we attain disarmament, which is our goal.

France, too, believes that we must prepare for a general Conference on disarmament; but, as has rightly been said, such a Conference, hurriedly improvised, is doomed to failure. Whatever we do, we must not repeat the error of those who essayed to build the Tower of Babel. We must prepare the ground if we are to succeed; it is so easy to do wrong, so hard to do right. In any case, it is essential that this work should be entrusted to the League of Nations, which alone has the necessary organisations to achieve success. No one who reasons logically and clearly can conceive of an international conference on disarmament without—in other words, against—the League of Nations. If—and it is unthinkable—a new institution were created, there would be danger of war between two organisations founded to ensure peace. Could anything be more illogical?

What arguments can be raised against this plan? It may be objected that the League is not sufficiently worldwide in character; on this point, as on all others, France, who desires above all things sincerity and clearness, would like to explain her position frankly.

In the first place, we cannot think that the United States, who recently rendered us such valuable service in London—and I offer them my thanks—will refuse to collaborate with us, especially when they find that the just and pregnant principle of arbitration is now the corner-stone of our policy. Certain distinguished Americans have already submitted to us schemes which merit careful attention.

As regards Germany, our declarations will be clear and unequivocal. In fighting Germany we were combating destructive militarism and that criminal doctrine, openly proclaimed in her Parliament,

the antithesis of all that we who are here affirm and believe, the doctrine that "necessity knows no law". But we have never wished to see the German people in misery. France knows no hatred ; France does not live on hatred, or in hatred.

We are ready to welcome any genuine proof of a desire for conciliation. What we ask is sincerity.

In the last few weeks we have witnessed an important new event. Germany, with whom we have entered into direct negotiations, freely undertook in London to meet her reparations obligations. I may add that Articles 1, 8 and 9 of the Covenant, which presuppose the fulfilment of engagements regarding disarmament, define the conditions under which any State may be admitted into the League. These articles apply to Germany as to all other nations. In our League there must be neither exception nor privilege ; respect for treaties and pledges must be the common law.

This policy of absolute impartiality, this sincere desire for a peaceful settlement, this determination to see at least the unity of Europe restored, if possible—this is the aim of the French Government. It is a clear and definite aim, and I express it without any ulterior motive.

I would say the same of Russia. A lasting reconstruction of Europe is inconceivable without the collaboration of that great nation which has gone through such trial and suffering. The Russian nation often use harsh words to us, or rather, harsh words often reach us from Russia, but we know that hate has never cast out hate. A policy of freedom, a return to normal conditions of life, mutual intercourse and, above all, patience and steady caution must be our weapons in the struggle against excesses, for are not we of the League as much the enemies of civil war as of war between nations ? Our watchwords are : to oppose war in all its forms, to preach peace, unity, freedom. We have but to abide by these in all our international dealings.

Such, ladies and gentlemen, are the guiding motives of France in her collaboration in your work. I said so at the outset ; I say so again at the close. We stand by the Covenant, but we wish

to make it a living Covenant. We simply claim for each nation the rights conferred upon it by the Covenant, no more and no less.

Peace, for the sake of which we are meeting here ; peace, for which we are working, and towards which we have duties—not all of them perhaps fully realised as yet, but for the accomplishment of which we shall later be called to account—this peace must be no abstract notion, no barren desire. To win it calls for courage as great as, perhaps greater than, the courage of the soldier.

Arbitration, security, disarmament—these are, we hold, the three main columns in the temple which you, my colleagues, are called upon to erect. Its foundations must be solid indeed if it is to tower high in the light of heaven.

France, in whose name I speak, offers as her tribute to the common task her heart and her mind, her passionate desire for clearness and frankness and an experience bought at the price of centuries of suffering. She knows the cost of weak frontiers. Her dearest hope is for peace with honour, peace and toil. But she does not think only of herself ; if she did, she would be false to her traditions. Innocent yesterday—yes, I swear it—to-day, still wounded, she stretches a sister's hand to all your countries.

Despite her suffering she is eager to know the sorrows of all the nations of the world so as to bring aid and comfort. She would rejoice if, amidst the wreckage of the war, among her own sorrowing ruins she could see growing, planted by our hands—your hands, my colleagues, and mine—the divine flower of peace.

M. SALANDRA,

Former Prime Minister and First Delegate of Italy.

Mr. President, ladies and gentlemen—The Italian delegation fully sympathises with the sentiments expressed in their speeches by the heads of the British and the French Governments. I am proud to state that we cordially agree with what they have said, and I am convinced that in so doing I voice the thoughts of the Italian Government and people.

We share heart and soul in your common endeavour to ensure, so far as lies within man's power, the maintenance of international peace. Opinions may differ concerning the appropriate means to attain this end; they are bound to differ on account of the variety of national character and the divergence of national interests, on account of differences of historical tradition and of racial and geographical conditions in our own times. It is, however, of the utmost importance that all of us who have met here should be of one mind. The spirit of concord in itself, if only it be sincere, if only it be persistent—and I do not doubt but that it is so—will gradually lessen and dispel every difficulty in our path.

We are justified in saying that, ever since the Great War, into which Italy was forced by an inexorable, historical destiny, the policy of the Italian Government has been consistently animated and governed by this spirit.

Italy has to-day no other ambition than to maintain the position within her natural boundaries which she has gained by her valour, and to promote social progress and the peaceful expansion of her large and industrious population.

As soon as the war was over, Italy set herself to reduce the strength of her forces on land, sea and air; this she did to such an extent that protests were raised by some who had become alarmed for the country's safety, and some reconstruction has been necessary.

Further, the Italian Government has made a determined effort to eliminate the various international difficulties which were not fully solved by the Treaties of Peace. Our method has been to conclude direct agreements in which loyal co-operation has been substituted for ancient and perilous rivalries. These agreements, and we have concluded many, deal with territorial as well as political and economic matters, and all have been presented to the League of Nations for registration.

Immediately after the war, the Italian Government actively co-operated in the first-aid measures for the relief of the defeated countries, and it has subsequently played an important part in the beneficial work undertaken with entire success under the

auspices of the League for the financial and economic restoration of some of those States.

The Italian Government is therefore prepared, as always, to collaborate in the practical extension of the principles laid down in the Covenant for the peaceful settlement of all conflicts which may hereafter threaten the peace of the world, and for the progressive reduction of armaments.

The States Members of the League, by the Covenant itself which bears their signature, have already provided for a Treaty of Mutual Guarantee and Assistance, which can be both strictly and effectively applied provided that the will to carry it out and the means to apply it are forthcoming. We have, nevertheless, assisted in carefully drawing up more definite agreements and in formulating more concrete rules of procedure, though we have been under no illusion as to the difficulties. These difficulties, briefly described, consist in the danger of entrusting to the Council of the League of Nations a stupendous, a prodigious task for which it is unsuited by its constitution, and also in the danger that special agreements may result in the formation of groups of States that would probably be rivals or perhaps even hostile to one another, with the inevitable consequence that armaments would not be reduced but increased.

Perhaps we shall discover an easier method of rapidly attaining effective results if we extend and define more exactly the principle of compulsory arbitration which is also embodied in the Covenant. Italy is prepared to follow this course and, in so doing, we shall but be true to our traditions, as I will show you in a few words.

The idea of making arbitration the regular practice in international justice was first embodied in the theory and practice of international law in this city of Geneva in 1872, when an arbitral tribunal presided over by a distinguished Italian jurist and statesman, Count Sclopis, decided the famous question of the "Alabama".

As long ago as November 24th, 1873—that is, more than 50 years ago—M. Mancini, one of the most notable pioneers of modern international law, brought forward in the Italian Chamber

a motion which was unanimously adopted. I venture to remind you of the wording of that motion :

“The Chamber recommends that arbitration should be the recognised and regular method of arriving at a just settlement of international disputes in questions which are arbitrable, and that a clause should, whenever expedient, be inserted in treaties, providing for the reference to arbitrators of any questions that may arise in regard to the interpretation and application of such treaties.”

Since then, arbitration clauses have been inserted in numbers of treaties concluded and renewed between Italy and various States, for example, that of 1903 with France and that of 1904 with Great Britain.

Our present task is to discover how far and in what manner arbitration can be made compulsory in questions which, not being of a strictly juridical or technical nature, have hitherto been considered as not judiciable. Our next duty will be to devise some means of assuring that, in every case, the decisions of the arbitrators will be put into execution.

These are difficult problems but they are not beyond the knowledge or the zeal of our lawyers, who only wish to imitate their forerunners, to whom belongs the glory of having inaugurated the reign of uniform and progressive law in the greater part of the civilised world.

If new great international gatherings are convened with a view to attaining a simultaneous reduction of armaments, we will take part in them, as we have already done in the past, with a keen desire to offer an active and sincere collaboration.

We must certainly not lose sight of the fact that it will never be possible, either for us or for anyone else, to renounce the duty of maintaining those forces which are necessary to guarantee the security and independence of each State. In consequence, the problem of disarmament cannot be separated from that of security.

It is possible—since it is always dangerous to entertain illusions—that neither the one nor the other of these problems will be completely and finally settled ; it will always be possible, however,

to arrange by small and rapid steps that these problems shall weigh less upon the life of the peoples.

The Fifth Assembly may be proud of the results obtained if, on this solemn occasion, some progress is made, if the means is found for more effectively adapting to the noble aims for which they have been created the different organisms of a League of Nations, which should unite as soon as possible under its peaceful flag all the civilised nations, and for adapting the provisions which govern the competence and action of these different organisms.

The new Italy, who wishes, for her own good and that of the rest of the world, to serve as an element of justice and peace, proposes to contribute thereto in this spirit of universal solidarity, which does not at all suppress, but reinforces and renders more sublime, that love of country for which our populations have so courageously thrown away their lives and their property.

LORD PARMOOR,

Lord President of the Council and Delegate of the British Empire.

I am speaking to the Assembly under the spell of the great speech which we have heard from M. Herriot, and I desire, on behalf of the British delegation, to express our gratitude to him for stating in such admirable terms many of the great principles in favour of peace.

We must be under no illusion to-day as to the responsibility which rests upon this great meeting of the Assembly of the League of Nations. It is essential that we should find a remedy for the existing dangers which threaten, not this country nor that, but the whole fabric of European civilisation.

I believe that a remedy can be found in faithfully following the directions of the Covenant. The obligations are stated there in words which cannot be misunderstood, and their application is directed by various articles which appear to me to be exhaustive in their definition and capable of immediate and general application.

I do not approach this question in any pessimistic spirit. I believe in the triumph of right and in the triumph of morality. Although we may have to wait in patience, we can look forward to the certain success of those great principles of Christian ethics and Christian charity which alone can bring peace and comfort to the various nations of the world.

I think it would be convenient for me to deal with the principles enunciated by M. Herriot, mainly with a view to showing how nearly they agree with the principles enunciated by Mr. MacDonald, but not avoiding, as M. Herriot would desire me not to avoid, a perfectly frank reference to those matters on which there may appear to be some little difference of opinion.

Frankness is absolutely necessary. Frankness and courage ought to be the basis of all our discussions. Unless we are frank and courageous, we may agree in words, but we shall go away without agreement on fundamental principles.

M. Herriot, if I understood him aright—and my only desire is to interpret him with perfect accuracy — desires that there should be the same treatment of the smallest country as of the largest. I am in entire agreement with the principle thus enunciated; but I want to say, and to say it with all possible emphasis, that you will never get that equality of treatment if you rely on the basis of military force.

So far as military force is concerned, inequality will always be with us, and the same evil agencies which have wrecked the chances of equality of treatment in the past will wreck any attempt at equality in the future, unless we have the courage to eliminate from our consideration the element of military and unequal force.

I want now to express what I consider to be the only principle upon which we can proceed. I desire not the application of force but the supremacy of and obedience to international law under the constituted authority of an International Court. It is in law that we can find equality; it is in law that we can find justice and equity. In military force we can never find either the one or the other.

If I understand M. Herriot aright — and again I say I desire to interpret him with great accuracy — he has referred with approbation, in the same way as Mr. MacDonald did, to putting into further operation what is known as Article 36 or the optional clause of the Statute which constituted the Permanent Court of International Justice at The Hague. I myself think that there is an absolute and pressing liability upon the more powerful countries to adopt this principle, subject, as I admit, to the reservations made both by Mr. MacDonald and M. Herriot to the effect that further enquiry and further definition may yet be necessary.

In adopting this principle let there be no mistake. Let the words be such that the plainest man can understand them. We want to appeal to the peoples of the world and make them understand what we mean when we talk of justice and peace as opposed to violence and war. I find in the proposal to adopt this article the touchstone of sincerity. Here I find a real test ; not a test of words and phrases. I find a real test as to whether the stronger and more powerful nations are prepared really to adopt the policy of equality and in every instance to place justice before force in their relationships with their less powerful neighbours.

It must not be forgotten — and I am sure that the members of the Assembly will not forget it — that numerous countries, mostly what we call the smaller countries, have already accepted the obligation of compulsory reference of disputes to the jurisdiction of the Permanent Court.

The acceptance of the principle of application to this Court means nothing less — and this is of the utmost importance — than taking the first effective steps towards the creation of a great international common law with the same authority over nations as the great common law in England has over her own people. It gives authority to a court which holds the scales of justice evenly and which is blind to all considerations except that of strict impartiality and the supremacy of equity and which does not enquire or know whether the applicant for its jurisdiction

is strong or weak, armed or disarmed, or belongs to the category of the more powerful or the less powerful of countries.

The greatest Chief Justice whom England has ever produced expressed his view of the importance of the supersession of force by law in a much-quoted phrase which I venture again to quote this morning: "Ruat cœlum, fiat justitia". Never mind what else may happen: give justice, and equal justice, to all countries under all conditions.

If we adopt this great principle of the supremacy of international law, I hope that we should ostracise for all time the wastefulness incident to modern warfare and that we should insist — I am now quoting the words of the Preamble of the Covenant — that what are now called the understandings of international law should prevail as the actual rule of conduct in respect of the relationship and intercourse of nations one with the other.

If these results can be obtained — and they can be, as I hope — under the joint influence of the two Prime Ministers who have spoken, one this morning and one yesterday, then there would be a widespread assurance of what is really meant by national security. It would be a national security founded on the experience of all mankind in all civilised countries, a security which, in my opinion, can never be obtained by any form of assurance such as we find in the draft treaties to which reference has been made, and still less in any treaties which require for their success a military basis connected with pre-arranged military plans.

That I think is one of the first points on which I noted the same view expressed by the two leaders and I venture to emphasise my own view in the same direction.

What is the next point? What do we find next in the great statement of M. Herriot? Faith in the Covenant; a foreign policy founded on a recognition of terms of the Covenant. This is a great statement. It is a statement which, if carried out to its logical conclusion, ought to bring about what every man in this Assembly must desire, namely, the substitution, for the old days of arms and force, of the settled principles of peace and

security which we can find, as I believe, within the terms of the Covenant itself.

There is no great difficulty ; there is no great mystery. On the one side, there is the old system which culminated in the terrible and disastrous war of 1914; on the other, a term of the Covenant, a term which every nation signatory to the Covenant is under the most solemn promise to observe to the utmost of its power. Why should not we do so ? What is the difficulty ? What is the obstruction ? If you want peace, go to the Covenant, which gives you what you want, if only, in truth and in sincerity, you will at once accept its terms and promise obedience to the agreements concluded.

No one who has experience of such matters will deny the enormous importance of general arbitration procedure. There is no question as regards the general adoption of this procedure. We were told of its value at the London Conference. Those who know the history of the question can understand the enormous influence for peace which, during the last century, the principle of arbitration has had upon the relationship of nations.

There are two matters on which, as I understand it, some doubt may be felt regarding what is called the basis of security. I want, if I may, to deal with those two questions because they appear to me to be of the utmost importance. You want security in two stages, and these two stages must be kept carefully apart when this great matter is under consideration. First of all you want security, so that when a dispute arises and one party is perhaps ready to go to arbitration, the other party, which is not willing to go to arbitration, can be dealt with, as I think it can be dealt with, under the terms of the Covenant.

What is the position ? Let me adopt M. Herriot's own definition which he put forward so clearly. If this general system of arbitration is adopted, an essential condition is that a nation which seeks to act without applying to the Arbitration Court is an aggressor.

From the moment that a nation becomes an aggressor, under this simple test—I agree myself that the tests such as we find

in the Treaty of Mutual Assistance are entirely valueless—why should not that nation, which has shown itself to be the aggressor by refusing to resort to arbitration, be regarded as an outlaw? Why should it not be regarded as an enemy of the human race? Why should it not at any rate come under the economic sanctions which would be applied to it, *ipso facto*, without any other corroboration than that of the Covenant itself? I can see no reason whatever for doubting that the sanctions contained in the Covenant are adequate and sufficient.

It has occurred to me that in some respects those sanctions go very far, and I cannot doubt that they are ample and sufficient. Suppose that when a nation became the aggressor by failing to apply to the Arbitration Court, then *ipso facto*, without any other act or deed, or without any question of what particular methods may do, the sanctions were applied which are at present contained in the Covenant. They are economic sanctions which mean economic death—sanctions of boycott which mean the suppression of all international intercourse and there are other sanctions of that kind—and I do not believe any nation or country would face them if a proper system of international arbitration was once established.

There is also the other side of this question, which must also be carefully examined. There are those who suggest—and no doubt with perfect *bona fides*—that even if an arbitration is held, without adequate sanctions of a very specific character, sanctions, I presume, which are above and beyond those to be found in the Covenant, there is no security.

Let me answer that objection. If adequate securities are not to be found or if existing securities are found to be inadequate and it is thought that further sanctions are required, the matter must, no doubt, be discussed further.

I want, however, to put this point of view before the Assembly. In the nineteenth century—I am afraid I have not my library here for reference, but I have quoted the figures more than once—there were several hundred arbitrations. I believe there were more

than 700 in all, though I would ask you to accept my caution that the actual figure may not be accurate, nor does it matter. What I want to predicate is this, that in respect of all those arbitrations, many of them dealing with matters of infinite importance to the countries concerned, none of them, as far as I know, providing what we call an adequate force of sanction, I can find no instance whatever—not a single case—in which the award or the decision of the arbitrator has not been accepted by the parties concerned.

I do not desire to make an exhaustive negative go too far, but I say without any hesitation that history shows that people who are willing to accept and have accepted arbitration have always been sufficiently loyal to accept the decision, even when it has not been in their favour.

I do not myself believe in the importance of what are called sanctions in matters of this kind. The important matter is the agreement of the nation to accept arbitration ; when that has once been agreed, the need or necessity for sanctions becomes secondary.

I notice that M. Salandra in his eloquent speech referred to the Alabama arbitration. The Alabama arbitration, as you know, was an arbitration between the United States of America and England. England undoubtedly thought that the award was hard and harsh as regards her interests, but she accepted it ; she carried out the obligations ; and from that day to this not only has the general influence of arbitration been increased but a friendship has grown up between the great United States on one side of the Atlantic and Great Britain on the other, a friendship with which nothing in the future, I hope, can ever interfere.

Arbitrations do not lead to dissension, they do not lead to controversy ; they lead to settlement, to conciliation, to peace ; they are the real substitute for the horrors of war. When I read, as in the Preamble of the Covenant, that all the signatory nations accept obligations not to resort to war, I ask myself whether there is any other alternative but arbitration, as I have indicated, or, what to my mind is still better, a Permanent Court imposing the supremacy of international law ?

There are one or two other matters to which M. Herriot referred in his great speech with which, so far as I can understand them, the British delegation is, I believe, entirely in accord.

M. Herriot spoke of the International Conference and referred to the bad precedent, as I think I may call it, of the Tower of Babel. I, personally, think it essential—perhaps I may try to press this a little further—I think it absolutely essential, if the vigour, authority and influence of the League are to be sustained, that this International Conference should be summoned through the agency of our great international Secretariat. It would be unfortunate, it would not be right, for an International Conference of this kind to come into conflict with the League as if it were an independent and separate authority.

The questions which will come before the Conference are just those which are entrusted to the League and for which the Covenant has provided. I heartily rejoice that M. Herriot, if I understand him rightly, shares this view. Speaking here as one of the great advocates of the League, as one who believes in the League and in its work, speaking, in that connection also as British delegate, I sincerely hope that every one will come to adopt the view that this great International Conference must not be summoned apart from the League but as part of the League machinery and through the agency of our international Secretariat.

Perhaps before I conclude I may be allowed to say a few words with regard to the Treaty of Mutual Assistance. I have read that Treaty, and re-read it, with a sympathetic desire to find in it a solution for those questions of disarmament and security.

I think it was Aristotle who said that, whatever else you may command, you cannot command the conclusions which you will reach if you are sincere, logical and courageous in the methods which you adopt. However much I may have desired to feel sympathetically towards the Treaty of Mutual Assistance, my judgment led me to the inevitable conclusion that it was not only valueless, that it was not only founded on wrong principles, that it was not only impracticable in its application, but that—what

is much more important to my mind—it involved the League in a mass of wrong principles and in the mire of militarism.

We all know, of course, that the whole basis of the Treaty of Mutual Assistance is militarism. It is framed on the idea that force, in the long run, is the guiding principle. It is based on the suggestion that, in the limitation and arrangement of force, you may find something like a balance between the Powers involved. Force, and force alone, is at the basis of the Treaty of Mutual Assistance ; it is no good disguising the fact. Would any advocate of the Treaty here stand up for it for one moment if it were not based on military force ?

In the terms of the Treaty itself, reference is made to “ prearranged military plans ”. I beg the Assembly not to lose sight of this element in the Treaty of Mutual Assistance. If you believe in force, I agree that the regulation of that force may have its advantage, but if you disagree with force then the very regulation of it, the very acknowledgment of it as the basis of the relationship, is to my mind absolutely destructive of all that we really care for in the Covenant of the League and in the work of its Council.

I do not know how far you have studied the actual terms of the Treaty itself. What do they say and what do they do ? They elevate the Council of the League, which ought to be the emblem of peace and through whom the golden rule of peace and justice ought to be placed on our standard, into a sort of informal military council, unsuited though it is for the purpose, a council which is not only to direct what is to be done and what Members are to contribute forces, but which has even to take the responsibility—which I, as a member of the Council, could never take—of deciding what Commander should be appointed and how the war should be carried on.

I hope the Members of the League will study this document. I hope they will realise its essential defects, and that when we come to consider what should be the solution of this problem, what solution we should uphold, they will remember what has been said in favour of arbitration. Let us strengthen it in every possible way ; let us promote conciliation wherever we can,

and by that means, and by the supremacy of law, I hope we shall find the solution which we so earnestly seek.

I only want to say one word more on disarmament. I think M. Herriot himself recognised that, if conditions allow it, the question of disarmament is really a question of special terms and instructions. I know, of course, that his view is that arbitration may not be a sufficient basis ; this point I am not going to discuss again. The Covenant itself, however, together with the conditions in the four Treaties of Peace, contains a proposal that, when the time comes, disarmament can properly be placed under the investigation of the Council of the League. That, I think, is satisfactory.

I am not now discussing the question of when the time may arrive. It is a provision of the Treaty, and it is that provision for which endeavour is being made to put into operation, on the initiative of Great Britain with the full co-operation of France, in the case of Bulgaria, Hungary and Austria. I do not want to say more than this : It seems to me that our Council might be the general staff of a peaceful world in contrast to its being brought into operation in order to direct military forces and military power.

I think I have dealt with the question to which M. Herriot referred in such splendored terms. Let us think of the great quotation which he made from Pascal. Let us think of the great passages in which he describes so eloquently what the world desires and what the world hopes, and let us take those thoughts to our heart. I say for myself that I am not despondent ; I do not despair. I believe in the divine guidance of the Prince of Peace, and although we may require patience the triumph of peace will certainly come.

M. THEUNIS,

Prime Minister and First Delegate of Belgium.

Mr. President, ladies and gentlemen—On this, the first occasion on which I have had the honour of addressing this Assembly,

I cannot help reviewing the events of the past and measuring the distance we have advanced in the last ten years.

Ten years ago, each one of us, statesman, lawyer, man of business, was familiar with the idea of a league of nations and with the propaganda carried on by some of the most distinguished men of our age on its behalf; it was then, however, nothing more than a lofty and sublime idea. By many it was considered a mere Utopian ideal.

At length your work has emerged from the realm of academic speculation. It exists. We have seen its earlier achievements; we hope for greater, more comprehensive, achievements, and, if our hopes are realised, we shall be able to say that the outcome of the most unjust, the most disastrous of wars, was one of the greatest advances in the annals of mankind.

I have spoken of what has been achieved hitherto. One achievement towers above the rest—the creation of a new spirit, the habit, acquired by men who have come together from all quarters of the globe, of striving, if I may say so, to bring a new mind to bear upon the great problems confronting them. What they desire is a deep understanding of the thoughts and feelings of the representatives of other countries and races, while remaining true to the traditions and the good qualities of their own countrymen.

When I rose to speak, I hesitated to enunciate truths which some may consider truisms, but my excuse is that they strike me perhaps more forcibly than they do you, who have been accustomed for some years to move in this international atmosphere that you have yourselves created.

The few years that have elapsed since the formation of the League of Nations have strengthened its authority and enabled it to examine the most intricate and important problems, the solution of which will restore the world to its normal economic condition and to that state of peace which is the aspiration of all the countries represented in this hall.

Such a state of peace cannot be produced merely by signing treaties. Before the world can continue its normal development towards a wider, a loftier civilisation, confidence must be restored

and nations must actually enjoy a feeling of security. Need I explain the special situation of my country in this matter ?

Nature has given us a favourable geographical situation from an economic point of view ; but I need not remind you that, for the same reasons, our country occupies a particularly exposed position in the event of war. If we examine the maps of Belgium drawn up by our National Institute, we shall observe among the various forms of notation used by the cartographers many special signs that are employed to denote the various features of the country. Two small crossed swords are meant to remind us that an important battle was fought at such-and-such a place. For centuries past, Belgium has been one of the principle battlegrounds of Europe.

You know what that means. Our people have always suffered from these conflicts, but, with the increased efficiency of modern weapons, war has assumed an even more terrible aspect than ever before. Apart from the armies engaged, the civilian population is subjected to unimaginable distress. Modern warfare spells total destruction and the complete devastation of the whole country-side in which hostilities take place.

You will readily appreciate how, since the last war, the mere idea of fresh aggression, a new occupation, has become a nightmare to my fellow-countrymen. We are essentially a peaceful nation. Peace is perhaps more vital to us than to any other country, since peace alone can allow our industries and trade to feed our teeming population.

Need I assure you that we cherish no thought of conquest or of territorial aggrandisement ? I need hardly remind you, too, that our finances, over-burdened as they are with reparation expenditure, have only been restored at the cost of heavy taxation ; our military expenditure has been reduced to as low a level as is compatible with the present position in Europe.

This burden is, however, one which cannot possibly be increased and one which we earnestly desire to lighten. I have given you all the reasons why we desire peace, peace in security.

Peace in security, I say, for, besides the ethical motives and

material reasons which impel us to strive for international disarmament, we, like all other nations, have a higher duty, a duty dictated by elementary foresight ; we must look to our security, a duty which, for a nation, corresponds to the instinct of self-preservation in the individual.

If the old order changes, if good-will, collective goodwill, can devise new guarantees of security which shall supersede those on which men have hitherto relied, the whole world will heave a sigh of gratitude and relief. I need not say, however, that the security afforded by these new measures must be a genuine security ; they must not be mere measures on paper, bringing disaster upon those nations which loyally respect the bond contained in them.

In their speeches the British and French Prime Ministers have made an eloquent appeal for co-operation. They have asked us one and all to collaborate in order to find a settlement that is to-day the most fervent desire of man. The British Prime Minister told us of the remedies which he conceived might be effective. In eloquent terms he pointed out how, apart from military action, it would be possible to minimise the risk of war. I wish to deal briefly with some of the points he raised.

Mr. MacDonald made it clear that the London Agreement has relaxed the strain. That is true, and no one is more glad than the Belgian Government. In the words of one of my colleagues, London was a stage on the road ; it acted as a stimulus. Need I say that, like the French Prime Minister, I have but one desire, that we may continue on that road ?

Mr. MacDonald and M. Herriot warned us of the danger inherent in the private manufacture of arms and in the traffic in arms. We will give sympathetic consideration to proposals on this particular point.

The British Prime Minister pointed out that the peace of Europe would be advanced if States disarmed simultaneously.

Further, he suggested an extension of the principles of arbitration already laid down in the Covenant ; for instance, all States might adhere to the optional clause relating to the jurisdiction of the Permanent Court of International Justice. M. Herriot,

this morning, whole-heartedly endorsed this suggestion. I have no doubt that, if the Great Powers are resolved to take this step, it will result in an immense increase of confidence among the nations, and I can assure you that Belgium for one will be ready to follow their example.

General arbitration is an idea which is bound to make a special appeal to small nations. It will be a great advance. The risks of war will certainly be lessened.

But will they be abolished ?

If we, as one of the " threatened " countries, were to give concrete proof that our policy is a peaceful one, what would be the position if a State were to arm in secret, if it sowed in the hearts of its children the seeds of ambition and hate ?

What would be the position if that State tore up its bond of arbitration or if, after stating its case before the Court, the Tribunal or the Council, it derided their award ?

Who among you would dare to say that such an assumption is unreasonable ?

Who would assert that no State will ever again be tempted to resort to force for the satisfaction of its interests or passions ?

I have a firm and confident belief that the work of peace, which is our object, is founded on the growing support of the great masses of people in every country. But how many years will it be before we are free from the fear of sudden outbursts of selfishness, greed or pride ?

Yes, right is stronger than might. Might without right is barbarism, as M. Herriot so eloquently said, but might employed in the service of right, that is the supreme goal towards which jurists have for centuries been striving. It is the very essence of the Covenant.

Allow me to remind you of the words of Woodrow Wilson, of him whom you honour as the founder of the League of Nations, of that just man who passed away early this year. Clearly and lucidly in the last of his fourteen points he defined the very essence of the League of Nations :

" A general association of nations must be formed under specific Covenants for the purpose of affording mutual guaran-

tees of political independence and territorial integrity to great and small States alike.”

This idea has not been omitted from the Covenant, and I support the appeal made by the French and British Prime Ministers and by M. Van Karnebeek to the supporters and opponents of the draft Treaty of Mutual Assistance not to undervalue what the Covenant has already established.

May I, too, say a few words on the system of sanctions contained in the Covenant? The Covenant provides not only for economic sanctions, which operate automatically and are generally applicable to all States, but also, in case of need, for military sanctions, in which, of course, not all States are required to assist on every occasion, but in which certain States, according to the circumstances of the case, are legally bound to co-operate. What, otherwise, would be the value of the League's guarantee, of that unconditional pledge taken by the States in Article 10, to preserve as against external aggression the political independence and the territorial integrity of all Members?

The Covenant, of course, does not, and could not, make provision for all possible disputes, or specify which States must intervene in every case. The Council, again, can do no more than make recommendations in the matter; but it will be the duty of all Members of the League to give a loyal interpretation of their pledges.

Not only was the legality of their pledges, even on the military side, unanimously recognised by the last Assembly in its resolution regarding the interpretation of Article 10, but also, in Article 8, the Covenant itself stipulates the existence of *international obligations* for the purpose of *common military action*.

This is what the Covenant has to offer us. We value it, we cleave to it and we trust that all Members of the Council will ever keep in mind the duties and responsibilities that it imposes upon them.

But, is it enough?

I must beg your indulgence if once again I evoke the tragic picture of my country. A country of plains and hills, but with

no natural defences, it was overrun by the invading hosts within the short space of a few weeks. Liège fell on the fourth day, Brussels was occupied on the sixteenth, Namur fell on the same same day, then Antwerp and Ghent.

Naturally we accept with gratitude the protection which the League of Nations affords us ; it allows us to hope that in the event of subsequent aggression we shall succeed, even though it may be after years of endeavour, in mobilising the conscience of the nations, in recovering all the pristine prosperity of our ruined country. You must realise, however, that we were asking for something more, that, after giving you every guarantee—and did you need a guarantee?—of the sincerity of our peaceful intentions, and before curtailing our preparations for war, which alone, at present, hold an invader in check, we asked for assurances that the other nations whom you represent will give us prompt, effective and whole-hearted support.

In making this request I speak not only on behalf of the Belgian Government but on behalf of the entire Belgian delegation, including as it does the authorised representatives of all our political parties. I speak on behalf of the Belgian people, whom the ordeal of the war has taught to think and feel as one upon the problem of security. In asking you for further guarantees, I believe that I am serving not only the interests of my own country but the interests of other countries and of peace itself, for the tragic events of recent history should have taught the nations that, in the event of a dispute, each may fall a victim to the caprice of military strategy ; and I believe that no better guarantee could be found to assure the maintenance of peace than the certainty that aggression will invariably be opposed by a coalition of the civilised nations.

As I am the first representative of a small country to address you after M. Herriot, I would venture, on behalf of the small countries to whom he just now referred, to thank him for having affirmed in this place their sacred right to life and independence.

In seeking these additional guarantees for which we ask, we do not limit ourselves exclusively to any particular formula.

The draft treaty to which we have agreed in principle is certainly not above criticism. We also admit that it was a mistake to substitute the notion of a war of aggression for the unequivocal notion of "resort to war without previous reference to arbitration or enquiry", or of a war of annexation as contemplated in Article 10. We unconditionally approve, however, the provisions for general assistance which strengthen the powers of the Council and prevent an anxious period of hesitation and uncertainty.

I have no doubt that, with a more careful study of the document, many objections will be overcome.

Must we rely on treaties? Or may we hope that one day amendments to the Covenant will be unanimously adopted by all States? I would suggest that the Third Committee should work on these lines. The League of Nations and the Council must prepare themselves to discharge the duties entrusted to them by the Covenant, the prompt detection of breaches of the Covenant and the application of economic or military sanctions. These duties are the *raison d'être* of this new international organisation.

In addition to the stipulations for general assistance, the draft Treaty makes provision for partial treaties. These are to determine the defensive groups which will be formed to meet specific cases of aggression in the future. They are the only means for ensuring the prompt intervention of the relieving armies of one State on behalf of another. These partial treaties, which are of a strictly defensive nature, are at present considered by many States to be inevitable, as is shown by the list of treaties already registered with the League of Nations.

I admit that this defensive organisation may involve the risk of certain groups abandoning the peaceful purpose for which they were founded. But how can the dangers inherent in the new political constellations in Europe be averted otherwise than by bringing them within the compass of the League, by co-ordinating them, adjusting them, making them subject to the control of the Council -- a control that, according to the French Government's proposal, should become yet more rigorous? Surely you realise that, once the risk inherent in partial treaties

has been removed, the proposed organisation will render valuable service to the cause of peace in that it affords the Council a "secular arm", the weapon that is essential to it, though God forbid that it should ever have occasion to use it!

Ladies and gentlemen, I beg you to regard my small contribution to the study of the great problems with which we are confronted as proof of our earnest desire for the success of your endeavours, whether it be in this Fifth Assembly or in the Committees which will work in accordance with your instructions; as proof, too, of our confidence in your ultimate success.

The task is both arduous and delicate; but never did those who of old fought the good fight of peace strive in a better cause.

Dr. BENES,

Minister for Foreign Affairs and First Delegate of Czechoslovakia.

Mr. President, ladies and gentlemen —the Fifth Assembly of the League of Nations will unquestionably be a political event of the first importance in the annals of the League.

Never before has the Assembly brought together so many responsible statesmen speaking in the name of their countries; never before have we discussed a question fraught with such possibilities for good or ill, a question of such moment, a question so vital in the politics of to-day.

The eyes of all Europe are upon Geneva; it is being asked whether there will result from all our meetings and discussions something which will mark a real advance, and whether those who have such high hopes of us to-day will not become our severe critics if we fall short of their expectations or prove unequal to our task.

Last year I was Rapporteur of the Third Committee for the question of disarmament and the Treaty of Mutual Assistance, and accordingly I feel in a sense responsible for the document which is now being so severely criticised. It is therefore solely from a sense of duty that I venture to speak in this august Assembly

We have already received a number of replies both from States which are and from States which are not Members of the League. We have also heard a number of speeches analysing the question, some in support of, others criticising, the draft Treaty. The speeches of Mr. MacDonald and M. Herriot are all-important, because they offer us not merely observations or objections but a complete and comprehensive policy.

Some of the replies state that the draft Treaty prepared last year has so many drawbacks as to render it wholly impracticable and unacceptable.

The Treaty of Mutual Assistance has been criticised for its complicated and clumsy machinery. It is impossible, they say, to define a case of aggression ; the process of determining the aggressor is necessarily slow ; complementary treaties are dangerous, because they are largely a replica of the treaties of the old alliances. It is held that we must seek our future policy either in disarmament pure and simple or in compulsory arbitration, combined, perhaps, with measures of partial or special security, such as the establishment of demilitarised zones and so forth.

Such are, in broad outline, the chief criticisms of the draft Treaty and of the work carried out by the League during the past four years.

Let me examine these criticisms for a moment.

It is said that it would be better to have disarmament pure and simple. But, I ask, how can we adopt this somewhat crude suggestion when we have been discussing the matter for the last four years and have unanimously concluded, after earnest discussion, that disarmament and security must be dealt with as one ? How can we shut our eyes to the fact that the League of Nations was created to prevent war and that the reduction of armaments is only a means to that end ? It is surely just as possible to start a war with reduced armaments as with the armaments of to-day. There are countries with highly-developed industries which, in the event of an unexpected conflict, would be able to prepare for warfare on modern, technical and scientific lines, with armoured cars, aeroplanes and asphyxiating gases, and in the short space of

days or weeks could overwhelm their non-industrialised neighbours. In such a case a reduction of armaments pure and simple would actually prove an immense advantage to them and might even tempt them to embark upon a policy of adventure.

Responsible statesmen will thus think twice before accepting this course, since for them it fails to provide any solution of the problem of disarmament and of the abolition of war.

There is one decisive argument which we must never forget. All the Members of the League of Nations have already signed a document which is of capital importance for all—a document in which they solemnly proclaimed their adherence to the principle of the interdependence of security and the reduction of armaments. I speak of the Covenant of the League, of which M. Herriot spoke this morning with far greater authority than I could speak.

According to Article 8 of the Covenant, Members of the League are required to reduce their armaments to the lowest point, be it noted, consistent with national safety. This article does not, it is true, refer specifically to a combined mutual and general guarantee, but it may rightly be regarded as entitling those States which are asked to reduce their armaments to an extent inconsistent with national safety, to lay claim, by way of compensation, to a corresponding degree of security.

We cannot abandon a principle to which we are committed under the terms of the Covenant, by four years of work and by a unanimous resolution of the Assembly. It is a principle, too, which is vital to the political requirements of a number of countries, which frankly declare that, unless the reduction of armaments is accompanied by some kind of guarantee, they cannot reduce their armaments to any appreciable extent.

I hope you will pardon this somewhat blunt statement of the question. It is essential that, at this important point in our discussions, we should reach the heart of the matter ; only by so doing shall we arrive at a true solution. I am particularly glad to note that the British Prime Minister, Mr. Ramsay MacDonald, although he has not expressed himself quite so definitely as I have done, does seem to take account of the facts. It is in this sense that

I might use the same argument with regard to methods of preventing conflicts other than arbitration, such as the establishment of demilitarised zones, the special protection of threatened frontiers, and so on.

The question always takes the same form : What will happen if war breaks out despite pledge and treaty ? We cannot evade the issue. Sanctions must be provided for crimes against international law.

It is clear that neither Mr. Ramsay MacDonald nor M. Herriot nor the other advocates of compulsory arbitration regard the question in any other light, I believe in arbitration ; but, like Mr. MacDonald, I realise that the question is complex, that it must be closely studied, that texts must be prepared and that the competence of the arbitral tribunal must be clearly established. This is a lengthy task, and we should take it in hand at once.

If the larger countries accept compulsory arbitration, the safety of the small is half assured. If effective sanctions could be provided to deal with the violation of the arbitration clause by a great Power in a dispute with a small Power, then, speaking as the Minister of a small country, I acknowledge that the safety of small nations would be assured.

We are, then, practically agreed. Differences of opinion may, of course, arise regarding the fixing of the sanctions, their scope and the question of military sanctions. Lord Parmoor referred to this in his eloquent words this morning. If we are to discuss the question, however, we must do so frankly, determined at all costs to arrive at some concrete result ; we already have, I think, sufficient material for discussion to warrant the hope of agreement.

If we reach an agreement, an immense advance will have been made in our great endeavour to bring about the peace of the world.

Lastly, the objection has been raised with regard to the Treaty of Mutual Assistance drawn up last year that complementary or regional agreements are dangerous. I have said that I acknowledge the shortcomings of these agreements ; but I have also

said that I dare to choose the lesser of two evils. We have to do so in private life, and I feel convinced that in this respect morality in national affairs does not differ from private morality. Treaties of this kind already exist and will continue to exist ; we have no means of preventing or abolishing them, and I would therefore prefer to place them under the control of the League and of international public opinion.

I will not weary you by recapitulating all the arguments in support of these agreements which I brought forward last year and which I still support. The lengthy discussions which took place in the Third Committee are highly instructive.

Mr. Ramsay MacDonald, in speaking yesterday of the fate in store for small nations, was referring in part to the question of partial agreements. I know from personal experience the keen interest Mr. MacDonald has taken in this question for a long time past ; his interest goes back to the days before he had assumed the great responsibilities which he now bears, and to-day that interest is greater than ever. I know from personal experience, too, that M. Herriot, during the war, was one of the men who were most closely associated with the great struggle for the independence and liberty of small nations, and his words this morning show that he is still faithful to that great tradition.

Mr. Ramsay MacDonald said yesterday that in any great conflagration in the future the small countries would necessarily be devastated and ruined, notwithstanding any treaties they might have signed. Treaties of this nature and military treaties, he said, are not sufficient to ensure the security of nations. If that were so the future lot of the small nations would indeed be an unenviable one, for in politics we must reckon with every possibility, and consequently with that mentioned by Mr. MacDonald. I, however, do not share this view, although I realise that the signatures at the foot of a treaty cannot, of course, alone suffice to ensure permanent security.

Mr. MacDonald is right. We must create a new atmosphere and a new psychology ; we must restore pacific, aye, and friendly, co-operation between all nations, ex-enemy and others alike ;

we must have compulsory arbitration if we are to have peace and security. But even this is not enough.

There are formidable obstacles confronting us in our progress towards the ideal depicted yesterday by Mr. Ramsay MacDonald in his eloquent speech.

The war destroyed the four great autocratic Empires of Central and Eastern Europe and wrecked the entire political, economic and social structure of those Empires. With the aid of our friends and neighbours in Central Europe we were forced to enter in those countries upon a campaign which is perhaps unparalleled in history. What would have been the outcome if the hatred and resentment kindled by the war, the hot wrath of chauvinism, the collapse of economic prosperity and the chaotic conditions of administration, the active propaganda for a so-called social world resolution that was to spread from revolutionary Russia and envelop us, Russia's nearest neighbours, in insurrections and local risings, the militarist *putsch* led by Kapp at Berlin, that threatened to demolish the structure which the new States had scarce had time to complete—what, I ask, would have been the outcome of all this but anarchy for us and war for Europe ?

At that moment we united in groups of States and concerted with a view to a common effort on behalf of stabilisation and reconstruction. By local agreements and treaties we and our friends in Central Europe laid down the broad lines of our reconstruction policy and not only preserved our own States and peoples but made safe the peace of Europe and so aided her to recover from the war. If we had not done so, the position might well have been such that we could not have come here to-day to discuss the more or less distant ideals of a permanent peace, the possibility of an early reduction of armaments and the conclusion of a treaty on compulsory arbitration. Who knows whether these dangers have yet vanished ?

In order to show that the ideals held by Mr. MacDonald and by most of you in this Assembly were never absent from our minds, I would add that, even in those dark days, we realised that, unless

we first created a new atmosphere of goodwill between ourselves and those of our neighbours who were our adversaries both during the war and up to the time of which I am speaking, and unless we first established on a permanent basis friendly relations and a sense of solidarity and co-operation, we could never secure permanently stable conditions, even if stability were attained ; we realised that, in the work done for the maintenance of order by means that are little better than blind force, it is impossible to dispense with those new moral and psychological forces without which there can be no reconciliation between the peoples.

These are the reasons for which we have collaborated in a friendly, nay, in a brotherly, spirit in giving assistance to Austria, and—let me tell you this also—these are the reasons for which Austria and Czechoslovakia, after three centuries of enmity, concluded, three years after the signature of the Treaty of Peace, which was the outcome of that enmity, the treaty of friendship and compulsory arbitration, of which no mention has been made until to-day. My Austrian colleague will certainly not contradict me when I say that this treaty is not a dead letter but is being applied in a loyal and friendly manner.

For the same reasons we are endeavouring to pursue an identical policy with regard to our other neighbours, by considering that all of us who inhabit Central Europe, whether former allies or no, are equal members of the same community, demanding of one another nothing save the moral guarantees that are conveyed by good faith, confidence and respect for the plighted word.

Such, in my view, is the part that should be played by our regional agreements, and such are the benefits we have derived from them in times of difficulty.

The part to be played by these agreements changes as time goes on, and my idea was that they would gradually be assimilated into the general framework of the Covenant and of the Treaty of Mutual Assistance. The need for them will become less and less as the general guarantees either of the Covenant or of a Treaty of Mutual Assistance are established, consolidated and defined. As soon as we begin seriously to contemplate an effective general

guarantee we shall find that we are confronted by the inevitable law of evolution.

I have given these examples in order to make it clear that in all our efforts on behalf of peace and disarmament we must never lose sight either of the immediate needs of the moment or of the distant goal ; we must strike a middle course and combine these two opposite but equally necessary policies. It is a struggle between realism and idealism, and to ignore either would mean losing both ; it would mean present disaster and nothing but despair for the future.

A moment's thought must surely reveal to us all that, as may be seen in the scheme of assistance drawn up by the American group, when once compulsory arbitration is adopted, the whole system of partial treaties is radically changed, and these treaties, if brought under a scheme of arbitration, at once shed all their defects and are freed from their dangerous elements, while at the same time they retain their advantages ; above all, the guarantees offered by these treaties are additional to those contained in the Covenant or in the Treaty of Mutual Assistance.

In his admirable speech of yesterday our colleague M. Van Karnebeek pointed out that the Covenant already embodies practically all the principles upon which the draft Treaty of Mutual Assistance is based, and can be taken as a solid foundation for security. As has rightly been said, too, the Treaty of Mutual Assistance is simply an extension of the Covenant ; thus, interdependence, guarantees, the reduction of armaments, conciliation, sanctions—all these find practical expression in it.

Accordingly, the objection that the Treaty of Assistance would be inoperative on account of the slowness of the Council's method of voting applies with equal force to the Covenant itself.

If, therefore, we wish the Covenant to work satisfactorily, we should endeavour to find some means of remedying this defect.

Several prominent members of this Assembly have already indicated during the discussions—and Mr. MacDonald gave added weight to the assertion by pronouncing himself, as the representative of the British Government, definitely in favour of the

economic and financial sanctions contained in the Covenant—that it would not be found necessary in practice to solve our difficulties by concluding a new treaty. Why, it is asked, cannot we rest content with the one Treaty of Guarantee that we have already concluded and signed, namely, the Covenant itself? Why should we not develop, simplify, explain and consolidate it on the logical basis of its own principles and of the desiderata set forth in the Treaty of Assistance? Moreover, Mr. MacDonald suggests that we could devise a new system by amalgamating the available material, namely, the draft Treaty drawn up last year, the Covenant, and the replies from the Governments, and that this system should include compulsory arbitration. This duty would fall to the Third Committee.

In answer to this proposal I would refer you to what I have already said in the reply from the Czechoslovak Government to the Secretariat regarding the Treaty of Mutual Assistance. We attach no importance to the form and the diplomatic instrument used for embodying the principles that we advocate. The Covenant in itself can be regarded as a Treaty of Mutual Assistance.

To my mind the force of certain articles in the Covenant has, whether tacitly or explicitly, been weakened rather than strengthened in recent years. The events of last year have given rise in various quarters to doubts concerning its effectiveness. We shall, however, be satisfied if it is thought better to increase the efficacy and particularise the scope of the instrument that we already possess, so that with a perfected instrument at our command we may be able to discharge our duties as Members of the League. Nevertheless, I fully realise the difficulties which may be encountered in so doing, difficulties which will become apparent and will require discussion in the debates of the Committee.

As I have already said, I do not insist on the text of the draft Treaty prepared by the Third Committee. I am prepared to accept any other solution which would attain the same purpose. Quite recently a group of distinguished Americans has submitted another important and interesting draft.

But, pending concrete proposals for defining the scope of the

Covenant, I shall adhere to the conclusions reached as a result of our four years' work. I would prefer a treaty of assistance based upon the Covenant to any kind of new treaty.

Let me speak quite candidly. We must show public opinion in all countries whether or no the present League of Nations is able to solve the problem of international co-operation by an undertaking to furnish assistance in case of unprovoked attack, and the problem of the repression of crime against international law.

In the political world to-day there are two categories of men who consider the problem to be altogether insoluble.

The one category, seeing in the League differences in social, political, economic and ethical conditions, differences of race, geographical differences and, generally speaking, different degrees of civilisation, considers that in these circumstances it will be almost impossible to adjust the sacrifices to be made by some to the advantages to be derived by others from a general undertaking of mutual assistance.

Obligations of this nature might well entail risks that were too heavy for certain States and that might prove an obstacle to the success of such organisations in the world to-day. Some States, again, fear lest such obligations, if accepted, might be disregarded at the critical moment. Their view shows prudence and foresight, but, in my opinion, an excessive scepticism, although it has some justification in certain special cases.

Another class of thinkers considers the question in a different light. They say quite frankly that our discussions are idle and illusory, that human nature is selfish, ruthlessly selfish, often cynical, and that, after all, ever since the beginning of human society, force has always been, and always will be, the deciding factor in international relations. They make no secret of their opinion: they profess it openly and draw the logical conclusions.

I have always been opposed to this doctrine of force, just as I am, and always have been, opposed to the excessive scepticism of the first category of men to whom I have referred. I stand for the happy medium. We cannot, to my mind, disregard the special circumstances of certain countries and nations; we must

not disregard those, and they are many, who persistently preach the doctrine of force.

In this matter I am a practical idealist ; I believe that we shall succeed in discovering a means of adjusting the advantages enjoyed by some to the sacrifices made by others. I believe a check can be found for those who are ever ready to make an unwarrantable use of force. I think that the work of the League and the statements that we have heard here give us every reason henceforward to cherish this belief. If it were not so it would be better to say so openly.

I believe that an illusion that is shared by many is invariably the cause of peril, and is no less perilous than the hope of finding salvation in armaments. The old adage runs : *Si vis pacem para bellum*. Both are equally illusory.

If I speak at some length, I feel, as I have said, that it is my duty to do so, since I acted as Rapporteur for the Treaty of Mutual Assistance drafted last year.

Such is the doctrine that I have upheld during the discussions of the last four years, and such is the doctrine on which the draft Treaty of Mutual Assistance and the Covenant are founded. The debates that have been held in this Assembly and the criticisms that have been levelled against the Treaty demanded, in my opinion, candour and plain speaking.

But, although the theory I have advanced is a precise and definite theory, do not imagine that I am merely a doctrinaire. If I contrast the two more or less separate arguments that have been advocated in this hall, I realise that they can be reconciled and combined and that the one is bound to be the complement of the other.

This morning M. Herriot emphasised in striking and eloquent words the close connection between three great principles. Mr. Ramsay MacDonald developed the same ideas, viewed from a different angle. If I attempt to summarise their statements and those of M. Salandra, M. Theunis, Lord Parmoor and others of my colleagues, I think that we can even now describe the main features of the work that we have to do.

First, we must consider all the available material, the Treaty of Mutual Assistance, the Covenant, the replies from the Governments, and so forth. We must discuss them and afterwards state in clear and final terms the manner in which we propose to define the guarantees of security.

Secondly, we must at once set to work to draw up some plan for the reduction of armaments that will be compatible with security, in preparation for the conference on the reduction of armaments to be convened by the League of Nations at a suitable time.

Thirdly, we must immediately undertake the requisite preliminary work in order that we may ourselves examine, define and elucidate and finally sign the clause on compulsory arbitration. If that clause can be expanded to include sanctions, it will be a sure guarantee against the possibility of unwarranted aggression.

If after this debate we can agree on these three important points, we shall have made an immense advance in the great fight for peace. I am aware that much remains to be done, but we may be satisfied if these three great principles are established before we leave Geneva this year.

The gratitude of posterity will be the supreme reward of those who at the critical moment had the courage to afford some chance of peace and tranquillity to their countries, to Europe exhausted by war, to the whole of tortured humanity.

THE MAHARAJAH OF BIKANER,

Delegate of India.

Mr. President, ladies and gentlemen—May I preface my remarks by stating that I deem it a high privilege to take part in the proceedings of the Assembly of the League of Nations? Although this is the first occasion on which it has been my good fortune to attend this Assembly, I do not come as a total stranger, for my association with the League of Nations, at least indirectly, goes back to the Peace Conference, when it fell to my lot to

conduct the negotiations for the inclusion of India in the membership of the League. It is therefore a matter of special gratification to me to be present on this occasion ; and on behalf of the Princes of India, whose interests I have the honour to represent, I would also take the opportunity of expressing their high regard for this association of the peoples of the world and their ardent interest in its great work to secure permanently the reign of peace and justice.

On behalf of India I desire to express our entire concurrence with the letter of the Prime Minister of Great Britain on the subject of the proposed Treaty of Mutual Assistance and with his powerful advocacy of the principle of arbitration.

Soldiers, I submit, are the best judges of the horrors of war. The fire-eaters are not always found in the ranks of the soldiers who bear the burden of the fight, but sometimes in those of the civilians who stand and wait.

I have seen much of war in three continents and I would give my right hand in support of any effective scheme to reduce both the danger of war and the armed peace which is the precursor of war.

But we have to be jealous lest in our anxiety to reduce the pressure of armaments, without effective guarantees for security, we produce amongst the nations that sense of uneasy fear which is the seed-bed of war. Whilst, therefore, we associate ourselves with the ideals of those who framed the proposed Treaty of Mutual Assistance, we associate ourselves no less with the Government of the British Empire in rejecting it, because we feel that the guarantees are so illusory that effective disarmament would leave a sense of insecurity which might revive the spirit of aggression.

To the general arguments advanced in the letter of the Prime Minister, to which we subscribe, there are to be added special forces arising from the geographical position of India. I state them now because they must govern our attitude not only towards the proposed Treaty but towards any amended proposal for disarmament which may come before this Assembly.

In India we have a frontier problem of exceptional difficulty and complexity. Our border line stretches from the Indian Ocean near Karachi to the confines of China and Siam. Much of that frontier is peopled by hardy and turbulent tribes owning no law but the blood feud, no higher ambition than to raid the peaceful dwellers in the plains. These tribes are saturated with arms and ammunition imported from Europe and, despite costly preventive measures, this illicit traffic has, as Mr. Ramsay MacDonald told us, not yet been brought fully under control. They contain within their clans some of the finest fighting material in the world.

Other sections of the frontier consist of dense and almost pathless jungles occupied by restless tribes, who, if they have not the exceptional military qualities of those of the North-West, are nevertheless a considerable military pre-occupation.

Not in our time can the serious menace to the security of India contained in the frontier position be mitigated by the use of economic sanctions or the spread of the principle of arbitration ; we are bound to take account of this in fixing our standard of military strength at the minimum point which will ensure the safety of India.

There is a further consideration to which I must invite the attention of the Assembly. Whilst we hope that the present cordial relations with our neighbours may long continue, yet the fact remains that all are not Members of the League of Nations, and all are not, consequently, susceptible to the moral and economic pressure which the League may be in a position to exercise.

Again, the nations of Asia which are Members of the League are so situated geographically that even if they accepted the responsibilities proposed under the draft Treaty, commanded the means to give India effective assistance, and had the will promptly to use them, they are not in a position to render to India that immediate effective assistance which would be essential to her security with a reduced military establishment. The immediate effect of a reduction of armaments in India would, therefore, be to weaken the guarantees for the security of the Indian people.

On these general and specific grounds, therefore, we have been driven to follow the action of the Government of the British Empire in rejecting the proposed Treaty of Mutual Assistance. But because we do so, I would not have this Assembly or any member of this Assembly conclude that we are behind any nation in the world in our desire for peace. We harbour aggressive designs towards none. We desire nothing more than to be allowed to work out our destiny undisturbed by the shock of war or the threat of war; by instinct and tradition we are a pacific people.

I have stated our position frankly because of my conviction that if we ignore facts we shall not ensure peace, but rather induce the feeling of insecurity which may lead to war. But, subject to the recognition of the conditions which I have sketched—a recognition essential to the discharge of our responsibilities for the security of 319,000,000 of people, or one-fifth of the entire human race—we associate ourselves wholeheartedly with the principle of arbitration and with any measures which this Assembly may take for the reduction of armaments, for the establishment of the rule of law, and for guaranteeing to the nations of the world the untold blessings of a secured peace.

M. GARAY,

Foreign Minister and First Delegate of Panama.

Mr. President, ladies and gentlemen—We statesmen and diplomats from America who believe that our national interests, of which we are the guardians, are in no way incompatible with the wider interests entrusted to the stewardship of the League of Nations, do not, when sent by our Governments to represent them at the Assembly of the League, confine ourselves merely to our official instructions. Before setting out for Geneva, we endeavour to get into close touch with the main currents of public opinion at home. Each time we do so, the good sense and judgment which we everywhere find are a source of pride and gratification.

What do our people say when we ask them their views on the Assemblies of the League of Nations and the part which we are to play in them ? They say this : Do not let us interfere in matters that are of no real interest and of no practical concern to us ; there is no occasion for us to intervene in a discussion on questions which affect only other continents.

In asking leave to speak on the schemes proposed for disarmament and for treaties of guarantee or mutual assistance, which are the subject of our discussions, I do not think that I am exceeding the instructions of my Government or assuming a role for which I have no warrant in expressing the wishes of my country.

These questions are of supreme importance for the whole of mankind, and indeed my country is one which is fully conscious of the perils of isolation and the disadvantages inherent in a policy of national egotism.

Twenty-one years ago, in 1903, the newly founded Republic of Panama concluded with the Government of the United States the Treaty of Hay-Bunau Varilla. That Treaty is something more than an agreement for the construction of the inter-oceanic canal ; it is a political treaty of guarantee. According to Article 1 the United States, in return for concessions made by the Republic of Panama in the subsequent articles, undertook to guarantee and maintain the independence and sovereignty of Panama. Accordingly at the time when my country became a part of the community of nations, the vital problem of its security was solved.

The Government then decided to free the people from the burdens and dangers involved in the maintenance of a standing army ; it commenced disbandment within a few months after the signing of the Treaty of Guarantee with the United States of America and the promulgation of our political constitution. All that was retained was a gendarmerie, an armed police for the needs of our internal security and for the maintenance of public order.

The sums thus released from the public treasury have been employed in the development of the education, in the construction of new roads and in different public works. Our policy has been

to rid the country of militarism and to instil in the people the love of peace and the spirit of industry.

There was nothing in the Hay-Bunau Varilla Treaty or in our Constitution compelling us to adopt the policy of moral and material disarmament that we have followed from the first. On the contrary, our Treaty with the United States provides for the free passage through the Canal of all ships, troops and munitions of war belonging to Panama. In the same Treaty Panama undertakes not to impose compulsory military service on persons employed by the Government of the United States on canal services or on the auxiliary railway. Our country has thus preserved freedom of action as regards military preparations and, if we have disbanded our army, we have done so without constraint and of our own free will.

Our Constitution lays down, in the chapter on the armed forces of the State, that all citizens of Panama shall be called to the colours in case of political emergency, that the conditions of exemption from military service shall be determined by law, that the military and police services shall be organised by law, that the country shall have a permanent defensive force, that offences committed by soldiers serving with the colours shall be tried by courts-martial and military courts, and that the Government has the sole right to import and manufacture arms and munitions of war.

When, therefore, in May 1923, my distinguished colleague, who is with us to-day, M. A. de Mello-Franco, chief of the Brazilian delegation, in a stirring speech delivered at one of the last meetings of the Fifth Pan-American Conference of Santiago, extolled the example set by Panama in the matter of disarmament and added that our Constitution forbade us to maintain an army, I felt I must correct him and state that we had waived the exercise of our Constitutional right to maintain a standing army, not by virtue of a provision in a treaty or of an article in our Constitution, but of our own free will and in application of our sovereign rights, by a free and spontaneous decision which adds to the merit of our action.

The Prime Minister of Great Britain has told us of his warm approval of the Danish Government's proposals for the reduction of that country's armaments and the Danish Prime Minister has himself confirmed this most gratifying report. I feel that the Assembly may also be interested to know, not what Panama proposes to do, but what she has actually achieved, since in the matter of disarmament she has anticipated by more than twenty years the boldest steps yet taken by any Power, great or small, in any continent.

Though we have long since solved the fundamental problem of our security and its corollary, disarmament, that is no reason why we should ignore the troubles of other nations or turn a deaf ear to the countries that are still groaning beneath the burden of taxation imposed upon them by the armed peace and the fear of further aggression.

Far from it. Our delegation, fully conscious as it is of its duties of co-operation and solidarity, will closely follow the proceedings of the Third Committee and will endeavour by all means in its power to hasten the dawn of a new era of justice and international confidence that shall gradually dispel the tragic memories of imperialism and war.

M. POLITIS,

former Minister for Foreign Affairs, First Delegate of Greece.

Mr. President, ladies and gentlemen—At the point which we have now reached in this important discussion, after the lofty and eloquent speeches that you have heard, there is no need for oratory. Allow me, however, to submit a few general remarks which will, I hope, help to elucidate the two principal points that appear to have emerged from the discussion.

The first of these two points is that we must take into account the text of the Covenant. The second is that there is a general desire—I trust a unanimous desire—to employ arbitration and international justice as the basis on which to erect our edifice of peace.

We are unanimous in thinking that first and foremost we must bear in mind what is written in the Covenant. But whereas some regard its provisions as a complete and perfect charter of peace, giving every desirable security and guarantee, others consider that the Covenant only provides an incomplete system, which must be strengthened if—to use M. Herriot's expression—the Covenant is to be made a "living" thing.

This divergency of views is more apparent than real, nothing more, in fact, than a simple misunderstanding, for we have only to read the Statutes by which we are governed, without adding anything to them and without omitting anything from them, to realise the truth in the matter.

The Covenant of the League of Nations does not, as is commonly supposed, forbid all wars. It does not abolish the right, which States have long considered to be their elementary right, to resort to force of arms. The Preamble of the Covenant merely states that the High Contracting Parties accept obligations not to resort to war. Thus the Covenant does tolerate certain wars, namely, wars declared three months after the expiry of the moratorium imposed by Article 12. If such wars are tolerated, others are expressly forbidden ; for instance, wars which constitute a breach of the Covenant in disregard of the obligations established in the conditions laid down in Articles 12, 13 and 15.

Thus, only some wars, not all wars, are prohibited and it is against such wars that the Covenant provides for certain sanctions.

The problem is, therefore, twofold : Should we extend to all wars the prohibition laid down by the Covenant with reference only to certain wars ? Are the sanctions that it lays down against those wars which it does prohibit, really adequate ?

These sanctions are firstly economic sanctions, those mentioned in Article 16. Proof has already been given, and there is no need for me to repeat it, that, useful as they are, these sanctions are far from adequate. We may even visualise the possibility of the aggressor State being rich in raw materials, a country with vast exports, on which many other countries depend ; in this case, the enforcement of economic sanctions would, I consider, be

liable to do more harm to the country enforcing them than to the country against which they were enforced.

In addition to economic sanctions the Covenant provides for certain military sanctions. This is a point which we must not overlook.

The Covenant establishes the principle of these sanctions in what I will call the kernel of the matter, namely, the clause in which the countries are invited to consider in what way they can reduce their armaments. In determining the lowest point to which armaments can be reduced Article 8 takes account not only of the requirements of national safety but also of the execution of the obligations imposed by common action.

In the second paragraph of Article 16, again, provision is made for the military forces to be contributed by the States Members of the League to the armed forces to be used to protect the Covenants of the League.

Lastly, and most important of all, Article 10 which is a vital article, enjoins mutual respect and guarantee for territorial integrity ; it invests the Council with power to advise upon the means by which this obligation shall be fulfilled.

Without concrete rules for its enforcement, the capital obligation established in Article 10 is far from being effective in practice. When, in the discussions in this Assembly last year, we attempted to sift the meaning of this article, the interpretation accepted by the majority of the States was that the Council only had power to recommend, and that the final decision upon the expediency and extent of the military support to be furnished by the members to the Council fell within the sovereign competence of the States.

In these circumstances can it be said that the system of economic and military guarantees provided for in the Covenant furnishes adequate security to make it possible to invite the States to abolish or reduce their military forces ? I am quite certain that no State which felt that it was actually threatened would be in a position to accept so shadowy a guarantee in return for that afforded by its own resources.

It can therefore be concluded that, on the basis of the Covenant alone, there is complete and entire justification for the conception of a treaty of mutual assistance which is intended to make the Covenant an effective and a vital instrument.

That is the first observation that I wish to make.

Proof that we are unanimous in thinking that the Covenant in its present form is inadequate, and that we all consider that it must be completed to allow for the claims with regard to security, is to be found in the advocacy in all quarters of the idea of compulsory arbitration and judicial procedure.

I was extremely glad when I heard the distinguished heads of the Governments of the Great Powers represented here declare that they were prepared to accept compulsory arbitration. I was extremely glad, I say, when I heard these noble words upon their lips, for the nations must be brought to follow the path of justice. But, at the same time, I could not help wondering if it would not be wise to sift this idea a little more closely, if it was not our duty to ascertain whether this magic formula contained a genuine reality. I myself feel it my duty to do so, because I realise that in pacifist propaganda the notion of arbitration has often proved a mirage which has prevented even men of sound judgment from seeing the facts confronting them.

Let us speak out with candour and conviction. There is nothing more misleading for men, and especially for nations, than to indulge in high hopes ; hope has too often plunged us in the perilous slough of illusion.

What, now, do we mean when we advocate compulsory arbitration ? How far does our plea imply amendment of the Covenant ?

Arbitration is not new to the Covenant. Article 12 introduces it : Article 13 provides the machinery. By combining these two provisions we shall gain a clear idea of the manner in which the system works.

Whenever a serious dispute arises between two Members of the League, they are bound to submit it to pacific procedure. The nature of the procedure varies according to the nature of the dispute. If the dispute is of a legal nature the States are recom-

mended to resort to arbitration. If the dispute is of a nature other than legal they are invited to appear before the Council, and to accept its good offices and mediation.

Observe with what caution, with what prudence and wisdom, Articles 12 and 13 were worded. Even in the case of a juridical dispute the Covenant does not *ipso facto* bind States to compulsory arbitration. The obligation only comes into play if both parties agree as to the legal nature of the dispute.

Four years ago, at the time when the Statute of the Permanent Court of International Justice was being drawn up it was proposed that we might build up the breach in the wall left unfilled until then, in view of the caution shown in this matter by those who drafted the Covenant. The eminent jurists who were entrusted by the Council with the elaboration of the preliminary draft Statute unanimously agreed to include in it the compulsory jurisdiction of the Court.

The Council, however, was averse to so bold an innovation, and, notwithstanding the cogent pleas advanced in the 1920 Assembly, the advocates of compulsory arbitration were obliged to accept a compromise, optional jurisdiction, supplemented by the compensatory clause contained in paragraph 2 of Article 36 of the Statute. This article lays down that there should be an open Protocol whereby the States would undertake to accept the compulsory jurisdiction of the Court for the three classes of legal disputes mentioned in Article 13 of the Covenant.

What has happened? Three years have elapsed since this clause entered into force. Only fifteen States have accepted the optional protocol on compulsory jurisdiction and not a single great Power is included in the number. In saying this I do not mean to criticise, I wish merely to record the fact before asking the following question. After all the hesitation, the uncertainty and the apprehension that the States have shown in regard to compulsory arbitration, can we in a single day cover the long road that lies ahead before we can reach our final goal, namely, justice through the enforcement of the obligation on all States and in all cases?

I sincerely wish it were possible, but I strongly doubt it.

When, the other day, I had the pleasure of listening to the masterly speech of the Prime Minister of Great Britain, I was extremely glad to hear him declare that he was prepared to accept the jurisdiction of a court before which all nations would be able to explain their policy and to reveal their most secret wishes. But whilst I warmly approved his statement, I could not but wonder of what judges this Court could be composed ? On what basis would a Court entrusted with this solemn duty render its award ?

An allusion dropped by Mr. MacDonald has, I believe, enabled me to perceive what was at the back of his mind. He alluded to the possibility of setting up several courts of different kinds and of varying composition to be entrusted with this mission of peace and mediation. It seems to me that the practical result of this suggestion would be the following : there would be an organ—a court, if you will—before which any country that felt itself menaced would be entitled to summon its presumptive adversary ; and if the latter failed to appear, or if he appeared but refused to comply with the decision or recommendation of that body. he would *de jure* be considered the aggressor and would be held responsible for subsequent disturbances of the peace.

It is a most valuable idea. The proposed system is an attractive one. It is, I believe, also a practicable one. But though this be so, it has nothing to do with arbitration or with justice ; it is purely a system of mediation and conciliation ; and if I have read aright what was in the mind of the author of this felicitous proposal, I would ask you another question. How do you propose to reconcile this system with that set forth in Article 12 of the Covenant ? Are you determined to transfer to a new body powers of mediation at present vested in the Council ? I merely ask a question ; I am not raising an objection.

I have one more point, the most important of all.

Whether the system we are discussing consists of arbitration or of mediation, is it in itself an adequate system ? Are not

sanctions required? Are there not guarantees to be observed? What would happen if a State that was cited refused to appear before the international court, or refused to conform to the award rendered?

Lord Parmoor told us yesterday that guarantees were of but little importance to us, since history shows that arbitration has been tested and found sufficient in itself, and since it had the peculiar property of enforcing its awards by the will of the parties. He added that in the long list of awards given during the nineteenth and at the beginning of the present century, there is no single instance of refusal to accept the arbitrator's decision.

I have no desire to quibble on matters of detail; it is a fact, however, that there have been cases of refusal, sometimes justifiable but sometimes entirely unjustifiable. There was one case, which took place not long ago—a few years at most—in the New World. In this case one of the States was obliged to resort to force to ensure the execution by the other State of the award pronounced against it. It is the exception, however, that proves the rule. Lord Parmoor's statement is correct. In the vast majority of cases, arbitral awards have been loyally accepted. And why? What is the explanation of this loyal observance of arbitral decisions? Simply that arbitration was an optional matter.

What is optional arbitration? It is a suit brought on the basis of a special agreement which is known as a *compromis* or arbitration clause and which only becomes operative after the inception of the dispute, that is to say, at a time when the Governments concerned are in a position to know the responsibilities which they will incur by going to law. It is an agreement by which the States pledge themselves, with their eyes open, loyally to accept the judgment of the court. When judgment has been pronounced, perhaps some weeks or months later, a State cannot honourably evade obligations of such recent date. In optional arbitration, guarantees are needless because they are useless.

Is the position the same as regards compulsory arbitration? What do we mean by compulsory arbitration? Here the pledge

to submit disputes to the tribunals is given before any dispute arises. It is given in anticipation of future disputes. The Contracting States, when concluding their treaty, have no idea when the conflict will break out, how it will arise or how serious it will be. They agree to a kind of lottery, if you will excuse the word ; and they display a remarkable amount of confidence in international justice. A long time may elapse between the date of the arbitration treaty and the date when an award is delivered. Very likely the same men will no longer be in power. Public opinion will have changed. There will no longer be that sense of newness which adds weight and sanctity to the pledge. The determination to abide by it weakens and wavers—and the door is opened to a refusal to carry out the award.

I am not merely theorising ; I will give you a characteristic example of the necessity for proceeding with caution along the road to compulsory justice. A few years ago the five republics of Central America, at the suggestion of the Great Republic of the United States, concluded a treaty establishing a Court of Justice for a period of ten years in the first instance, the period being renewable at the end of that time. The Court had powers of compulsory jurisdiction to deal with every conceivable case, without exception, both for political and juridical questions. Eight years later a political dispute arose between two of these republics and a third over a treaty which the latter had made with another Power. The first two republics maintained that the treaty entailed a serious infringement of their rights, and asked the third not to ratify it. As they did not receive satisfaction in this respect they brought their complaint before the Court.

The Court did its best. The case proceeded with a wealth of legal argument and judgment was eventually given against the signatory of the treaty. The State concerned refused to carry out the award and as a result the Court was entirely discredited and thereafter left alone ; on the expiration of the first period of ten years its mandate was not renewed.

The sequel was that the States concerned, realising that they had been too ambitious and had aimed too high, made a new

treaty at the beginning of last year, establishing a new tribunal with a much more limited jurisdiction.

This is a lesson of the first importance, and it bears out the theories which I put before you just now. It shows that when arbitration is optional guarantees are useless, but that when arbitration is compulsory, they are indispensable.

Moreover, the power of imposing sanctions in international judicial procedure is not inconsistent with the terms of the Covenant. At the end of Article 13 the Covenant states—in somewhat vague and indefinite terms, it is true—that the Council is competent to adopt measures for ensuring that the awards are carried out. There is here a system of sanctions which is barely outlined but which will undoubtedly develop in the future.

In the International Labour Organisation the idea has reached a somewhat later stage of development, and it is laid down in Article 419 of the Treaty of Versailles, and in the corresponding articles in the other treaties of peace, that Members of this Organisation are entitled to carry out reprisals—which are a kind of sanction—against any country which refuses to accept an adverse decision.

This idea stands as a landmark to guide us on our road, and it is my profound belief that this idea will develop into a system of sanctions, commensurate with the obligations assumed.

Why, after all, should the principles of international law differ from those of national justice? Why should justice as the hand-maiden of international peace, possess some higher virtue enabling it to dispense with those safeguards which have at all times and in all countries been considered as indispensable for the preservation of internal peace and order?

A few more words, and I have done.

Whatever aspect of the problem we examine, we find that it is impossible to lay a solid foundation for international peace unless the nations are sure of the necessary security, and we realise that the structure of the League of Nations cannot be different from that of other human societies. In no human society, at no time and in no country have men been able to trust to the dictates

of moral virtue or the force of law alone to safeguard their lives their honour, their property and their freedom. In primitive times the savage armed in self-defence against his neighbour ; only by degrees could he venture to trust to other than his own resources, as in the process of time the community, by its organisation, that is to say, its laws, its judges and its police, substituted its collective force for that of its individual members.

The same holds good with regard to the League of Nations. No State which has a proper regard for its life, its dignity and its honour, will ever consent to surrender the guarantee it holds in virtue of its own power, unless and until the community of nations can offer it an equally sure guarantee.

The League provides us with the framework of an international organisation, but, unlike the goddess of old, it has not sprung fully armed from the brain that conceived it. The power it can offer us is not as yet sufficient to justify us in surrendering our own power. But at any rate it ought to coordinate the individual forces of States, so that, with those combined forces, some adequate guarantee may be provided which will induce States to give up at any rate part of their own armaments.

It is not sufficient that the splendid tower of peace which we are one and all working with eager hearts to erect should be given, the good and solid foundations of justice.

It is necessary in order that it may bear the weight of that burden of armaments which one day we shall place upon the summit, that the walls, should be strongly built of the granite stone of security.

M. DE MELLO-FRANCO,

Ambassador and First Delegate of Brazil.

Mr. President, ladies and gentlemen—There is a natural inequality among nations, due to chance variations in geographical or technical conditions or to the fact that they have reached different stages of civilisation. But there is one factor which

places all on the same level and requires each of them, great or small, strong or weak, to show the same respect for all the others, This factors is that they are all alike in being sovereign nations.

Some nations may be more cultured, more wealthy or more powerful than others, but the world is no longer divided, as in mediaeval times, between an all-powerful aristocracy of States on the one hand and, on the other, an almost nameless multitude of countries whom the stronger States merely allowed to exist on sufferance.

Through that great organisation, the League of Nations, weaker States have at length found a platform from which to address the whole world.

We are to-day the witnesses of a great achievement : each one of fifty-four States can ask the opinion of all the others upon a draft Treaty of Mutual Guarantee, which is considered the *sine qua non* for the reduction of armaments, and this reduction in its turn has become one of the essential conditions of peace, as is recognised and proclaimed by Article 8 of the Covenant.

It is clear from the replies already received from Governments and communicated by the Secretariat that the idea of the formation of a body capable of establishing general security for all the States has, in principle, gained their support. The whole world, in fact, is eager for peace and condemns war in so many words as the most heinous of international crimes.

On the other hand, every Government has made reservations regarding the draft prepared by the Temporary Mixed Commission on the basis of the proposals submitted by Lord Robert Cecil and Colonel Réquin. Several countries have rejected it altogether. It may therefore reasonably be claimed that this first attempt does not appear likely to succeed. But the idea itself has in no way suffered from this setback. Fortunately, as the Prime Minister of Great Britain declared in his eloquent speech on Thursday, the great Powers have not said their last word on the subject, and it is they who are most directly responsible, for the maintenance of world peace. It is they, too, who have most urgent need of relief from the crushing burden of the military machine.

The Members of the League of Nations have undertaken to respect and preserve as against external aggression the territorial integrity and existing political independence of each one of their number. In the draft Treaty, however, an attempt was made to devise some organic form for this mutual assistance and the obligation to assist a State in the event of attack was, in principle, restricted to other States in the same continent. This restriction, which would have left Australia without assistance, would also have rendered the Treaty inoperative as far as the American States are concerned. This becomes strikingly evident when we remember that the United States do not belong to the League.

Moreover, the American countries that are Members of the League are not armed, and would in the event of aggression be unable to give any assistance to the country attacked, whoever the aggressor might be.

It is also absurd to imagine that any American State would attack another American State. But supposing, for the sake of argument, that it were possible, the assistance upon which any American State could rely in the event of attack would clearly be negligible. Such assistance would necessarily depend upon the period of mobilisation of the assisting State, its transport facilities, the organisation of its supplies and the existence of special bases of operation. But as a general rule the American States could not fulfil these requirements, and in the absence of the necessary resources it would be impossible on practical grounds for them to render any assistance at all.

As regards naval assistance, the American countries, with the exception of the United States, could give none, for few of them possess even a small navy. Several, indeed, are specifically bound by special treaties not to maintain a navy. How then could they be expected under the terms of a general treaty to give naval assistance, seeing that many of them possess no naval forces whatever?

The same may be said with regard to the air. It is generally regarded as an axiom of air warfare that military aircraft must, to operate effectively, start from aerodromes situated within

250 kilometres of their objective. This arm cannot be used for greater distances unless its transport and supplies have previously been organised for that purpose. Immediate action from the point of view of defence is essential in order to prevent the passage of the enemy's bombing machines and, from the point of view of attack, to prevent a concentration of these machines. Thus, in view of the topographical conditions obtaining on the American continent, the air forces available will usually be limited to those which can be supplied by neighbouring countries. Obstacles such as the gigantic and almost impassable wall of the Andes would obviously render it impossible, in most cases, for American countries to afford each other assistance in the air.

I do not intend to enter upon a criticism of the draft prepared by the Temporary Mixed Commission, but I would like to remind you of the statements made by delegates of my country in previous years on certain aspects of the question.

In our opinion the great merit of the draft is that it defines the guarantees provided for in Articles 10 and 16 of the Covenant with regard to the economic, financial and industrial assistance to be rendered to the State attacked. Unfortunately, however, the promise of military assistance would not prevent the opening of hostilities. This assistance, as conceived by the system adopted in the draft, could not become effective until the actual development of military operations; it could not prevent the first attack or invasion.

Such a method would have brought us no nearer to our ideal of abolishing war; all we should have done would have been to bring into action by degrees the forces necessary to win a war.

These defects in the draft Treaty can only be remedied by means of partial or regional treaties supplementing the original treaty. But there are numerous objections to partial treaties. It is claimed, in particular, that they are closely akin to the old treaties of alliance which were a source of mistrust, which led to reprisals in the form of counter-treaties of the same kind and gave rise to competitive armaments and so bred wars.

This draft is admittedly imperfect as regards general assistance, since Article 6 expressly states that in order to make that assistance immediately effective the contracting parties may conclude, either as between two of them or as between a larger number, agreements complementary to the Treaty, exclusively for the purpose of their mutual defence and intended solely to facilitate the carrying out of the measures prescribed in a general treaty, determining in advance the assistance which they would give to each other in the event of any act of aggression.

Whatever the dangers and drawbacks of partial treaties, it is undeniable that, when a State examines the possibilities of future wars, it can, within certain limits, foresee which opponent is likely to attack it, and it accordingly organises its armaments with an eye to the nature and gravity of the danger to which it is exposed on any given frontier. For the same reason, a State will take care to conclude regional treaties in order to secure the support of other States with a view, in particular, to the protection of its most threatened frontier.

Thus, even though we object to partial treaties from the psychological standpoint, the essence of the problem before us is, after all, to assure national security, and it would be most unreasonable to reject such a solution altogether without finding some other means of offering security to threatened States and of allaying their anxieties by affording an effective guarantee of peace and an assurance of protection against external aggression.

Failing such security there can be no disarmament and without disarmament it is impossible to remove for ever the perils of war.

For four years we have been vainly seeking a solution of this problem, but this does not mean that it cannot be solved. The long-sought solution will, nay, must be found in time as we draw nearer to those lofty ideals which guided the illustrious authors of the Covenant. It will be found in a new world conscience and a moral atmosphere more favourable to the development of those institutions—chief and greatest among which is this Assembly— which have so profoundly modified the structure of the former international law.

When we search the horizon to-day, the one light that we see to guide us towards the goal of peace is our faith in justice. Justice indeed is the primary condition for security both in our private life and in our relations as citizens of the same nation, in the community of men that forms a State and in the community of States. Without justice we can have no security.

That is why we must encourage States to resort to arbitration. The evolution of States must be such as to increase the number of those which accept the compulsory jurisdiction of the Permanent Court of International Justice. To do this they must bind themselves by a special declaration in conformity with the motion submitted by the Brazilian delegate, M. Raul Fernandes, to the Third Committee of the 1920 Assembly ; that motion had previously been presented by the Swiss delegation at the Hague Conference of 1907.

Brazil has consistently pursued this policy in international affairs.

Having settled the more serious of her frontier disputes by arbitration, Brazil inserted in paragraph 11 of Article 34 of her Constitution a provision by which the Federal Congress can only authorise the Government to declare war in cases where recourse to arbitration would be inadmissible or in cases where this procedure has been tried and failed. Again, Article 88 of the Constitution provides that the United States of Brazil shall in no case embark, either directly or indirectly, upon a war of aggrandisement either on its own account or by virtue of an alliance with another nation.

Allow me to add that Brazil has concluded arbitration treaties with more than thirty States. I may remind you of the circumstances in which the Brazilian delegate, who was a member of the Third Committee of the First Assembly, rendered valuable assistance when, faithful to the traditions of our international policy and animated by the spirit of our Federal Constitution, he proposed an amendment to the draft approved by the Council, which was based on the preliminary draft of the international Committee of Jurists appointed to draw up the Statute of the Permanent Court of International Justice.

You are aware that the preliminary draft provided for the compulsory jurisdiction of the Court for all Members of the League and that the Council, considering that this measure was too extreme, proposed optional jurisdiction. It was at this point that the Brazilian delegation, through M. Raul Fernandes, suggested in the Third Committee that the Members of the League and the States mentioned in the Annex to the Covenant should be permitted to declare that they recognised the jurisdiction of the Court as compulsory *ipso facto* and without special agreement, but only in relation to another Member of the League or another State accepting the same obligation.

This collaboration on the part of our delegates with a view to increasing the prestige of the Court is evidence of our faith in the success of that institution. It should, however, be observed that the Statute does not invest the Court with powers to render awards in all disputes between States. In accordance with the spirit of the Covenant the States retain the right to decide, by virtue of their sovereign rights, questions which are not strictly juridical in nature.

Compulsory arbitration, the essential principles of which are contained in Article 13 of the Covenant, is a necessary premise to the compulsory jurisdiction of the Court ; compulsory arbitration may, however, exist in such a form that it does not include the compulsory submission to arbitration of all kinds of questions which may arise between States.

Article 15 of the Covenant also conferred upon the Council the duty of arbitrator, and, in the exercise of this high duty of mediation, the Council can render great service to the cause of peace.

No one, however, can fail to recognise the truth of the formula enunciated with such energy and such deep appreciation of the realities of life by the Prime Minister of France.

Compulsory arbitration, to be practicable and effective, requires a court endowed *de jure* with competence to hear all questions provided for in the arbitration clause ; and the organisation of the Court would remain imperfect so long as its decisions could not,

in case of need, be carried into effect by the forces placed at the disposal of the law.

Only by this method shall we obtain the security of the law, which is the final aim of the arbitration system.

It is, therefore, indeed true that arbitration, security and disarmament are the three essentials of peace.

Brazil has signed the optional clause recognising the compulsory jurisdiction of the Court in questions of a juridical nature defined in Article 13 of the Covenant ; and the only condition which she makes to the ratification of the clause is that it shall be approved by at least two of the Powers permanently represented on the Council.

The important statements made by the representatives of the Great Powers during the present debate are proof of the development of this valuable doctrine in the last four years. We may, perhaps, regard these declarations as the beginning of its final transformation into a splendid reality.

Our eminent colleague, the first delegate of Italy, reminded us of the treaty signed at Washington on May 8th, 1871, to settle the serious dispute between the United States and Great Britain with regard to the "Alabama", which was armed in English ports by the Southern Confederacy for service against the North.

The award promulgated here at Geneva on September 14th, 1871, was also signed by a Brazilian, Viscount Itajuba, who was one of the five arbitrators appointed, and the name of Brazil is thus linked with those of the United States, Great Britain, Italy and Switzerland in what is one of the most important documents in the legal history of arbitration.

Brazil was the first American State to ratify the Continental Treaty signed at Santiago de Chile in May 1923, by which eighteen American nations pledged themselves to submit to the examination, investigation and opinion of a Commission constituted under the Treaty all questions which for any reason might have arisen between two or more of the High Contracting Parties and had not been solved by diplomatic means or submitted to arbitration.

This Treaty, which was ratified by several other States, including the United States, really renders it needless for the American States to adhere to the Treaty of Mutual Guarantee as a protection against the danger of an act of aggression in that continent on the part of an American country.

Notwithstanding this circumstance, so fortunate for the American continent, Brazil is willing to render every assistance in the preparation of a general formula of mutual assistance and guarantee, and we trust that we are thereby giving proof of our devotion to the League of Nations.

Moreover, we are not forgetting what is most essential—the establishment, either with or without complementary regional treaties, of a treaty of mutual assistance and guarantee between all nations. This is a condition which is vital for disarmament. It is, in fact, not enough that this assistance and guarantee should be based entirely upon continental systems. They must be based on a world-wide organisation, for the right to security—to that real security which should now be the final object of our endeavour—is the sacred right of all the peoples of the earth.

Mr. DANDURAND,

Minister of State, First Delegate of Canada.

Mr. President, ladies and gentlemen — I am not going to discuss to-day the merits of the Treaty of Mutual Assistance. I have listened from the beginning of this debate to the many objections which have been formulated. I feel that a solution of the problem which has been submitted to us will perhaps not be reached speedily. So I am thinking of the present moment and the peril of this hour.

What are the guarantees for to-morrow? Before the departure of the official representatives, the Prime Ministers of Great Britain and France, it has seemed to me that it would perhaps be well to express an opinion. Although I am a newcomer among you, I may have some qualifications for presenting it. The thought

which it contains is not a growth of yesterday—it is of long standing. But I have been struck by the manifestation of Thursday last, which appeared to show that this idea was shared by the whole Assembly.

When the two Prime Ministers of Great Britain and France entered this hall, they were greeted in respectful and attentive silence ; it was only at the moment that they shook hands that loud applause broke out. I understood that you were acclaiming therein a clear evidence of the existence of the “ Entente Cordiale ”.

The world has lived through three years of anguish. We have been asking ourselves to what shores we were drifting. Now the agreements reached at London have given widespread satisfaction. What was our joy when we realised that a good understanding had been re-established there. So far as I can see there is no possibility of peace in the minds of men in Europe to-day without the continuance of that friendly understanding.

Fifteen years or so ago I had the opportunity of hearing a very distinguished Hungarian orator, whom I am glad to see with us to-day, state that war never achieved any final settlement, and that one bloody chapter in the record of history always called for a sequel. Now, ladies and gentlemen, we desire to put a full stop to this barbarian fatalism. Is it not our imperious duty, in the years that are to come, to seek to appease the passions, to bring back peace into men's hearts ?

How are we to obtain that end ? It seems to me that the great nations face a duty—the duty of setting an example. Misunderstanding between them cannot but postpone and compromise peace ; misunderstanding between them must arouse and maintain evil hopes. For three years now, every eye has been turned anxiously toward London and Paris. If a fog appear in the English Channel, immediately we feel a depression of spirit ; but when the sun of the “ Entente Cordiale ” clears it away the whole world is delighted. I said the whole world ; but I do not include in that term the spirit of evil which thrives only upon discord.

As one who comes from afar, I recognise that the problem which besets us is mainly a European problem. But it is also a world problem. I come from North America, and have the distinguished honour to represent here the North American continent. There as elsewhere we feel that safety can only come through a good understanding among the Great Powers.

I know that it is often difficult to reach agreement. Each of us has his special interests, his nerves, his idiosyncrasies. But there come to my mind some words out of a sermon which I heard an old *curé* give at Thun some years ago : " I am not going to preach to you any great virtue that will make saints of you ; I am going to suggest to you one little domestic virtue which may add to your happiness. In the morning one feels keenly the burden of the task of the day. I am going to ask you, living among friends as you do, to remember to greet with a smile the first person you meet after getting up in the morning. Smile, and the smile will call forth a smile in answer, and the temperature will become distinctly milder."

I believe that if these great nations, conscious of their responsibilities, realising that they must blaze the way, determine to maintain peace and the spirit of peace in Europe, they can succeed.

Canada is inhabited by people of two races, living harmoniously side by side. A considerable proportion are of French blood. In the words of one of our most illustrious statesmen, Sir Wilfrid Laurier, I may declare : " I love France which gave me life ; I love England which gave me liberty."

We are grateful to Mr. MacDonald and M. Herriot, who have re-established a good understanding between these two great countries. I believe that I have the right to ask of our two mother-countries, Great Britain and France that they remain linked together for the well-being of the Canadian family and for the good of all humanity.

M. QUIÑONES DE LEÓN,

Ambassador in Paris and First Delegate of Spain.

Mr. President, ladies and gentlemen—If I venture to speak in a debate to which so many distinguished statesmen have lent the weight of their authority, I do so in order to state the views of my country briefly but with the sincerity and goodwill which Spain has ever shown and will always show in promoting the course of justice and peace.

Though Spain is among those who have raised objections to the draft Treaty of Mutual Guarantee communicated to the Governments by the Fourth Assembly, she has not done so from indifference or from desire to evade her international obligations. No one who knows the traditions of my nation could credit that for a moment.

There are among us in this hall many masters of international law, all of whom will tell you that the creative conception of international law on which the League of Nations was founded sprung from the brains of those Spanish jurists whom Grotius, with the characteristic modesty of great men, acknowledged to be his teachers and forerunners.

It is and always has been recognised that we owe to those Spanish jurists the clear distinction that is made between a just war and an unjust war, a distinction which is the chief canon in international life, and is now at last, thanks to the League of Nations, restored to its place among our articles of faith. Spain remains true to the doctrine of her ancient masters, that without this distinction there can be no real peace. For these reasons Spain desires to associate herself with those countries which have declared the only basis for peace to be the Covenant of the League of Nations, a charter which is the fruit of the wisdom and ripe thought of men who combined the highest idealism with tried political experience.

Spain, who of her own free will signed the Covenant, will loyally observe her pledge; she considers that the nations will find that

the best guarantees of security consist in a strict application of its principles.

She also believes—and her long historical experience entitles her to speak with authority—that institutions, whether international or national, can only be developed with time.

The letter of the law must be slowly quickened by experience before the spirit can enter into possession.

M. Herriot has hit the mark ; we must endeavour to make the Covenant a living thing. Only so can it be made effective.

Arbitration is a policy that commands our entire approval.

Arbitration, that is to say, broadly speaking, the pacific and equitable settlement of disputes, has long been a rule in the diplomatic relations of my country. We are bound by arbitration treaties with several countries in Europe and America.

The Spanish Government is therefore convinced that we may work in this direction, that with agreements of this nature, in which States pledge themselves to compulsory arbitration, we may pave the way for the brotherhood of man and strengthen the Covenant which is its symbol.

We must, the Spanish Government considers, persevere in the work that has been begun. It offers its wholehearted co-operation in the attainment of the ideal before us, namely, that the passions of war must be checked at the outset by united action. This will be the most valuable and the most effective guarantee of peace.

It was with this intention that the Spanish members of the Temporary Mixed Commission, among them my eminent friend the Marquis de Magáz, suggested, as long ago as June 1923, several amendments to the draft Treaty of Mutual Guarantee proposing that aggression should be defined as a refusal to accept arbitration. In view of the importance attached by the Fifth Assembly to this idea, I will venture to quote the principal passages in these amendments :

“At the request of any Member of the League of Nations, the Council... may declare that the political situation between the two States Members is such that precautions with a view

to preserving peace are indispensable. The following precautionary measures may be applied :

“ (a) Both Parties may be asked to withdraw their troops to a certain distance, to be determined by the Council, on both sides of the frontier ;

“ To abstain from flying over a certain neutral zone between the two countries ;

“ To abstain from allowing their navies to enter the territorial waters of the other State.

.....

“ Shall be presumed to be the aggressor :

“ Any State which has refused to submit to the Permanent Court of International Justice or to the Council of the League of Nations the dispute which is the cause of the state of war ;

“ Any State which has refused to take the precautionary measures stipulated above when the Council has recommended their application.”

Accordingly, Spain fully endorses the proposal to strengthen the Covenant by the application of arbitration. The League of Nations can rely on our loyal co-operation in any special work which may be thought desirable for this purpose.

Lying between two countries to which she is bound by age-long ties of friendship and kinship, Spain has no fear of surprise attack or invasion ; but this is not the reason why she takes an impartial view of the problems by which Europe is tormented to-day.

Situated on the edge of Europe, facing towards the new continent, Spain will always be prepared to do her share in the work of international collaboration from which the Powers across the Atlantic cannot hold aloof. I allude to the United States and the other American Republics, particularly those whose help we specially appreciate on account of their Spanish origin, not only those which are already Members of the League but also those which, we hope, will join the League ere long.

Spain, need I remind you, has repeatedly responded to your call. In the future, as in the past, she intends to pursue a policy of peace because she has consistently pursued a policy of good-will.

M. VILLEGAS,

Former Prime Minister and First Delegate of Chile.

Ladies and gentlemen—The Chilean delegation has followed with keen interest this important debate in the Fifth Assembly. The part taken in it by the distinguished statesmen who are with us to-day has lent lustre to our discussion, but it is of special significance because we all feel that we must reach some conclusions which will hasten the approach of the long-awaited hour when peace shall have a permanent abiding place on the earth.

We all realise that this debate on arbitration, security, disarmament, and mutual assistance in cases of unjust aggression, although, of course, of universal interest, is at the present time of more immediate and urgent concern to Europe.

The Chilean delegation does not therefore propose to discuss the fundamental questions involved, but to restrict itself to the statement that the Government and the people of Chile, conscious of their responsibilities as a Member of the League, will collaborate with faith and good hope in the task of discovering a formula which, while taking into account the legitimate interests and no less legitimate fears of each country, will finally establish the principle of the settlement of disputes by arbitration on the basis that every State shall have a reasonable amount of security and shall effectively disarm, both from a military and from a moral point of view.

As Chile is one of the three countries in South America that possess both land and sea forces of relative importance, I wish to take this opportunity to reiterate the declarations made by the Chilean delegation at previous Assemblies regarding the reduction of armaments.

This problem, so far as our continent is concerned, differs both in aspect and in urgency from the problem confronting Europe. Statistics show that there is not a single State in South America the strength of whose armaments is out of proportion with the area of its territory, its population and its internal

requirements. We in South America need agreements for the limitation of armaments rather than agreements for the reduction of armaments.

I may remind you in this connection that Chile and Argentina were the first two countries in contemporary history to conclude an agreement of this nature. In 1902 our two Governments signed a treaty concerning the equivalent strength and the limitation of their naval armaments, which was warmly approved by the other South American countries and has been loyally observed by the countries concerned.

The Governments of Brazil and Chile also took part in the special meeting of the Naval Sub-Committee of the Permanent Advisory Commission of the League, which was attended by countries not represented on the Sub-Committee and was held at Rome in February of this year. The subject under discussion was the limitation of the naval armaments of countries not signatory to the Treaty of Washington. The declarations made by the representatives of these two countries at the Rome meeting and the semi-official statements which appeared in the Argentine Press encourage the hope that the limitation of the naval armaments of these three great countries is not a particularly difficult problem to solve. As representative of Chile I desire to express our ardent hope that an agreement on this question may soon be reached under the auspices of the League of Nations.

Our delegation notes with great satisfaction the declarations concerning arbitration which have been made by the heads of the Governments of the principal European Powers. We fully appreciated their importance. They constitute, we believe, a decisive advance towards that moral disarmament which must necessarily precede the material disarmament that we all desire.

The explanation which the distinguished delegate of Brazil gave to the Assembly concerning the special position of the South American peoples, both as regards the immense area of their territory and the inadequacy of their military and naval forces to guarantee the execution of treaties of mutual assistance of

the kind contemplated for the European countries, makes it unnecessary for me to set forth in detail our own view on this question, since our opinions, both on this matter and on the principle of arbitral jurisdiction, are identical with those expressed by my Brazilian colleague.

I would remind you on this important occasion that the most serious problems that have confronted South America in the last forty years have been settled by arbitration. At the beginning of the present century the King of England graciously accepted the position of arbitrator and settled the long-standing and serious frontier dispute between Chile and the Argentine Republic. In 1922 the Governments of Chile and Peru signed a protocol submitting for decision by the President of the United States of America difficulties in the execution of one of the clauses of the Treaty of Ancon, which terminated the War of the Pacific. The Governments of Ecuador and Peru have just taken similar action to solve their long-standing frontier dispute.

Although the Brazilian delegate has already referred to the Treaty signed in a friendly spirit of co-operation by sixteen American States at Santiago in May 1923, I would venture again to draw your attention to this Treaty, which may be said to mark a definite stage on the road towards the pacific settlement of international disputes. Under this Treaty, which is due to the initiative of that eminent Paraguayan statesman, M. Gondra, each signatory undertakes not to mobilise or concentrate its troops on the frontier of the other party, nor to commit acts of hostility nor acts preparatory to hostilities, as soon as arrangements have been made for convening a Commission of Enquiry consisting of five members appointed under the auspices of certain permanent commissions which have been specially set up with full guarantees as to impartiality and competence. The Commission of Enquiry may be convened at the request of any one of the countries concerned.

The fact that this Treaty has already been ratified by the United States of America, Brazil, Paraguay and other American States gives it very special significance, and I would venture

to point out to the Assembly that the Third Committee might advantageously study it, hoping as I do that some of the ideas contained in it may be of real help in the task entrusted to the Committee by the Assembly.

I make this proposal the more readily in that this Treaty would appear to offer an example, that might well be followed, of that equality between great and small Powers which was so eloquently advocated by M. Herriot.

Equality between great and small Powers is the fundamental principle underlying the pan-Americanism which unites the republics of America, great and small, in their pursuit of a common ideal.

This ideal is in all respects in keeping with that of the League of Nations and no more striking proof of this could be found than the fact that many American States are represented here and are actively and wholeheartedly co-operating in the work of this Assembly, the most important that the League of Nations has yet held, perhaps the most important Assembly that the world has ever seen.

M. URRUTIA,

Former Minister for Foreign Affairs, First Delegate of Colombia.

Mr. President, ladies and gentlemen—The discussions held in our recent meetings are of good omen not only to the League but, I venture to think, to the entire world, which has followed our proceedings with the keenest interest and has moment by moment received the solemn words that have been spoken from this platform.

We cannot fail to recognise that the elevation of the principle of compulsory arbitration to be the keystone of international law, enunciated by the Prime Ministers of France and Great Britain—the two great liberal Powers of Europe who have done so much to advance the civilisation of the world—is a fact of the first importance, the most important fact, perhaps, in the history

of international relations since the League of Nations founded the Permanent Court of International Justice.

As I listened to Mr. MacDonald's eloquent appeal for compulsory arbitration, I called to mind those memorable days a century ago when Canning, another Prime Minister of Great Britain, opposed the schemes of the Holy Alliance and enunciated the right of American countries to sovereignty and independence, and prophesied that the group of free nations that had arisen in the New World would one day have the mission of restoring stability in the old.

I called to mind, too, the words which Gladstone spoke in connection with the historic Alabama Treaty.

He said that arbitration is the solemn consecration on international ground of that feeling of justice which has made men seek for a better means of settling disputes between States than the ruthless decision of the sword.

When, again, I heard M. Herriot proclaim here the right of the small nations to life and independence on equal terms with the great, my whole heart went out in homage to France and her noble traditions, France who has proclaimed the rights of man, who has consistently and vigorously defended the loftiest principles of right and justice in Assemblies where the nations have met together.

As representative of a country which, ever since the first days of its independence, has made arbitration an article of its creed, I cannot refrain from mentioning the immense satisfaction with which the statements to which we have listened in the last few days will be received by the Colombian people. I venture, too, to believe that the speeches of the delegates of Chile, Brazil and other American countries are the strongest evidence that this sentiment is shared by all the American States, which place implicit reliance upon the principle of arbitration. From the earliest day of our independence to the last Conference of Santiago, where the principle of arbitration was solemnly confirmed, arbitration has been for us Americans not a vague doctrine but a living reality, a reality whereby we have been able to put an end to a

number of international disputes, particularly boundary disputes. By arbitration we have settled almost all our disputes ; two very important disputes have been submitted to arbitration during the last two years, and in this way the moral unity of the continent has been restored and justice, liberty and democracy have become the first canons of our political faith.

Gentlemen, in our Committees we shall be able to discover formulas enabling us to develop the ideas that have been outlined here and to reconcile conflicting views. We shall discover the means of realising our hopes. For the moment, however, we should let nothing diminish those hopes.

Let us pay a solemn tribute of gratitude to the statesmen who have come to take part in our proceedings and to share in our responsibilities, thus lending added lustre to the prestige of the League of Nations.

After the speeches we have heard during the last few days, we may make bold to think that those who assert that the work of the League of Nations has failed and those who still hope that it will be a success in the future cannot deny that it has taken a great step forward along the path of international justice. After all the declarations we have heard we may claim to have made a definite advance towards peace and justice, towards the abolition of the use of brute force which has brought misfortune and disgrace on the community of nations and death and untold misery upon the peoples—and when I say the peoples, I am thinking first and foremost of those who toil and suffer in time of peace and who, when war comes, still toil, still suffer, and give their lives for their country.

**Resolution submitted by the French and British Delegations
and adopted by the Assembly.**

The PRESIDENT ·

The discussion is closed. I will now read to the Assembly the resolution submitted by the French and British delegations. We will then consider how far Rule 17 of the Rules of Procedure

applies to this resolution; after that I will call upon the first delegate of Great Britain and the first delegate of France to explain the resolution. I will then ask the Assembly to take a decision regarding it.

The resolution reads as follows :

“ The Assembly,

“ Noting the declarations of the Governments represented, observes with satisfaction that they contain the basis of an understanding tending to establish a secure peace,

“ Decides as follows :

“ With a view to reconciling in the new proposals the divergencies between certain points of view which have been expressed and, when agreement has been reached, to enable an international conference upon armaments to be summoned by the League of Nations at the earliest possible moment :

“ (1) The Third Committee is requested to consider the material dealing with security and the reduction of armaments, particularly the observations of the Governments on the draft Treaty of Mutual Assistance prepared in pursuance of Resolution XIV of the Third Assembly and other plans prepared and presented to the Secretary-General since the publication of the draft Treaty, and to examine the obligations contained in the Covenant of the League in relation to the guarantees of security which a resort to arbitration and a reduction of armaments may require.

“ (2) The First Committee is requested :

“ (a) To consider, in view of possible amendments, the articles in the Covenant relating to the settlement of disputes ;

“ (b) To examine within what limits the terms of Article 36, paragraph 2, of the Statute establishing the Permanent Court of International Justice might be rendered more precise and thereby facilitate the more general acceptance of the clause ;

and thus strengthen the solidarity and the security of the nations of the world by settling by pacific means all disputes which may arise between States.”

Rule 17 of the Rules of Procedure reads as follows :

“ 1. Resolutions, amendments and motions must be introduced in writing and handed to the President. The President shall cause copies to be distributed to the Representatives.

“ 2. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Assembly unless copies of it have been circulated to all Representatives not later than the day preceding the meeting.

“ 3. The President may, however, permit the discussion and consideration of amendments, or of motions as to procedure, without previous circulation of copies.”

We have, therefore, to determine whether the third paragraph of Rule 17 applies to the present case. I think that this can be decided in the affirmative because, though the questions involved are of supreme importance, the resolution proposed really does no more than refer them to certain Committees of the Assembly. The reference to the summoning by the League of an international conference on disarmament is merely a premise of the resolution. If the Assembly accepts the resolution it will not definitely bind itself to summon a conference.

In these circumstances I think that paragraph 3 of Rule 17 of the Rules of Procedure does apply, and the discussion of the proposed resolution which I have just read is therefore in order.

Accordingly I call upon Mr. Ramsay MacDonald, Prime Minister of Great Britain and First Delegate of the British Empire, to address the Assembly.

Mr. Ramsay MACDONALD.

Mr. President, ladies and gentlemen—By agreement between our French friends and ourselves the Assembly has now before it a resolution which we believe will give effect to the debate that has been continued during the last days on the question of the reduction of armaments. Briefly, the resolution assumes

that a Conference will be summoned by the League of Nations to deal with armaments, that, in preparation for that Conference, the Third Committee will consider all the documents that have been produced through the activities of the League and its various Committees and that the First Committee will be charged with the consideration of the form of that clause regarding arbitration which was embodied in the Statute of the Permanent Court of International Justice. The resolution ends with a prayer that thus might be strengthened the solidity and the security of the nations of the world by settling by pacific means all disputes which may arise between States.

Mr. President, I am going to add nothing to the discussion. It has been admirable. It has exposed the needs of States in very varying conditions and no agreement by the League of Nations, however good it may be upon paper, however desirable it may be morally, can be satisfactory unless it relates to the actual facts of the situation in which each State finds itself.

It has been our business to face with courage but with caution recondit problems that have taken the nations of the world generations and generations not to settle but to face honestly, as we at last are doing here.

The question of peace : What are the conditions of peace ? The question of national security : What is national security ? The question of arbitration : What is the scope of arbitration ? The question of disarmament : Under what conditions is disarmament safe ?

Sir, they say that " the mills of God grind slowly " : the mills of Man grind still more slowly.

I see in front of me an old master though a new friend, M. Léon Bourgeois. I was young and my hair was black when M. Léon Bourgeois, honouring his own name and the name of the nation to which he belonged, proposed, at an International Conference, that the question of arbitration should be scientifically discussed.

Here are we assembled to-day. The years have gone, disputes have accumulated, wars have been fought, millions of precious lives have been sacrificed, thousands of millions of treasure have

been dissipated, and my friend, grown old and grey in the cause of international peace, still sits considering this question in its very first stages. It is a disgrace to us all.

Sir, if this meeting of the Assembly could only be recorded in the pages of history as the Assembly which, for the first time gave not only lip-service to peace, but brain-service, it would be distinguished above all the assemblies of mankind that have met hitherto.

My friend M. Herriot delivered an admirable speech yesterday. M. Herriot and I very often start on the same road, on the same journey, he on one side of the road and I on the other. The road is the same, the end is the same, and as we are good friends we do not go very far before we move together and continue our journey arm-in-arm in the middle of the road. It is not that our opinions have been reconciled; it is that the meaningless difference in distance and in position has been bridged by our commonsense and our desire for human companionship.

The French Premier, M. Theunis, Dr. Benes, M. Van Karnebeek especially, but others also, delivered speeches yesterday characterised by that calm, faithful sagacity which is so essential in councils like this. We dream our dreams. We have our visions. Ah, my friends, that is not enough. We have to discover the way. We have to find how we are going to get through all the forests that lie between us and our destinies, how we are to remove barriers, how we are to destroy obstacles.

I wish to give the assurance to my friends that so far as the British Government is concerned it has no intention whatever of shutting its eyes to obvious dangers in order to indulge in a pleasant gesture—it desires no traps for the small nationalities in matters of disarmament, no weakening of their opportunities to live, no sacrificing of the security which I consider to be their best security, namely, their liberty to express themselves, their liberty to be, their liberty to enjoy themselves in possession of their historical traditions which they are glorifying and beautifying by the contributions which they are now making to those traditions.

We have just the fear—and I express it quite sincerely—we have just the fear that we may slip back. Let me explain. You find upon old roads, unused for generations and generations, that the ruts get deeper and deeper, and the habits of those who pass along them become more and more ingrained ; every other road becomes haunted with ghosts, with fears, with terrors and then something happens that shows that the old road is not a safe one—a war revolution, a great disturbance comes and stops it up for a moment. You know that when the wheels begin to go round on the top of a rut the great danger is that unless the hand that guides is a steady hand steering towards the new and the better, down you may go into the rut, and another war and another revolution are necessary to enable you to get out of it. This, frankly, is the fear that we have in our hearts—lest we go back.

But, sir, this resolution, and the material that will be produced by the carrying out of this resolution, will secure us against falling back into those methods of almost superstitious security which really have no reality associated with them at all. I hope, ladies and gentlemen, that this resolution is going to be carried with unanimity and that the whole of the Assembly will do what I appealed to it to do two days ago.

The world expects much from us. Let us have the courage to give it that much by adopting this resolution, by carrying on the work, by seeing to it that we shall not sleep until we have discovered the way to secure peace. We shall then be writing the name of this Assembly in letters of gold for the history of mankind.

M. HERRIOT.

Mr. President, ladies and gentlemen,—I shall not detain you long. The best of all speeches is action ; and it is an action that I wish to perform here in following my dear friend Mr. Ramsay MacDonald upon this platform.

We both arrived here only a few days ago with a deep sense of our responsibilities and a keen anxiety to know whether we could

be useful or not to the great cause of peace of which we, like all of you here, are the devoted servants. We have both spoken freely. We have explained our ideas, our fears, our methods and our conceptions of the way in which your work should be carried out. But, while we explained our ideas, we were both actuated by the desire, I would even say the determination, not to leave this Assembly without having achieved complete unity of understanding, without setting the example of two men with heavy responsibilities joining hands in an effort to effect an agreement which will prove of value to all. This agreement is contained in the resolution we have submitted to you.

I could wish that we might have had time for fuller and longer consultation. All that I have been able to do myself is to ensure the concurrence of my very dear friends from Belgium, who authorised me to speak on their behalf, and of my no less dear friends from Italy, who have been so good as to grant me the same permission.

But, my dear colleagues, my words are addressed to all of you, and I am sure that in a short while you will one and all unanimously respond to our President's appeal.

It would indeed have been—I will no longer say it would be—deplorable if the great debate which has lasted here for three days had been nothing more than an academic discussion. It would have been, as it was termed just now, a disgrace. At the very least, it would have been a matter for keen regret.

We have heard, in turn, the broad views of Lord Parmoor, inspired by a lofty and wide philosophy, the recommendations so eloquently put forward by some of the highest authorities in Europe or the world—you will excuse me if I only mention a few of them—M. Van Karnebeek, Dr. Benes, M. Theunis, M. Salandra, M. Politis, who spoke this morning, and many others whose cogent pleas we shall certainly not forget.

We must now come to a conclusion. The conclusion is the joint note which we have the honour to submit to you. I believe that we have chosen the right way. It would have been deplorable

if years of endeavour had had no result. Once you have adopted our text, the Committees of the Assembly will be in a position to continue the work and to embark on those arduous enquiries, which my friend MacDonald described just now in vivid terms, on the problems of assistance and of solidarity, for which you must find the solution that can alone give reality and life to the international brotherhood that we hope to create.

I can assure you that as head of my Government I shall take leave of you to-night full of hope, faith and gratitude towards you, my dear colleagues. We were at the most critical moment in the existence of the League of Nations. I ventured to tell you yesterday that we must in our work conform to the laws which govern all organic development. As we know, the most critical time in organic development is always the period of early growth. We were precisely at the point where we had to decide whether we were to continue indefinitely to discuss first principles, as has so often been the case in regard to the problem of peace, or whether we were to adopt resolutions and pass on to actions leading to real results.

In a few minutes we shall, I hope, have passed the reef.

What more can we wish? Certainly not, my dear colleagues, that your Committees will possess the necessary courage. That we know they will have; we know that you will find among you men whose intelligence and knowledge will find solutions for the problems which confront us, solutions which will not perhaps be altogether perfect, but which the nations will accept with gratitude and to which they will subscribe because they emanate from the highest authority that the world has ever known.

What I wish—and I speak for us all—is that we should one and all have the will and the patience to complete this great work which has just made so decisive an advance.

The road of which my friend MacDonald spoke just now is still a long road, but we shall advance along it, he and I, together, arm-in-arm, at one in our thoughts and in our efforts.

I feel sure that you all, my dear colleagues, share our ambitions, our resolve to co-operate in a spirit of brotherly love. On resuming

the direction of my country's affairs I shall not cease to be present among you and, whether far or near, to give you the support of my complete confidence in your work and, let me add among my last words, of my whole faith.

For in order to achieve a task so great as that which now awaits its conclusion, the intellect, however it may strive, is not enough. You will agree, my dear colleagues, that we shall need a robust faith. Nothing can be done in any sphere without great faith. Without this belief and the will which is born of it, without the determination to triumph over all obstacles, to sweep aside objections—without this ambition and this resolve we can never attain the goal.

The French delegation will work with you in this spirit, and I am sure that in a few weeks the nations will rejoice to learn that the Fifth Assembly of the League of Nations has made a decisive step forward, by which our century will be marked off from those long, long centuries of misery when war was the only final argument of nations. Although we have many difficulties to overcome, many rivers to cross before we arrive at the end of our journey, we shall be a little nearer than we are to-day to that bright horizon which we are striving to reach by the close and brotherly collaboration which I have for a few hours been privileged to witness. I take away with me such precious comfort that my last word to you must be a word of thanks.

The resolution was unanimously adopted on Saturday, September 6th. The Committees met on Monday, September 8th, and are still in session.

September 11th, 1924.

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[Communiqué au Conseil,
aux Membres de la Société
et aux Délégués à l'Assemblée.]

Annexe II à **A. 135.** 1924.

SOCIÉTÉ DES NATIONS

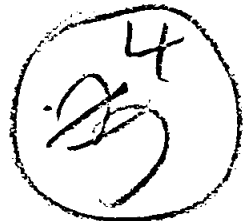
Genève,
le 1^{er} octobre 1924

PROJET

PROTOCOLE

POUR LE

Règlement pacifique
des différends internationaux



(Texte approuvé par les première et troisième Commissions et
révisé par le Comité de rédaction)

*Présenté à l'Assemblée le 1^{er} octobre 1924
par les première et troisième Commissions.*

LEAGUE OF NATIONS

DRAFT

PROTOCOL

FOR THE

Pacific Settlement
of International Disputes

(Text approved by the First and Third Committees and revised
by the Drafting Committee.)

*Submitted to the Assembly on October 1st, 1924,
by the First and Third Committees.*

PROTOCOLE POUR LE RÈGLEMENT PACIFIQUE DES DIFFÉRENDS INTERNATIONAUX

Animés de la ferme volonté d'assurer le maintien de la paix générale et la sécurité des peuples dont l'existence, l'indépendance ou les territoires pourraient être menacés;

Reconnaissant la solidarité qui unit les membres de la communauté internationale;

Affirmant que la guerre d'agression constitue une infraction à cette solidarité et un crime international;

Désireux de faciliter la complète application du système prévu au Pacte de la Société des Nations pour le règlement pacifique des différends entre les Etats et assurer la répression des crimes internationaux; et

Afin de réaliser, comme l'envisage l'article 8 du Pacte, la réduction des armements nationaux au minimum compatible avec la sécurité nationale et avec l'exécution des obligations internationales imposées par une action commune,

Les Soussignés, dûment autorisés à cet effet, sont convenus des dispositions suivantes:

Article premier.

Les Etats signataires s'engagent à faire tous efforts en leur pouvoir pour l'introduction dans le Pacte d'amendements conformes au sens des dispositions contenues dans les articles suivants.

Ils conviennent que ces dispositions deviendront obligatoires dans leurs rapports respectifs à la date de la mise en vigueur du présent Protocole et que, vis-à-vis d'eux, l'Assemblée et le Conseil de la Société des Nations seront, dès lors, autorisés à exercer tous les droits et devoirs qui leur sont conférés par ce Protocole.

Article 2.

Les Etats signataires conviennent qu'en aucun cas ils ne doivent recourir à la guerre, ni entre eux ni contre tout Etat qui, le cas échéant, accepterait toutes les obligations ci-après définies, excepté dans le cas de résistance à des actes d'agression ou quand ils agissent en accord avec le Conseil ou l'Assemblée de la Société des Nations, selon les dispositions du Pacte et du présent Protocole.

Article 3.

Les Etats signataires s'engagent à reconnaître comme obligatoire, de plein droit et sans convention spéciale, la juridiction de la Cour permanente de Justice internationale dans les cas visés au paragraphe 2 de l'article 36 du Statut de la Cour, mais sans préjudice de la faculté pour un Etat quelconque, lorsqu'il adhérera au protocole spécial ouvert le 16 décembre 1920, prévu par ledit article, de formuler les réserves compatibles avec ladite clause.

L'adhésion à ce protocole spécial ouvert le 16 décembre 1920 devra être faite dans le délai d'un mois qui suivra la mise en vigueur du présent Protocole.

Les Etats qui adhéreront au présent Protocole après sa mise en vigueur devront s'acquitter de l'obligation ci-dessus dans le mois qui suivra leur adhésion.

Article 4.

En vue de compléter les dispositions des alinéas 4, 5, 6 et 7 de l'article 15 du Pacte, les Etats signataires conviennent de se conformer à la procédure suivante:

- 1^o Si le différend soumis au Conseil n'a pu être réglé par lui ainsi qu'il est prévu au paragraphe 3 dudit article 15, le Conseil engagera les Parties à soumettre le différend à un règlement judiciaire ou arbitral.
- 2^o a) Si les Parties s'y refusent, il est procédé, à la demande d'au moins l'une des Parties, à la constitution d'un Comité d'arbitres. Le Comité sera constitué, autant que possible, par l'accord des Parties.
- b) Si, dans le délai que le Conseil aura fixé, elles ne se sont pas entendues en tout ou en partie sur le nombre, le nom et les pouvoirs des arbitres, ainsi que sur la procédure, le Conseil réglera les points en suspens. Il choisira d'urgence — en consultant les Parties — les arbitres et leur président, parmi les personnes qui, par leur nationalité, leur caractère et leur expérience, lui paraîtront donner les plus hautes garanties de compétence et d'impartialité.
- c) Après que les conclusions des Parties auront été formulées, le Comité d'arbitres, à la demande de toute Partie, sollicitera, par l'entremise du Conseil, sur les points de droit contestés, l'avis consultatif de la Cour permanente de Justice internationale qui, dans ce cas, se réunira d'urgence.

PROTOCOL FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES

Animated by the firm desire to ensure the maintenance of general peace and the security of nations whose existence, independence or territories may be threatened;

Recognising the solidarity of the members of the international community;

Asserting that a war of aggression constitutes a violation of this solidarity and an international crime;

Desirous of facilitating the complete application of the system provided in the Covenant of the League of Nations for the pacific settlement of disputes between States and of ensuring the repression of international crimes; and

For the purpose of realising, as contemplated by Article 8 of the Covenant, the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations;

The Undersigned, duly authorised to that effect, agree as follows:

Article 1.

The signatory States undertake to make every effort in their power to secure the introduction into the Covenant of amendments on the lines of the provisions contained in the following articles.

They agree that, as between themselves, these provisions shall be binding as from the coming into force of the present Protocol and that, so far as they are concerned, the Assembly and the Council of the League of Nations shall thenceforth have power to exercise all the rights and perform all the duties conferred upon them by the Protocol.

Article 2.

The signatory States agree in no case to resort to war either with one another or against a State which, if the occasion arises, accepts all the obligations hereinafter set out, except in case of resistance to acts of aggression or when acting in agreement with the Council or the Assembly of the League of Nations in accordance with the provisions of the Covenant and of the present Protocol.

Article 3.

The signatory States undertake to recognise as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Permanent Court of International Justice in the cases covered by paragraph 2 of Article 36 of the Statute of the Court, but without prejudice to the right of any State, when acceding to the special protocol provided for in the said Article and opened for signature on December 16th, 1920, to make reservations compatible with the said clause.

Accession to this special protocol, opened for signature on December 16th, 1920, must be given within the month following the coming into force of the present Protocol.

States which accede to the present Protocol, after its coming into force, must carry out the above obligation within the month following their accession.

Article 4.

With a view to render more complete the provisions of paragraphs 4, 5, 6, and 7 of Article 15 of the Covenant, the signatory States agree to comply with the following procedure:

1. If the dispute submitted to the Council is not settled by it as provided in paragraph 3 of the said Article 15, the Council shall endeavour to persuade the parties to submit the dispute to judicial settlement or arbitration.

2. (a) If the parties cannot agree to do so, there shall, at the request of at least one of the parties, be constituted a Committee of Arbitrators. The Committee shall so far as possible be constituted by agreement between the parties.

(b) If within the period fixed by the Council the parties have failed to agree, in whole or in part, upon the number, the names and the powers of the arbitrators and upon the procedure, the Council shall settle the points remaining in suspense. It shall with the utmost possible despatch select in consultation with the parties the arbitrators and their President from among persons who by their nationality, their personal character and their experience, appear to it to furnish the highest guarantees of competence and impartiality.

(c) After the claims of the parties have been formulated, the Committee of Arbitrators, on the request of any party, shall through the medium of the Council request advisory opinion upon any points of law in dispute from the Permanent Court of International Justice, which in such case shall meet with the utmost possible despatch.

- 3° Si aucune des Parties ne demande l'arbitrage, le Conseil reprendra l'examen du différend. Au cas où le Conseil établit un rapport voté à l'unanimité de ses membres autres que les représentants de toute Partie au différend, les Etats signataires conviennent de se conformer aux solutions recommandées par lui.
- 4° Au cas où le Conseil ne peut établir un rapport accepté par tous ses membres autres que les représentants de toute Partie au différend, il soumettra le différend à l'arbitrage. Il réglera lui-même la composition, les pouvoirs et la procédure du Comité d'arbitres et aura égard, dans le choix des arbitres, aux garanties de compétence et d'impartialité visées au N° 2b ci-dessus.
- 5° En aucun cas ne pourront être remises en question les solutions ayant déjà fait l'objet d'une recommandation unanime du Conseil acceptée par l'une des Parties intéressées.
- 6° Les Etats signataires s'engagent à exécuter de bonne foi les sentences judiciaires ou arbitrales et à se conformer, comme il a été dit à l'alinéa 3 ci-dessus, aux solutions recommandées par le Conseil. Dans le cas où un Etat manquerait à ces engagements, le Conseil exercera toute son influence pour en assurer le respect. S'il ne peut y réussir, il proposera les mesures qui doivent en assurer l'effet, ainsi qu'il est dit à la fin de l'article 13 du Pacte. Dans le cas où un Etat, manquant à ces engagements, recourrait à la guerre, les sanctions prévues à l'article 16 du Pacte, interprétées de la manière indiquée au présent Protocole, lui deviendraient immédiatement applicables.
- 7° Les dispositions du présent article ne s'appliquent pas au règlement des différends qui pourraient s'élever à la suite des mesures de guerre prises par un ou plusieurs Etats signataires en accord avec le Conseil ou l'Assemblée.

Article 5.

La disposition de l'alinéa 8 de l'article 15 du Pacte demeure applicable devant le Conseil.

Si, pendant le cours d'une des procédures d'arbitrage prévues à l'article 4 ci-dessus, l'une des Parties prétend que le différend, ou une partie du différend, porte sur une question que le droit international laisse à la compétence exclusive de cette Partie, les arbitres consulteront sur ce point la Cour permanente de Justice internationale par l'entremise du Conseil. L'avis de la Cour liera les arbitres qui se borneront, si cet avis est affirmatif, à le constater dans leur sentence.

Si la question est reconnue par la Cour permanente ou par le Conseil comme étant de la compétence exclusive d'un Etat, la décision intervenue n'empêchera pas que la situation soit examinée par le Conseil ou par l'Assemblée, conformément à l'article 11 du Pacte.

Article 6.

Si, conformément à l'alinéa 9 de l'article 15 du Pacte, le différend est porté devant l'Assemblée, celle-ci aura, pour le règlement du différend, tous les pouvoirs dévolus au Conseil en ce qui concerne l'essai de conciliation des Parties, tel qu'il est prévu aux alinéas 1, 2 et 3 de l'article 15 du Pacte et au N° 1 de l'article 4 ci-dessus.

A défaut de règlement amiable obtenu par l'Assemblée :

Si l'une des Parties demande l'arbitrage, il est procédé par le Conseil à la constitution du Comité d'arbitres, dans les conditions prévues au N° 2 de l'article 4 ci-dessus, lettres *a*, *b* et *c* ;

Si aucune des Parties ne demande l'arbitrage, l'Assemblée reprend, avec les mêmes pouvoirs que le Conseil, l'examen du différend. Les solutions recommandées par le Rapport de l'Assemblée, dans les conditions d'approbation prévues à la fin de l'alinéa 10 de l'article 15 du Pacte, ont la même valeur et produiront les mêmes effets, en tout ce qui concerne le présent Protocole, que celles recommandées par le Rapport du Conseil dans les conditions prévues au N° 3 de l'article 4 ci-dessus.

Si la majorité nécessaire ne peut être obtenue, le différend sera soumis à l'arbitrage et le Conseil réglera lui-même la composition, les pouvoirs et la procédure du Comité d'arbitres, comme il est dit au N° 4 dudit article 4.

Article 7.

Dans le cas d'un différend s'élevant entre deux ou plusieurs Etats signataires, ceux-ci conviennent que, soit avant que le différend ait été soumis à une procédure de règlement pacifique, soit au cours d'une telle procédure, ils ne procéderont à aucune augmentation d'armements ou d'effectifs qui pourrait modifier la situation fixée par la Conférence pour la réduction des armements prévue à l'article 17 du présent Protocole; ils ne procéderont non plus à aucune mesure de mobilisation militaire, navale, aérienne, industrielle ou économique, ni en général à aucun acte de nature à aggraver ou à étendre le différend.

Conformément aux dispositions de l'article 11 du Pacte, il est du devoir du Conseil d'examiner toute plainte en violation des engagements ci-dessus, qui pourrait lui être adressée par un ou plusieurs des Etats parties au différend. Si le Conseil considère que la plainte est recevable, il doit, s'il l'estime convenable, organiser des enquêtes et des investigations dans un ou plusieurs des pays

3. If none of the parties asks for arbitration, the Council shall again take the dispute under consideration. If the Council reaches a report which is unanimously agreed to by the members thereof other than the representatives of any of the parties to the dispute, the signatory States agree to comply with the recommendations therein.
4. If the Council fails to reach a report which is concurred in by all its members, other than the representatives of any of the parties to the dispute, it shall submit the dispute to arbitration. It shall itself determine the composition, the powers and the procedure of the Committee of Arbitrators and, in the choice of the arbitrators, shall bear in mind the guarantees of competence and impartiality referred to in paragraph 2 (b) above.
5. In no case may a solution, upon which there has already been a unanimous recommendation of the Council accepted by one of the parties concerned, be again called in question.
6. The signatory States undertake that they will carry out in full good faith any judicial sentence or arbitral award that may be rendered and that they will comply, as provided in paragraph 3 above, with the solutions recommended by the Council. In the event of a State failing to carry out the above undertakings, the Council shall exert all its influence to secure compliance therewith. If it fails therein, it shall propose what steps should be taken to give effect thereto, in accordance with the provision contained at the end of Article 13 of the Covenant. Should a State in disregard of the above undertakings resort to war, the sanctions provided for by Article 16 of the Covenant, interpreted in the manner indicated in the present Protocol, shall immediately become applicable to it.
7. The provisions of the present article do not apply to the settlement of disputes which arise as the result of measures of war taken by one or more signatory States in agreement with the Council or the Assembly.

Article 5.

The provisions of paragraph 8 of Article 15 of the Covenant shall continue to apply in proceedings before the Council.

If in the course of an arbitration, such as is contemplated by Article 4 above, one of the parties claims that the dispute, or part thereof, arises out of a matter which by international law is solely within the domestic jurisdiction of that party, the arbitrators shall on this point take the advice of the Permanent Court of International Justice through the medium of the Council. The opinion of the Court shall be binding upon the arbitrators, who, if the opinion is affirmative, shall confine themselves to so declaring in their award.

If the question is held by the Court or by the Council to be a matter solely within the domestic jurisdiction of the State, this decision shall not prevent consideration of the situation by the Council or by the Assembly under Article 11 of the Covenant.

Article 6.

If in accordance with paragraph 9 of Article 15 of the Covenant a dispute is referred to the Assembly, that body shall have for the settlement of the dispute all the powers conferred upon the Council as to endeavouring to reconcile the parties in the manner laid down in paragraphs 1, 2 and 3 of Article 15 of the Covenant and in paragraph 1 of Article 4 above.

Should the Assembly fail to achieve an amicable settlement:

If one of the parties asks for arbitration, the Council shall proceed to constitute the Committee of Arbitrators in the manner provided in sub-paragraphs (a), (b) and (c) of paragraph 2 of Article 4 above.

If no party asks for arbitration, the Assembly shall again take the dispute under consideration and shall have in this connection the same powers as the Council. Recommendations embodied in a report of the Assembly, provided that it secures the measure of support stipulated at the end of paragraph 10 of Article 15 of the Covenant, shall have the same value and effect, as regards all matters dealt with in the present Protocol, as recommendations embodied in a report of the Council adopted as provided in paragraph 3 of Article 4 above.

If the necessary majority cannot be obtained, the dispute shall be submitted to arbitration and the Council shall determine the composition, the powers and the procedure of the Committee of Arbitrators as laid down in paragraph 4 of Article 4.

Article 7.

In the event of a dispute arising between two or more signatory States, these States agree that they will not, either before the dispute is submitted to proceedings for pacific settlement or during such proceedings, make any increase of their armaments or effectives which might modify the position established by the Conference for the Reduction of Armaments provided for by Article 17 of the present Protocol, nor will they take any measure of military, naval, air, industrial or economic mobilisation, nor, in general, any action of a nature likely to extend the dispute or render it more acute.

It shall be the duty of the Council, in accordance with the provisions of Article 11 of the Covenant, to take under consideration any complaint as to infraction of the above undertakings which is made to it by one or more of the States parties to the dispute. Should the Council be of opinion that the complaint requires investigation, it shall, if it deems it expedient, arrange

intéressés. Ces enquêtes et ces investigations doivent être faites dans les délais les plus brefs, et les Etats signataires s'engagent à donner toutes facilités pour leur exécution.

Les mesures ainsi prises par le Conseil sont destinées uniquement à faciliter le règlement pacifique des différends et ne doivent préjuger en rien du règlement lui-même

Si, à la suite de ces enquêtes et investigations, une infraction quelconque aux dispositions du premier alinéa du présent article est établie, il est du devoir du Conseil de sommer l'Etat ou les Etats coupables de l'infraction de la faire disparaître. Si l'Etat ou les Etats en question ne se conforment pas à cette sommation, le Conseil déclare lesdits Etats coupables d'une violation du Pacte ou du présent Protocole et doit décider les mesures à prendre en vue de faire cesser au plus tôt une situation de nature à menacer la paix du monde.

Pour l'application du présent article, le Conseil prendra sa décision à la majorité des deux tiers.

Article 8.

Les Etats signataires s'engagent à s'abstenir de toute action qui pourrait constituer une menace d'agression contre un autre Etat.

Dans le cas où un des Etats signataires estime qu'un autre Etat procède à des préparatifs de guerre, il a le droit d'en saisir le Conseil.

Celui-ci, après avoir vérifié les faits, opère comme il est dit à l'article 7, alinéas 2, 4 et 5.

Article 9.

L'existence de zones démilitarisées étant de nature à prévenir les agressions et à en faciliter la détermination sans équivoque conformément à l'article 10 ci-dessous, l'établissement de pareilles zones est recommandé entre les Etats qui y seraient également consentants, comme un moyen d'éviter une violation du présent Protocole.

Les zones démilitarisées déjà existantes en vertu de certains Traités ou Conventions, ou qui seraient établies à l'avenir entre Etats également consentants, pourront faire l'objet d'un contrôle temporaire ou permanent, organisé par le Conseil, à la demande et aux frais d'un ou de plusieurs Etats limitrophes.

Article 10.

Est agresseur tout Etat qui recourt à la guerre en violation des engagements prévus au Pacte ou au présent Protocole. Est assimilée au recours à la guerre la violation du statut d'une zone démilitarisée.

Dans le cas d'hostilités engagées, est présumé agresseur, sauf décision contraire du Conseil prise à l'unanimité:

- 1^o Tout Etat qui aura refusé de soumettre le différend à la procédure pour règlement pacifique prévue aux articles 13 et 15 du Pacte, complétés par le présent Protocole — ou qui aura refusé de se conformer, soit à une décision judiciaire ou arbitrale, soit à une recommandation unanime du Conseil — ou qui aura passé outre à un rapport unanime du Conseil, à une décision judiciaire ou arbitrale reconnaissant que le différend qui s'est élevé entre lui et l'autre Etat belligérant porte sur une question que le Droit international laisse à la compétence exclusive de cet Etat; toutefois, dans ce dernier cas, l'Etat ne sera présumé agresseur que s'il n'a pas soumis auparavant la question au Conseil ou à l'Assemblée, conformément à l'article 11 du Pacte.
- 2^o Tout Etat qui aura violé une des mesures provisoires prescrites par le Conseil pendant la période de procédure, visées à l'article 7 du présent Protocole.

Hors les hypothèses visées aux numéros 1 et 2 du présent article, si le Conseil n'a pu déterminer dans le plus bref délai l'agresseur, il aura l'obligation de prescrire aux belligérants un armistice dont il fixera les conditions à la majorité des deux tiers et dont il surveillera l'observation.

Tout belligérant ayant refusé l'armistice ou en ayant violé les conditions, sera réputé agresseur.

Le Conseil enjoindra aux Etats signataires d'appliquer sans retard contre l'agresseur les sanctions visées à l'article 11 du présent Protocole, et tout Etat signataire, ainsi requis, sera dès lors fondé à exercer les droits d'un belligérant.

Article 11.

Dès que le Conseil a fait aux Etats signataires l'injonction prévue au dernier alinéa de l'article 10 du présent Protocole, les obligations desdits Etats en ce qui concerne les sanctions de toute nature visées aux alinéas 1 et 2 de l'article 16 du Pacte, deviennent immédiatement opérantes afin que ces sanctions puissent porter leurs effets contre l'agresseur sans aucun retard.

Ces obligations doivent être interprétées en ce sens que chacun des Etats signataires est tenu de collaborer loyalement et effectivement pour faire respecter le Pacte de la Société des Nations et pour s'opposer à tout acte d'agression dans la mesure que lui permettent sa situation géographique et les conditions spéciales de ses armements.

for enquiries and investigations in one or more of the countries concerned. Such enquiries and investigations shall be carried out with the utmost possible despatch and the signatory States undertake to afford every facility for carrying them out.

The sole object of measures taken by the Council as above provided is to facilitate the pacific settlement of disputes and they shall in no way prejudice the actual settlement.

If the result of such enquiries and investigations is to establish an infraction of the provisions of the first paragraph of the present Article, it shall be the duty of the Council to summon the State or States guilty of the infraction to put an end thereto. Should the State or States in question fail to comply with such summons, the Council shall declare them to be guilty of a violation of the Covenant or of the present Protocol, and shall decide upon the measures to be taken with a view to end as soon as possible a situation of a nature to threaten the peace of the world.

For the purposes of the present Article decisions of the Council may be taken by a two-thirds majority.

Article 8.

The signatory States undertake to abstain from any act which might constitute a threat of aggression against another State.

If one of the signatory States is of opinion that another State is making preparations for war, it shall have the right to bring the matter to the notice of the Council.

The Council, if it ascertains that the facts are as alleged, shall proceed as provided in paragraphs 2, 4, and 5 of Article 7.

Article 9.

The existence of demilitarised zones being calculated to prevent aggression and to facilitate a definite finding of the nature provided for in Article 10 below, the establishment of such zones between States mutually consenting thereto is recommended as a means of avoiding violations of the present Protocol.

The demilitarised zones already existing under the terms of certain treaties or conventions, or which may be established in future between States mutually consenting thereto, may at the request and at the expense of one or more of the conterminous States, be placed under a temporary, or permanent system of supervision to be organised by the Council.

Article 10.

Every State which resorts to war in violation of the undertakings contained in the Covenant or in the present Protocol is an aggressor. Violation of the rules laid down for a demilitarised zone shall be held equivalent to resort to war.

In the event of hostilities having broken out, any State shall be presumed to be an aggressor, unless a decision of the Council, which must be taken unanimously, shall otherwise declare:

1. If it has refused to submit the dispute to the procedure of pacific settlement provided by Articles 13 and 15 of the Covenant as amplified by the present Protocol, or to comply with a judicial sentence or arbitral award or with a unanimous recommendation of the Council, or has disregarded a unanimous report of the Council, a judicial sentence or an arbitral award recognising that the dispute between it and the other belligerent State arises out of a matter which by international law is solely within the domestic jurisdiction of the latter State; nevertheless, in the last case the State shall only be presumed to be an aggressor if it has not previously submitted the question to the Council or the Assembly, in accordance with Article 11 of the Covenant.
2. If it has violated provisional measures enjoined by the Council for the period while the proceedings are in progress as contemplated by Article 7 of the present Protocol.

Apart from the cases dealt with in paragraphs 1 and 2 of the present Article, if the Council does not at once succeed in determining the aggressor, it shall be bound to enjoin upon the belligerents an armistice, and shall fix the terms, acting, if need be, by a two-thirds majority and shall supervise its execution.

Any belligerent which has refused to accept the armistice or has violated its terms shall be deemed an aggressor.

The Council shall call upon the signatory States to apply forthwith against the aggressor the sanctions provided by Article 11 of the present Protocol, and any signatory State thus called upon shall thereupon be entitled to exercise the rights of a belligerent.

Article 11.

As soon as the Council has called upon the signatory States to apply sanctions, as provided in the last paragraph of Article 10 of the present Protocol, the obligations of the said States, in regard to the sanctions of all kinds mentioned in paragraphs 1 and 2 of Article 16 of the Covenant, will immediately become operative in order that such sanctions may forthwith be employed against the aggressor.

Those obligations shall be interpreted as obliging each of the signatory States to co-operate loyally and effectively in support of the Covenant of the League of Nations, and in resistance to any act of aggression, in the degree which its geographical position and its particular situation as regards armaments allow.

Conformément à l'alinéa 3 de l'article 16 du Pacte, les Etats signataires prennent l'engagement, individuel et collectif, de venir à l'aide de l'Etat attaqué ou menacé, et de se prêter un mutuel appui, grâce à des facilités et à des échanges réciproques en ce qui concerne le ravitaillement en matières premières et denrées de toute nature, les ouvertures de crédit, les transports et le transit et, à cet effet, de prendre toutes mesures en leur pouvoir pour maintenir la sécurité des communications terrestres et maritimes de l'Etat attaqué ou menacé.

Si les deux Parties au différend sont agresseurs au sens de l'article 10, les sanctions économiques et financières s'appliquent à l'une et à l'autre.

Article 12.

En raison de la complexité des conditions dans lesquelles le Conseil pourrait être appelé à remplir les fonctions visées à l'article 11 ci-dessus concernant les sanctions économiques et financières et pour préciser les garanties qui sont offertes par le présent Protocole aux Etats signataires, le Conseil invitera immédiatement les organisations économiques et financières de la Société des Nations à procéder à une étude et à soumettre un rapport sur la nature des dispositions à prendre pour mettre en vigueur les sanctions et mesures de coopération économique et financière, visées à l'article 16 du Pacte et à l'article 11 du présent Protocole.

En possession de ces informations, le Conseil établira par ses organismes compétents :

1^o les plans d'action destinés à faire jouer les sanctions économiques et financières contre un Etat agresseur;

2^o les plans de coopération économique et financière entre un Etat attaqué et les divers Etats lui portant assistance,

et il communiquera ces plans aux Membres de la Société et aux autres Etats signataires.

Article 13.

En égard aux sanctions militaires, navales et aériennes dont l'application éventuelle est prévue à l'article 16 du Pacte et à l'article 11 du présent Protocole, le Conseil aura qualité pour recevoir les engagements d'Etats déterminant par avance les forces militaires, navales et aériennes que ces Etats pourraient faire intervenir immédiatement afin d'assurer l'exécution des obligations dérivant à ce sujet du Pacte et du présent Protocole.

Dès que le Conseil a fait aux Etats signataires l'injonction prévue au dernier alinéa de l'article 10 ci-dessus, ces Etats peuvent en outre faire entrer en ligne, suivant les accords antérieurement faits, leurs forces militaires, navales et aériennes au secours d'un Etat particulier, victime de l'agression.

Les accords visés au précédent alinéa sont enregistrés et publiés par le Secrétariat de la Société des Nations; ils restent ouverts à tout Etat Membre de la Société, qui voudrait y accéder.

Article 14.

Le Conseil a seul qualité pour déclarer qu'il y a lieu de faire cesser l'application des sanctions et de rétablir les conditions normales.

Article 15.

Pour répondre à l'esprit du présent Protocole, les Etats signataires conviennent que la totalité des frais de toute opération d'ordre militaire, naval ou aérien, entreprise pour la répression d'une agression, conformément aux termes de ce Protocole, ainsi que la réparation de tous dommages subis par les personnes civiles ou militaires, et de tous dommages matériels occasionnés par les opérations de part et d'autre, seront supportés par l'Etat agresseur jusqu'à l'extrême limite de sa capacité.

Toutefois, vu l'article 10 du Pacte, il ne pourra, comme suite à l'application des sanctions visées au présent Protocole, être porté atteinte en aucun cas à l'intégrité territoriale ou à l'indépendance politique de l'Etat agresseur.

Article 16.

Les Etats signataires conviennent qu'en cas de différend entre un ou plusieurs parmi eux et un ou plusieurs Etats non signataires du présent Protocole étrangers à la Société des Nations, ces Etats étrangers seront invités, aux conditions prévues à l'article 17 du Pacte, à se soumettre aux obligations acceptées par les signataires du présent Protocole aux fins de règlement pacifique.

Si l'Etat invité, refusant d'accepter les dites conditions et obligations, recourt à la guerre contre un Etat signataire, les dispositions de l'article 16 du Pacte, telles qu'elles sont précisées par le présent Protocole, lui sont applicables.

Article 17.

Les Etats signataires s'engagent à prendre part à une Conférence internationale pour la réduction des armements qui devra être convoquée par le Conseil et qui se réunira à Genève le lundi 15 juin 1925. Tous autres Etats, Membres ou non de la Société, seront invités à cette Conférence.

In accordance with paragraph 3 of Article 16 of the Covenant the signatory States give a joint and several undertaking to come to the assistance of the State attacked or threatened, and to give each other mutual support by means of facilities and reciprocal exchanges as regards the provision of raw materials and supplies of every kind, openings of credits, transport and transit, and for this purpose to take all measures in their power to preserve the safety of communications by land and by sea of the attacked or threatened State.

If both parties to the dispute are aggressors within the meaning of Article 10, the economic and financial sanctions shall be applied to both of them.

Article 12.

In view of the complexity of the conditions in which the Council may be called upon to exercise the functions mentioned in Article 11 of the present Protocol concerning economic and financial sanctions, and in order to determine more exactly the guarantees afforded by the present Protocol to the signatory States, the Council shall forthwith invite the economic and financial organisations of the League of Nations to consider and report as to the nature of the steps to be taken to give effect to the financial and economic sanctions and measures of co-operation contemplated in Article 16 of the Covenant and in Article 11 of this Protocol.

When in possession of this information, the Council shall draw up through its competent organs:

1. Plans of action for the application of the economic and financial sanctions against an aggressor State;
2. Plans of economic and financial co-operation between a State attacked and the different States assisting it;

and shall communicate these plans to the Members of the League and to the other signatory States.

Article 13.

In view of the contingent military, naval and air sanctions provided for by Article 16 of the Covenant and by Article 11 of the present Protocol, the Council shall be entitled to receive undertakings from States determining in advance the military, naval and air forces which they would be able to bring into action immediately to ensure the fulfilment of the obligations in regard to sanctions which result from the Covenant and the present Protocol.

Furthermore, as soon as the Council has called upon the signatory States to apply sanctions, as provided in the last paragraph of Article 10 above, the said States may, in accordance with any agreements which they may previously have concluded, bring to the assistance of a particular State, which is the victim of aggression, their military, naval and air forces.

The agreements mentioned in the preceding paragraph shall be registered and published by the Secretariat of the League of Nations. They shall remain open to all States Members of the League which may desire to accede thereto.

Article 14.

The Council shall alone be competent to declare that the application of sanctions shall cease and normal conditions be re-established.

Article 15.

In conformity with the spirit of the present Protocol, the signatory States agree that the whole cost of any military, naval or air operations undertaken for the repression of an aggression under the terms of the Protocol, and reparation for all losses suffered by individuals, whether civilians or combatants, and for all material damage caused by the operations of both sides, shall be borne by the aggressor State up to the extreme limit of its capacity.

Nevertheless, in view of Article 10 of the Covenant, neither the territorial integrity nor the political independence of the aggressor State shall in any case be affected as the result of the application of the sanctions mentioned in the present Protocol.

Article 16.

The signatory States agree that in the event of a dispute between one or more of them and one or more States which have not signed the present Protocol and are not Members of the League of Nations, such non-Member States shall be invited, on the conditions contemplated in Article 17 of the Covenant, to submit, for the purpose of a pacific settlement, to the obligations accepted by the States signatories of the present Protocol.

If the State so invited, having refused to accept the said conditions and obligations, resorts to war against a signatory State, the provisions of Article 16 of the Covenant, as defined by the present Protocol, shall be applicable against it.

Article 17.

The signatory States undertake to participate in an International Conference for the Reduction of Armaments which shall be convened by the Council and shall meet at Geneva on Monday, June 15th, 1925. All other States, whether Members of the League or not, shall be invited to this Conference.

En vue de la convocation de la Conférence, le Conseil préparera, en tenant compte des engagements prévus aux articles 11 et 13 du présent Protocole, un programme général pour la réduction et la limitation des armements qui sera mis à la disposition de cette Conférence et communiqué aux gouvernements le plus tôt possible, et au plus tard trois mois avant la réunion.

Si au moins la majorité des Membres représentés en permanence au Conseil et dix autres Membres de la Société n'ont pas déposé leur ratification pour le 1^{er} mai 1925, le Secrétaire général de la Société devra prendre immédiatement l'avis du Conseil pour savoir s'il doit annuler les invitations ou simplement ajourner la Conférence jusqu'à ce que des ratifications aient été déposées en nombre suffisant.

Article 18.

Toutes les fois que, dans l'article 10 ou dans toutes autres dispositions du présent Protocole, il est fait mention d'une décision du Conseil, elle s'entend dans le sens de l'article 15 du Pacte, à savoir que le vote des représentants des Parties ne compte pas dans le calcul de l'unanimité ou de la majorité requise.

Article 19.

A défaut de stipulations expresses, le présent Protocole n'affecte pas les droits et les obligations des Membres de la Société des Nations, tels qu'ils résultent du Pacte.

Article 20.

Tout différend relatif à l'interprétation du présent Protocole sera soumis à la Cour permanente de Justice internationale.

Article 21.

Le présent Protocole, dont les textes français et anglais feront foi, sera ratifié.

Le dépôt des ratifications sera effectué au Secrétariat de la Société des Nations le plus tôt qu'il sera possible.

Les Etats dont le gouvernement a son siège hors d'Europe auront la faculté de se borner à faire connaître au Secrétariat de la Société des Nations que leur ratification a été donnée et, dans ce cas, ils devront en transmettre l'instrument aussitôt que faire se pourra.

Dès que la majorité des Membres représentés en permanence au Conseil et dix autres Membres de la Société auront déposé ou effectué leur ratification, un procès-verbal sera dressé par le Secrétariat pour le constater.

La mise en vigueur du Protocole aura lieu après que ce procès-verbal aura été dressé et dès que le plan de réduction des armements aura été adopté par la Conférence prévue à l'article 17.

Si, dans un délai, à fixer par ladite Conférence après l'adoption du plan de réduction des armements, ce plan n'a pas été exécuté, il appartiendra au Conseil de le constater; par l'effet de cette constatation le présent Protocole deviendra caduc.

Les conditions en vertu desquelles le Conseil pourra constater que le plan établi par la Conférence internationale pour la réduction des armements n'a pas été exécuté et que, par conséquent, le présent Protocole est devenu caduc, seront définies par la Conférence elle-même.

Tout Etat signataire qui ne se conformerait pas, après l'expiration du délai fixé par la Conférence, au plan adopté par elle, ne pourra bénéficier des dispositions du présent Protocole.

En foi de quoi les Soussignés, dûment autorisés à cet effet, ont signé le présent Protocole.

Fait à Genève, le _____ octobre, mil neuf cent vingt-quatre, en un seul exemplaire qui restera déposé dans les archives du Secrétariat de la Société des Nations et qui sera enregistré par lui à la date de son entrée en vigueur.

In preparation for the convening of the Conference, the Council shall draw up with due regard to the undertakings contained in Articles 11 and 13 of the present Protocol a general programme for the reduction and limitation of armaments, which shall be laid before the Conference and which shall be communicated to the Governments at the earliest possible date, and at the latest three months before the Conference meets.

If by May 1st, 1925, ratifications have not been deposited by at least a majority of the permanent Members of the Council and ten other Members of the League, the Secretary-General of the League shall immediately consult the Council as to whether he shall cancel the invitations or merely adjourn the Conference until a sufficient number of ratifications have been deposited.

Article 18.

Wherever mention is made in Article 10, or in any other provision of the present Protocol, of a decision of the Council, this shall be understood in the sense of Article 15 of the Covenant, namely that the votes of the representatives of the parties to the dispute shall not be counted when reckoning unanimity or the necessary majority.

Article 19.

Except as expressly provided by its terms, the present Protocol shall not affect in any way the rights and obligations of Members of the League as determined by the Covenant.

Article 20.

Any dispute as to the interpretation of the present Protocol shall be submitted to the Permanent Court of International Justice.

Article 21.

The present Protocol, of which the French and English texts are both authentic, shall be ratified.

The deposit of ratifications shall be made at the Secretariat of the League of Nations as soon as possible.

States of which the seat of government is outside Europe will be entitled merely to inform the Secretariat of the League of Nations that their ratification has been given; in that case, they must transmit the instrument of ratification as soon as possible.

So soon as the majority of the permanent Members of the Council and ten other Members of the League have deposited or have effected their ratifications, a *procès-verbal* to that effect shall be drawn up by the Secretariat.

After the said *procès-verbal* has been drawn up, the Protocol shall come into force as soon as the plan for the reduction of armaments has been adopted by the Conference provided for in Article 17.

If within such period after the adoption of the plan for the reduction of armaments as shall be fixed by the said Conference, the plan has not been carried out, the Council shall make a declaration to that effect; this declaration shall render the present Protocol null and void.

The grounds on which the Council may declare that the plan drawn up by the International Conference for the Reduction of Armaments has not been carried out, and that in consequence the present Protocol has been rendered null and void, shall be laid down by the Conference itself.

A signatory State which, after the expiration of the period fixed by the Conference, fails to comply with the plan adopted by the Conference, shall not be admitted to benefit by the provisions of the present Protocol.

In faith whereof the Undersigned, duly authorised for this purpose, have signed the present Protocol.

DONE at Geneva, on the _____ day of October, nineteen hundred and twenty-four, in a single copy, which will be kept in the archives of the Secretariat of the League and registered by it on the date of its coming into force.

[Communicated to the Council,
the Members of the League
and the Delegates at the Assembly.]

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Geneva,
October 8th, 1924.

LEAGUE OF NATIONS

ARBITRATION, SECURITY
AND
REDUCTION OF ARMAMENTS

General Report

5

submitted to the Fifth Assembly on behalf of the

FIRST AND THIRD COMMITTEES

by

M. Politis (*Greece*), *Rapporteur for the First Committee,*

and

M. Bénès (*Czechoslovakia*), *Rapporteur for the Third Committee.*

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INTRODUCTION

After being examined for several years by the Third Committee, the problem of the reduction of armaments has this year suddenly assumed a different, a wider and even an unexpected form.

Last year a draft Treaty of Mutual Assistance was prepared, which the Assembly sent to the Members of the League for their consideration. The replies from the Governments were to be examined by the Fifth Assembly.

At the very beginning of its work, however, after a memorable debate, the Assembly indicated to the Third Committee a new path. On September 6th, 1924, on the proposal of the Prime Ministers of France and Great Britain, M. Edouard Herriot and Mr. Ramsay MacDonald, the Assembly adopted the following resolution:

"The Assembly,

"Noting the declarations of the Governments represented, observes with satisfaction that they contain the basis of an understanding tending to establish a secure peace,

"Decides as follows:

"With a view to reconciling in the new proposals the divergences between certain points of view which have been expressed and, when agreement has been reached, to enable an international conference upon armaments to be summoned by the League of Nations at the earliest possible moment:

"(1) The Third Committee is requested to consider the material dealing with security and the reduction of armaments, particularly the observations of the Governments on the draft Treaty of Mutual Assistance, prepared in pursuance of Resolution XIV of the Third Assembly and other plans prepared and presented to the Secretary-General since the publication of the draft Treaty, and to examine the obligations contained in the Covenant of the League in relation to the guarantees of security which a resort to arbitration and a reduction of armaments may require:

"(2) The First Committee is requested:

"(a) To consider, in view of possible amendments, the articles in the Covenant relating to the settlement of disputes;

"(b) To examine within what limits the terms of Article 36, paragraph 2, of the Statute establishing the Permanent Court of International Justice might be rendered more precise and thereby facilitate the more general acceptance of the clause;

and thus strengthen the solidarity and the security of the nations of the world by settling by pacific means all disputes which may arise between States."

This resolution had two merits, first, that of briefly summarising all the investigations made in the last four years by the different organisations of the League in their efforts to establish peace and bring about the reduction of armaments, and, secondly, that of indicating the programme of work of the Committees in the hope that, with the aid of past experience, they would at last attain the end in view.

The Assembly had assigned to each Committee a distinct and separate task; to the First Committee, the examination of the pacific settlement of disputes by methods capable of being applied in every case; to the Third Committee, the question of the security of nations considered as a necessary preliminary condition for the reduction of their armaments.

Each Committee, after a general discussion which served to detach the essential elements from the rest of the problem, referred the examination of its programme to a Sub-Committee, which devoted a large number of meetings to this purpose.

The proposals of the Sub-Committees then led to very full debates by the Committees, which terminated in the texts analysed below.

As, however, the questions submitted respectively to the two Committees form part of an indivisible whole, contact and collaboration had to be established between the Committees by means of a Mixed Committee of nine members and finally by a joint Drafting Committee of four members.

For the same reason, the work of the Committees has resulted in a single draft protocol accompanied by two draft resolutions for which the Committees are jointly responsible.

Upon these various texts, separate reports were submitted, which, being approved by the Committees respectively responsible for them, may be considered as an official commentary by the Committees.

These separate reports have here been combined in order to present as a whole the work accomplished by the two Committees and to facilitate explanation.

Before entering upon an analysis of the proposed texts, it is expedient to recall, in a brief historical summary, the efforts of the last four years, of which the texts are the logical conclusion.

HISTORICAL STATEMENT.

The problem of the reduction of armaments is presented in Article 8 of the Covenant in terms which reveal at the outset the complexity of the question and which explain the tentative manner in which the subject has been treated by the League of Nations in the last few years.

“The Members of the League recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.”

Here we see clearly expressed the need of reducing the burden which armaments imposed upon the nations immediately after the war and of putting a stop to the competition in armaments, which was, in itself, a threat to the peace of the world. But, at the same time, there is recognised the duty of safeguarding the national security of the Members of the League and of safeguarding it, not only by the maintenance of a necessary minimum of troops, but also by the co-operation of all the nations, by a vast organisation for peace.

Such is the meaning of the Covenant, which, while providing for reduction of armaments properly so called, recognises at the same time the need of *common action*, by all the Members of the League, with a view to compelling a possible disturber of the peace to respect his *international obligations*.

Thus, in this first paragraph of Article 8, which is so short but so pregnant, mention is made of all the problems which have engaged the attention of our predecessors and ourselves and which the present Assembly has specially instructed us to solve, the problems of *collective security* and the *reduction of armaments*.

Taking up Article 8 of the Covenant, the First Assembly had already outlined a programme. At its head it placed a pronouncement of the Supreme Council:

“In order to diminish the economic difficulties of Europe, armies should everywhere be reduced to a peace footing. Armaments should be limited to the lowest possible figure compatible with national security.”

The Assembly also called attention to a resolution of the International Financial Conference of Brussels held a short time before:

“Recommending to the Council of the League of Nations the desirability of conferring at once with the several Governments concerned with a view to securing a general reduction of the crushing burdens which, on their existing scale, armaments still impose on the impoverished peoples of the world, sapping their resources and imperilling their recovery from the ravages of war.”

It also requested its two Advisory Commissions to set to work at once to collect the necessary information regarding the problem referred to in Article 8 of the Covenant.

From the beginning the work of the Temporary Mixed Commission and of the Permanent Advisory Commission revealed the infinite complexity of the question.

The Second Assembly limited its resolutions to the important, but none the less (if one may say so) secondary, questions of traffic in arms and their manufacture by private enterprise. It only touched upon the questions of military expenditure and budgets in the form of recommendations and, as regards the main question of reduction of armaments, it confined itself to asking the Temporary Mixed Commission to formulate a definite scheme.

It was between the Second and Third Assemblies that the latter Commission, which was beginning to get to grips with the various problems, revealed their constituent elements. In its report it placed on record that:

“The memory of the world war was still maintaining in many countries a feeling of insecurity, which was represented in the candid statements in which, at the request of the Assembly, several of them had put forward the requirements of their national security, and the geographical and political considerations which contributed to shape their policy in the matter of armaments.”

At the same time, however, the Commission stated:

“Consideration of these statements as a whole has clearly revealed not only the sincere desire of the Governments to reduce national armaments and the corresponding expenditure to a minimum, but also the importance of the results achieved. These facts” — according to the Commission — “are indisputable, and are confirmed, moreover, by the replies received from Governments to the Recommendation of the Assembly regarding the limitation of military expenditure.”

That is the point we had reached *two years ago*; there was a *unanimous desire to reduce armaments*. Reductions, though as yet inadequate, had been begun, and there was a *still stronger desire to ensure the security of the world* by a stable and permanent organisation for peace.

That was the position which, after long discussions, gave rise at the *Third Assembly to the famous Resolution XIV* and at the *Fourth Assembly to the draft Treaty of Mutual Assistance*, for which we are now substituting the Protocol submitted to the Fifth Assembly.

What progress has been made during these four years ?

Although the Treaty of Mutual Assistance was approved in principle by eighteen Governments, it gave rise to certain misgivings. We need only recall the most important of these, hoping that a comparison between them and an analysis of the new scheme will demonstrate that the First and Third Committees have endeavoured, with a large measure of success, to dispose of the objections raised and that the present scheme consequently represents an immense advance on anything that has hitherto been done.

In the first place, a number of Governments or delegates to the Assembly argued that the guarantees provided by the draft Treaty of Mutual Assistance did not imply with sufficient definiteness the reduction of armaments which is the ultimate object of our work.

The idea of the Treaty was to give effect to Article 8 of the Covenant, but many persons considered that it did not, in fact, secure the automatic execution of that article. Even if a reduction of armaments was achieved by its means, the amount of the reduction was left, so the opponents of the Treaty urged, to the estimation of each Government, and there was nothing to show that it would be considerable.

With equal force many States complained that no provision had been made for the development of the *juridical and moral elements of the Covenant* by the side of material guarantees. The novel character of the charter given to the nations in 1919 lay essentially in the advent of a moral solidarity which foreshadowed the coming of a new era. That principle ought to have, as its natural consequence, *the extension of arbitration and international jurisdiction*, without which no human society can be solidly grounded. A considerable portion of the Assembly asked that efforts should also be made in this direction. The draft Treaty seemed from this point of view to be insufficient and ill-balanced.

Finally, the articles relating to partial treaties gave rise, as you are aware, to certain objections. Several Governments considered that they would lead to the establishment of groups of Powers animated by hostility towards other Powers or groups of Powers and that they would cause political tension. The absence of the barriers of compulsory arbitration and judicial intervention was evident here as everywhere else.

Thus, by a logical and gradual process, there was elaborated the system at which we have now arrived.

The reduction of armaments required by the Covenant and demanded by the general situation of the world to-day led us to consider the question of security as a necessary complement to disarmament.

The support demanded from different States by other States less favourably situated had placed the former under the obligation of asking for a sort of moral and legal guarantee that the States which have to be supported would act in perfect good faith and would always endeavour to settle their disputes by pacific means.

It became evident, however, with greater clearness and force than ever before, that if the security and effective assistance demanded in the event of aggression was the *condition sine qua non* of the reduction of armaments, it was at the same time the necessary complement of the pacific settlement of international disputes, since the non-execution of a sentence obtained by pacific methods of settlement would necessarily drive the world back to the system of armed force. Sentences imperatively required sanctions or the whole system would fall to the ground.

Arbitration was therefore considered by the Fifth Assembly to be the necessary third factor, the complement of the two others with which it must be combined in order to build up the new system set forth in the Protocol.

Thus, after five years' hard work, we have decided to propose to the Members of the League the *present system of arbitration, security and reduction of armaments* -- a system which we regard as being complete and sound.

That is the position with which the Fifth Assembly has to deal to-day. The desire to arrive at a successful issue is unanimous. A great number of the decisions adopted in the past years have met with general approval. There has arisen a thoroughly clear appreciation of the undoubted gaps which have to be filled and of the reasonable apprehensions which have to be dissipated. Conditions have therefore become favourable for arriving at an agreement.

An agreement has been arrived at on the basis of the draft Protocol which is now submitted to you for consideration.

II

ANALYSIS OF THE SCHEME

1. WORK OF THE FIRST COMMITTEE

(*Rapporteur*: M. POLITIS)

Draft Protocol for the Pacific Settlement of International Disputes.

Preamble.

The object of the Protocol, which is based upon the resolution of September 6th, 1924, is to facilitate the reduction and limitation of armaments provided for in Article 8 of the Covenant of the League of Nations by guaranteeing the security of States through the development of methods for the pacific settlement of all international disputes and the effective condemnation of aggressive war.

These general ideas are summarised in the preamble of the Protocol.

COMPULSORY ARBITRATION.

(*Articles 1 to 6, 10, 16, 18 and 19 of the Protocol*)

I. INTRODUCTION.

Compulsory arbitration is the fundamental basis of the proposed system. It has seemed to be the only means of attaining the ultimate aim pursued by the League of Nations, viz. the establishment of a pacific and legal order in the relations between peoples.

The realisation of this great ideal, to which humanity aspires with a will which has never been more strongly affirmed, pre-supposes, as an indispensable condition, the elimination of war, the extension of the rule of law and the strengthening of the sentiment of justice.

The Covenant of the League of Nations erected a wall of protection around the peace of the world, but it was a first attempt at international organisation and it did not succeed in closing the circle sufficiently thoroughly to leave no opening for war. It reduced the number of possible wars. It did not condemn them all. There were some which it was forced to tolerate. Consequently, there remained, in the system which it established, numerous fissures, which constituted a grave danger to peace.

The new system of the Protocol goes further. It closes the circle drawn by the Covenant; it prohibits all wars of aggression. Henceforth no purely private war between nations will be tolerated.

This result is obtained by strengthening the pacific methods of procedure laid down in the Covenant. The Protocol completes them and extends them to all international disputes without exception, by making arbitration compulsory.

In reality, the word "arbitration" is used here in a somewhat different sense from that which it has generally had up to now. It does not exactly correspond with the definition given by the Hague Conferences which, codifying a century-old custom, saw in it "the settlement of disputes between States by judges of their own choice and on the basis of respect for law" (Article 37 of the Convention of October 18th, 1907, for the Pacific Settlement of International Disputes).

The arbitration which is now contemplated differs from this classic arbitration in various respects:

(a) It is only part of a great machinery of pacific settlement. It is set up under the auspices and direction of the Council of the League of Nations.

(b) It is not only an instrument for the administration of justice. It is, in addition and above all, an instrument of peace. The arbitrators must no doubt seek in the first place to apply the rules and principles of international law. This is the reason why, as will be seen below, they are bound to consult the Permanent Court of International Justice if one of the parties so requests. But if international law furnishes no rule or principle applicable to the particular case, they cannot, like ordinary arbitrators, refuse to give a decision. They are bound to proceed on grounds of equity, for in our system arbitration is always of necessity to lead to a definitive solution of the dispute. This is not to be regretted, for to ensure the respect of law by nations it is necessary first that they should be assured of peace.

(c) It does not rest solely upon the loyalty and good faith of the parties. To the moral and legal force of an ordinary arbitration is added the actual force derived from the international organisation of which the kind of arbitration in question forms one of the principal elements; the absence of a sanction which has impeded the development of compulsory arbitration is done away with under our system.

In the system of the Protocol, the obligation to submit disputes to arbitration is sound and practical because it has always a sanction. Its application is automatically ensured, by means of the intervention of the Council; in no case can it be thrown on one side through the ill-will of one of the disputant States. The awards to which it leads are always accompanied by a sanction, adapted to the circumstances of the case and more or less severe according to the degree of resistance offered to the execution of the sentence.

2. NATURE OF THE RULES OF THE PROTOCOL.

Article 1.

The rules laid down in the Protocol do not all have the same scope or value for the future.

As soon as the Protocol comes into force, its provisions will become compulsory as between the signatory States, and in its dealings with them the Council of the League of Nations will at once be able to exercise all the rights and fulfil all the duties conferred upon it.

As between the States Members of the League of Nations, the Protocol may in the first instance create a dual regime, for, if it is not immediately accepted by them all, the relations between signatories and non-signatories will still be governed by the Covenant alone while the relations between signatories will be governed by the Protocol as well.

But this situation cannot last. Apart from the fact that it may be hoped that all Members of the League will adhere to it, the Protocol is in no sense designed to create among the States which accept it a restricted League capable of competing with or opposing in any way the existing League. On the contrary, such of its provisions as relate to articles of the Covenant will, as soon as possible, be made part of the general law by amendment of the Covenant effected in accordance with the procedure for revision laid down in Article 26 thereof. The signatory States which are Members of the League of Nations undertake to make every effort to this end.

When the Covenant has been amended in this way, some parts of the Protocol will lose their value as between the said States: some of them will have enriched the Covenant, while others, being temporary in character, will have lost their object.

The whole Protocol will remain applicable to relations between signatory States which are Members of the League of Nations and signatory States outside the League, or between States coming within the latter category.

It should be added that, as the League realises its aim of universality, the amended Covenant will take the place, as regards all States, of the separate regime of the Protocol.

3. CONDEMNATION OF AGGRESSIVE WAR.

Article 2.

The general principle of the Protocol is the prohibition of aggressive war.

Under the Covenant, while the old unlimited right of States to make war is restricted, it is not abolished. There are cases in which the exercise of this right is tolerated; some wars are prohibited and others are legitimate.

In future the position will be different. In no case is any State signatory of the Protocol entitled to undertake on its own sole initiative an offensive war against another signatory State or against any non-signatory State which accepts all the obligations assumed by the signatories under the Protocol.

The prohibition affects only aggressive war. It does not, of course, extend to defensive war. The right of legitimate self-defence continues, as it must, to be respected. The State attacked retains complete liberty to resist by all means in its power any acts of aggression of which it may be the victim. Without waiting for the assistance which it is entitled to receive from the international community, it may and should at once defend itself with its own force. Its interests are identified with the general interest. This is a point on which there can be no doubt.

The same applies when a country employs force with the consent of the Council or the Assembly of the League of Nations under the provisions of the Covenant and the Protocol. This eventuality may arise in two classes of cases: either a State may take part in the collective measures of force decided upon by the League of Nations in aid of one of its Members which is the victim of aggression; or a State may employ force with the authorisation of the Council or the Assembly in order to enforce a decision given in its favour. In the former case, the assistance given to the victim of aggression is indirectly an act of legitimate self-defence. In the latter, force is used in the service of the general interest, which would be threatened if decisions reached by a pacific procedure could be violated with impunity. In all these cases the country resorting to war is not acting on its private initiative but is in a sense the agent and the organ of the community.

It is for this reason that we have not hesitated to speak of the exceptional authorisation of war. It has been proposed that the word "force" should be used in order to avoid any mention of "war"—in order to spare the public that disappointment which it might feel when it found that, notwithstanding the solemn condemnation of war, war was still authorised in exceptional cases. We preferred, however, to recognise the position frankly by retaining the expression "resort to war" which is used in the Covenant. If we said "force" instead of "war", we should not be

altering the facts in any way. Moreover, the confession that war is still possible in specific cases has a certain value, because the term describes a definite and well-understood situation, whereas the expression "resort to force" would be liable to be misunderstood, and also because it emphasises the value of the sanctions at the disposal of the community of States bound by the Protocol.

4. COMPULSORY JURISDICTION OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE.

Article 3.

The general principle of the Protocol could not be accepted unless the pacific settlement of all international disputes without distinction were made possible.

This solution has been found, in the first place, in the extension of the compulsory jurisdiction of the Permanent Court of International Justice.

According to its Statute, the jurisdiction of the Court is, in principle, optional. On the other hand, Article 36, paragraph 2, of the Statute, offers States the opportunity of making the jurisdiction compulsory in respect of all or any of the classes of legal disputes affecting: (a) the interpretation of a Treaty; (b) any question of international law; (c) the existence of any fact which, if established, would constitute a breach of an international obligation; (d) the nature or extent of the reparation to be made for the breach of an international obligation. States have only to declare their intention through the special Protocol annexed to the Statute. The undertaking then holds good in respect of any other State which assumes the same obligation. It may be given either unconditionally or on condition of reciprocity on the part of several or certain other States; either permanently or for a fixed period.

So far such compulsory jurisdiction has only been accepted by a small number of countries. The majority of States have abstained because they did not see their way to accept compulsory jurisdiction by the Court in certain cases falling within one or another of the classes of dispute enumerated above, and because they were not sure whether, in accepting, they could make reservations to that effect.

It was for this reason that the Assembly in its resolution of September 6th, requested the First Committee to render more precise the terms of Article 36, paragraph 2, in order to facilitate its acceptance.

Careful consideration of the article has shown that it is sufficiently elastic to allow of all kinds of reservations. Since it is open to the States to accept compulsory jurisdiction by the Court in respect of certain of the classes of dispute mentioned and not to accept it in respect of the rest, it is also open to them only to accept it in respect of a portion of one of those classes; rights need not be exercised in their full extent. In giving the undertaking in question, therefore, States are free to declare that it will not be regarded as operative in those cases in which they consider it to be inadmissible.

We can imagine possible and therefore legitimate, reservations either in connection with a certain class of dispute or, generally speaking, in regard to the precise stage at which the dispute may be laid before the Court. While we cannot here enumerate all the conceivable reservations, it may be worth while to mention merely as examples those to which we referred in the course of our discussions.

From the class of disputes relating to "the interpretation of a treaty" there may be excluded, for example, disputes as to the interpretation of certain specified classes of treaty such as political treaties, peace treaties, etc.

From the class of disputes relating to "any point of international law" there may be excluded, for example, disputes as to the application of a political treaty, a peace treaty, etc., or as to any specified question or disputes which might arise as the outcome of hostilities initiated by one of the signatory States in agreement with the Council or the Assembly of the League of Nations.

Again, there are many possible reservations as to the precise stage at which a dispute may be laid before the Court. The most far-reaching of these would be to make the resort to the Court in connection with every dispute in respect of which its compulsory jurisdiction is recognised contingent upon the establishment of an agreement for submission of the case which, failing agreement between the parties, would be drawn up by the Court itself, the analogy of the provisions of the Hague Convention of 1907 dealing with the Permanent Court of Arbitration being thus followed.

It might also be stated that the recognition of the compulsory jurisdiction of the Court does not prevent the parties to the dispute from agreeing to resort to a preliminary conciliation procedure before the Council of the League of Nations or any other body selected by them, or to submit their disputes to arbitration in preference to going before the Court.

A State might also, while accepting compulsory jurisdiction by the Court, reserve the right of laying disputes before the Council of the League with a view to conciliation in accordance with paragraphs 1-3 of Article 15 of the Covenant, with the proviso that neither party might, during the proceedings before the Council, take proceedings against the other in the Court.

It will be seen, therefore, that there is a very wide range of reservations which may be made in connection with the undertaking referred to in Article 36, paragraph 2. It is possible that apprehensions may arise lest the right to make reservations should destroy the practical value of the undertaking. There seems, however, to be no justification for such misgivings. In the first place, it is to be hoped that every Government will confine its reservations to what is absolutely essential. Secondly, it must be recognised that, however restrictive the scope of the undertaking may be, it will always be better than no undertaking at all.

The fact that the signatory States undertake to accede, even though it be with reservations, to paragraph 2 of Article 36 may therefore be held to constitute a great advance.

Such accession must take place at latest within the month following upon the coming into force or subsequent acceptance of the Protocol.

It goes without saying that such accession in no way restricts the liberty which States possess, under the ordinary law, of concluding special agreements for arbitration. It is entirely open to any two countries signatory of the Protocol which have acceded to paragraph 2 of Article 36 to extend still further, as between themselves, the compulsory jurisdiction of the Court, or to stipulate that before having recourse to its jurisdiction they will submit their disputes to a special procedure of conciliation or even to stipulate, either before or after a dispute has arisen, that it shall be brought before a special tribunal of arbitrators or before the Council of the League of Nations rather than to the Court.

It is also certain that up to the time of the coming into force or acceptance of the Protocol accession to paragraph 2 of Article 36, which will thenceforth become compulsory, will remain optional, and that if such accession has already taken place it will continue to be valid in accordance with the terms under which it was made.

The only point which may cause difficulty is the question what is the effect of accessions given to the Protocol if the latter becomes null and void. It may be asked whether such accessions are to be regarded as so intimately bound up with the Protocol that they must disappear with it. The reply must be in the negative. The sound rule of interpretation of international treaties is that, unless there is express provision to the contrary, effects already produced survive the act from which they sprang.

The natural corollary is that any State which wishes to make the duration of its accession to Article 36 dependent on the duration of the Protocol must make an express stipulation to this effect. As Article 36 permits acceptance of the engagement in question for a specified term only, a State may, when acceding, stipulate that it only undertakes to be bound during such time as the Protocol shall remain in force.

5. STRENGTHENING OF PACIFIC METHODS OF PROCEDURE.

Article 4.

We have, in the second place, succeeded in making possible the pacific settlement of all disputes by strengthening the procedure laid down in the Covenant.

Article 4, paragraph 1.

Action by the Council with a view to reconciliation. If a dispute does not come within the compulsory jurisdiction of the Permanent Court of International Justice and if the Parties have been unable to come to an agreement to refer it to the Court or to submit it to arbitration, it should, under the terms of Article 15 of the Covenant, be submitted to the Council, which will endeavour to secure a settlement by reconciling the parties. If the Council's efforts are successful, it must, so far as it considers it advisable, make public a statement giving such facts and explanations regarding the dispute and the terms of settlement thereof as it may deem appropriate.

In this connection no change has been made in the procedure laid down by the Covenant. It appeared unnecessary to specify what particular procedure should be followed. The Council is given the utmost latitude in choosing the means most appropriate for the reconciliation of the parties. It may take advice in various quarters; it may hear expert opinions; it may proceed to investigations or expert enquiries, whether by itself or through the intermediary of experts chosen by it; it may even, upon application by one of the parties, constitute a special conciliation committee. The essential point is to secure, if possible, a friendly settlement of the dispute; the actual methods to be employed are of small importance. It is imperative that nothing should in any way hamper the Council's work in the interests of peace. It is for the Council to examine the question whether it would be expedient to draw up for its own use and bring to the notice of the Governments of the signatory States general regulations of procedure applicable to cases brought before it and designed to test the goodwill of the parties with a view to persuading them more easily to reach a settlement under its auspices.

Experience alone can show whether it will be necessary to develop the rules laid down in the first three paragraphs of Article 15 of the Covenant.

For the moment it would appear to be expedient to make no addition and to have full confidence in the wisdom of the Council, it being understood that, whether at the moment in question or at any other stage of the procedure, it will be open to the parties to come to an agreement for some different method of settlement: by way of direct understanding, constitution of a special committee of mediators or conciliators, appeal to arbitration or to the Permanent Court of International Justice.

The new procedure set up by the Protocol will be applicable only in the event of the Council's failing in its efforts at reconciliation and of the parties failing to come to an understanding in regard to the method of settlement to be adopted.

In such case, before going further, the Council must call upon the parties to submit their dispute to judicial settlement or to arbitration.

It is only in the case where this appeal — which the Council will make in the manner which appears to it most likely to secure a favourable hearing — is not listened to that the procedure will acquire the compulsory character which is necessary to make certain the final settlement of all disputes.

There are three alternatives:

- (a) Compulsory arbitration at the request of one of the parties;
- (b) A unanimous decision by the Council;
- (c) Compulsory arbitration enjoined by the Council.

Appropriate methods are laid down for all three cases.

Article 4, paragraph 2

First case of Compulsory Arbitration. — If the parties, being called upon by the Council to submit their dispute to a judicial or arbitral settlement, do not succeed in coming to an agreement on the subject, there is no question of optional arbitration, but if a single party desires arbitration, arbitration immediately becomes compulsory.

The dispute is then *ipso facto* referred to a Committee of Arbitrators, which must be constituted within such time limit as the Council shall fix.

Full liberty is left to the parties themselves to constitute this Committee of Arbitrators. They may agree between themselves in regard to the number, names and powers of the arbitrators and the procedure. It is to be understood that the word "powers" is to be taken in the widest sense, including, *inter alia*, the questions to be put.

It was not considered desirable to develop this idea further. It appeared to be sufficient to state that any result which could be obtained by means of an agreement between the parties was preferable to any other solution.

It also appeared inexpedient to define precisely the powers which should be conferred upon the arbitrators. This is a matter which depends upon the circumstances of each particular case. According to the case, the arbitrators, as is said above, may fill the rôle of judges giving decisions of pure law or may have the function of arranging an amicable settlement with power to take account of considerations of equity.

It has not been thought necessary to lay this down in the form of a rule. It has appeared preferable to leave it in each case to the parties to agree between themselves to decide the matter according to the circumstances of the case.

Nevertheless, consideration has been given to the possibility that the arbitrators need not necessarily be jurists. It has therefore been decided that, when called upon to deal with points of law, they shall, if one of the parties so desires, request, through the medium of the Council, the advisory opinion of the Permanent Court of International Justice, which must, in such a case, meet with the utmost possible despatch. The opinion of the Court is obtained for the assistance of the arbitrators; it is not legally binding upon them, although its scientific authority must, in all cases, exercise a strong influence upon their judgment. With a view to preventing abusively frequent consultations of this kind, it is understood that the opinion of the Court in regard to disputed points of law can only be asked on a single occasion in the course of each case.

The extension which, in the new system of pacific settlement of disputes, has been given to the advisory procedure of the Court has suggested the idea that it might be desirable to examine whether, even in such cases, it might not be well to adopt the system of adding national judges which at present only obtains in litigious proceedings, and also that of applying to the advisory procedure the provisions of Article 24 of the Statute of the Court relating to withdrawal of judges.

If the parties have not been able to come to an understanding on all or on some of the points necessary to enable the arbitration to be carried out, it lies with the Council to settle the unsettled points, with the exception of the formulation of the questions to be answered, which the arbitrators must seek in the claims set out by the parties or by one of them if the others make default.

In cases where the selection of arbitrators thus falls upon the Council, it has appeared necessary — however much confidence may be felt in the Council's wisdom — to lay down for the selection of the arbitrators certain rules calculated to give the arbitration the necessary moral authority to ensure that it will in practice be respected.

The first rule is that the Council shall, before proceeding to the selection of arbitrators, have regard to the wishes of the parties. It was suggested that this idea should be developed by conferring on the parties the right to indicate their preferences and to challenge a certain number of the arbitrators proposed by the Council.

This proposal was set aside on account of the difficulty of laying down detailed regulations for the exercise of this double right. But it is understood that the Council will have no motive for failing to accept the candidates proposed to it by the different parties nor for imposing upon them arbitrators whom they might wish to reject, nor, finally, for failing to take into account any other suggestion which the parties might wish to make. It is indeed evident that the Council will always be desirous of acting in the manner best calculated to increase to the utmost degree the confidence which the Committee of Arbitrators should inspire in the parties.

The second rule is based on the same point of view. It lays down the right of the Council to select the arbitrators and their president from among persons who, by their nationality, their personal character and their experience, appear to furnish the highest guarantees of competence and impartiality.

Here, too, experience will show whether it would be well for the Council to draw up general regulations for the composition and functioning of the compulsory arbitration now in question and of that above referred to, and for the conciliation procedure in the Council itself. Such regulations would be made for the Council's own use but would be communicated to the Governments of the signatory States.

Article 4, paragraph 3.

Unanimous decision by the Council. If arbitration is refused by both parties, the case will be referred back to the Council, but this time it will acquire a special character. Refusal of arbitration implies the consent of both parties to a final settlement of the dispute by the Council. It implies recognition of an exceptional jurisdiction of the Council. It denotes that the parties prefer the Council's decision to an arbitral award.

Resuming the examination of the question, the Council has not only the latitude which it customarily possesses. It is armed with full powers to settle the question finally and irrevocably

if it is unanimous. Its decision, given unanimously by all the members other than those representing parties to the dispute, is imposed upon the parties with the same weight and the same force as the arbitration award which it replaces.

Article 4, paragraph 4.

1. *Second case of Compulsory Arbitration.* If the Council does not arrive at a unanimous decision, it has to submit the dispute to the judgment of a Committee of Arbitrators, but this time, owing to the parties being deemed to have handed their case over to the Council, the organisation of the arbitration procedure is taken entirely out of their hands. It will be for the Council to settle all the details, the composition, the powers and the procedure of the Committee of Arbitrators. The Council is of course at liberty to hear the parties and even to invite suggestions from them, but it is under no obligation to do so. The only regulation with which it must comply is that, in the choice of arbitrators, it must bear in mind the guarantees of competence and impartiality which, by their nationality, their personal character and their experience, these arbitrators must always furnish.

Article 4, paragraph 6.

Effect of, and Sanction enforcing, Decisions. Failing a friendly arrangement, we are, thanks to the system adopted, in all cases certain of arriving at a final solution of a dispute, whether in the form of a decree of the Permanent Court of International Justice or in the form of an arbitral award or, lastly, in the form of a unanimous decision of the Council.

To this solution the parties are compelled to submit. They must put it into execution or comply with it in good faith.

If they do not do so, they are breaking an engagement entered into towards the other signatories of the Protocol, and this breach involves consequences and sanctions according to the degree of gravity of the case.

If the recalcitrant party confines itself to offering passive resistance to the solution arrived at, it will first be the object of pacific pressure from the Council, which must exercise all its influence to persuade it to respect its engagements. If the Council is unsuccessful, it must propose measures calculated to ensure effect being given to the decision.

On this point the Protocol has been guided solely by the regulation contained at the end of Article 13 of the Covenant. The Council may thus institute against the recalcitrant party collective sanctions of an economic and financial order. It is to be supposed that such sanctions will prove sufficient. It has not appeared possible to go further and to employ force against a State which is not itself resorting to force. The party in favour of which the decision has been given might, however, employ force against the recalcitrant party if authorised to do so by the Council.

But if the State against which the decision has been given takes up arms in resistance thereto, thereby becoming an aggressor against the combined signatories, it deserves even the severe sanctions provided in Article 16 of the Covenant, interpreted in the manner indicated in the present Protocol.

Sphere of Application of Methods of Pacific Procedure. Necessary as the system which we have laid down is for the purpose of ensuring settlement of all disputes, in applying it, the pacific aim which underlies it must be the only guide. It must not be diverted to other purposes and used as an occasion for chicanery and tendentious proceedings by which the cause of peace would lose rather than gain.

A few exceptions to the rule have also had to be made in order to preserve the elasticity of the system. These are cases in which the claimant must be non-suited, the claim being one which has to be rejected *in limine* by the Council, the Permanent Court of International Justice or the arbitrators, as the case may be.

The disputes to which the system will not apply are of three kinds:

Article 4, paragraph 5.

1. The first concerns disputes relating to questions which, at some time prior to the entry into force of the Protocol, have been the subject of a unanimous recommendation by the Council accepted by one of the parties concerned. It is essential to international order and to the prestige of the Council that its unanimous recommendations, which confer a right upon the State accepting them, shall not be called into question again by means of a procedure based upon compulsory arbitration. Failing a friendly arrangement, the only way which lies open for the settlement of disputes to which these recommendations may give rise is recourse to the Council in accordance with the procedure at present laid down in the Covenant.

Article 4, paragraph 7.

2. The same applies to disputes which arise as the result of measures of war taken by one or more signatory States in agreement with the Council or the Assembly of the League of Nations. It would certainly not be admissible that compulsory arbitration should become a weapon in the hands of an enemy to the community to be used against the freedom of action of those who, in the general interest, seek to impose upon that enemy respect for his engagements.

In order to avoid all difficulty of interpretation, these first two classes of exceptions have been formally stated in the Protocol.

3. There is a third class of disputes to which the new system of pacific settlement can also not be applied. These are disputes which aim at revising treaties and international acts in force, or which seek to jeopardise the existing territorial integrity of signatory States. The proposal was made to include these exceptions in the Protocol, but the two Committees were

unanimous in considering that, both from the legal and from the political point of view, the impossibility of applying compulsory arbitration to such cases was so obvious that it was quite superfluous to make them the subject of a special provision. It was thought sufficient to mention them in this report.

6. ROLE OF THE ASSEMBLY UNDER THE SYSTEM SET UP BY THE PROTOCOL.

Article 6.

The new procedure should be adapted to the old one, which gave the Assembly the same powers as the Council when a dispute is brought before it, either by the Council itself or at the request of one of the parties.

The question has arisen whether the system of maintaining in the new procedure this equality of powers between the two organs of the League of Nations is a practical one. Some were of opinion that it would be better to exclude intervention by the Assembly. Finally, however, the opposite opinion prevailed; an appeal to the Assembly may, indeed, have an important influence from the point of view of public opinion. Without going so far as to assign to the Assembly the same rôle as to the Council, it has been decided to adopt a mixed system by which the Assembly is, in principle, substituted for the Council in order that, when a dispute is referred to it in conformity with paragraph 9 of Article 15 of the Covenant, it may undertake, in the place of the Council, the various duties provided for in Article 4 of the present Protocol with the exception of purely executive acts which will always devolve upon the Council. For example, the organisation and management of compulsory arbitration, or the transmission of a question to the Permanent Court of International Justice, must always be entrusted to the Council, because, in practice, the latter is the only body qualified for such purposes.

The possible intervention of the Assembly does not affect in any way the final result of the new procedure. If the Assembly does not succeed in conciliating the parties and if one of them so requests, compulsory arbitration will be arranged by the Council in accordance with the rules laid down beforehand.

If none of the parties asks for arbitration, the matter is referred back to the Assembly, and if the solution recommended by the Assembly obtains the majority required under paragraph 10 of Article 15 of the Covenant, it has the same value as a unanimous decision of the Council.

Lastly, if the necessary majority is not obtained, the dispute is submitted to a compulsory arbitration organised by the Council.

In any event, as in the case where the Council alone intervenes, a definitive and binding solution of the dispute is reached.

7. DOMESTIC JURISDICTION OF STATES.

Article 5.

The present Protocol in no way derogates from the rule of Article 15, paragraph 8, of the Covenant, which protects national sovereignty.

In order that there might be no doubt on this point, it appeared advisable to say so expressly

Before the Council, whatever be the stage in the procedure set up by the Protocol at which the Council intervenes, the provision referred to applies without any modification.

The rule is applied also to both cases of compulsory arbitration. If one of the States parties to the dispute claims that the dispute or part thereof arises out of a matter which by international law is solely within its jurisdiction, the arbitrators must on this point take the advice of the Permanent Court of International Justice through the medium of the Council, for the question thus put in issue is a legal question upon which a judicial opinion should be obtained.

The Court will thus have to give a decision as to whether the question in dispute is governed by international law or whether it falls within the domestic jurisdiction of the State concerned. Its functions will be limited to this point and the question will in any event be referred back to the arbitrators. But, unlike other opinions requested of the Court in the course of a compulsory arbitration—opinions which for the arbitrators are purely advisory—in the present case the opinion of the Court is compulsory in the sense that, if the Court has recognised that the question in dispute falls entirely within the domestic jurisdiction of the State concerned, the arbitrators will simply have to register this conclusion in their award. It is only if the Court holds that the question in dispute is governed by international law that the arbitrators will again take the case under consideration in order to give a decision upon its substance.

The compulsory character of the Court's opinion, in this case, increases the importance of the double question referred to above, in connection with Article 4, relating to the calling-in of national judges, and the application of Article 24 of the Statute of the Court in matters of advisory procedure.

While the principle of Article 15, paragraph 8, of the Covenant is maintained, it has been necessary, in order to make its application more flexible, to call in aid the rule contained in Article 11 of the Covenant, which makes it the duty of the League of Nations, in the event of war or a threat of war, to "take any action that may be deemed wise and effective to safeguard the peace of nations", and obliges the Secretary-General to summon forthwith a meeting of the Council on the request of any Member of the League. It is in this way understood that when it has been recognised that a dispute arises out of a matter which is solely within the domestic jurisdiction of one of the parties, that party or its opponent will be fully entitled to call upon the Council or the Assembly to act,

There is nothing new in this simple reference to Article 11. It leaves unimpaired the right of the Council to take such action as it may deem wise and effectual to safeguard the peace of nations. It does not confer new powers or functions on either the Council or the Assembly. Both these organs of the League simply retain the powers now conferred upon them by the Covenant.

In order to dispel any doubt which may arise from the parallel which has been drawn between Article 15, paragraph 8, and Article 11 of the Covenant, a very clear explanation was given in the course of the discussion in the First Committee.

Where a dispute is submitted to the Council under Article 15 and it is claimed by one party that the dispute arises out of a matter left exclusively within its domestic jurisdiction by international law, paragraph 8 prevents the Council from making any recommendations upon the subject if it holds that the contention raised by the party is correct and that the dispute does in fact arise out of a matter exclusively within that State's jurisdiction.

The effect of this paragraph is that the Council cannot make any recommendation in the technical sense in which that term is used in Article 15, that is to say, it cannot make, even by unanimous report, recommendations which become binding on the parties in virtue of paragraph 6.

Unanimity for the purpose of Article 15 implies a report concurred in by all the members of the Council other than the parties to the dispute. Only a report so concurred in is one which the parties to the dispute are bound to observe, in the sense that, if they resort to war with any party which complies with the recommendations, it will constitute a breach of Article 16 of the Covenant and will set in play the sanctions which are there referred to.

On the other hand, Article 11 is of different scope: first, it operates only in time of war or threat of war; secondly, it confers no right on the Council or on the Assembly to impose any solution of a dispute without the consent of the parties. Action taken by the Council or the Assembly under this article cannot become binding on the parties to the dispute in the sense in which recommendations under Article 15 become binding, unless they have themselves concurred in it.

One last point should be made clear. The reference which is made to Article 11 of the Covenant holds good only in the eventuality contemplated in Article 15, paragraph 8, of the Covenant. It is obvious that when a unanimous decision of the Council or an arbitral award has been given upon the substance of a dispute, that dispute is finally settled and cannot again be brought either directly or indirectly under discussion. Article 11 of the Covenant does not deal with situations which are covered by rules of law capable of application by a judge. It applies only to cases which are not yet regulated by international law. In fact, it demonstrates the existence of loop-holes in the law.

The reference to Article 11 in two of the articles of the Protocol (Articles 5 and 10) has advantages beyond those to which attention is drawn in the commentary on the text of those articles. It will be an incitement to science to clear the ground for the work which the League of Nations will one day have to undertake with a view to bringing about, through the development of the rules of international law, a closer reconciliation between the individual interests of its Members and the universal interests which it is designed to serve.

8. DETERMINATION OF THE AGGRESSOR.

Article 10.

In order that the procedure of pacific settlement may be accompanied by the necessary sanctions, it has been necessary to provide for determining exactly the State guilty of aggression to which sanctions are to be applied.

This question is a very complex one, and in the earlier work of the League the military experts and jurists who had had to deal with it found it extremely difficult.

There are two aspects to the problem: first, aggression has to be defined, and, secondly, its existence has to be ascertained.

The definition of aggression is a relatively easy matter, for it is sufficient to say that any State is the aggressor which resorts in any shape or form to force in violation of the engagements contracted by it either under the Covenant (if, for instance, being a Member of the League of Nations, it has not respected the territorial integrity or political independence of another Member of the League) or under the present Protocol (if, for instance, being a signatory of the Protocol, it has refused to conform to an arbitral award or to a unanimous decision of the Council). This is the effect of Article 10, which also adds that the violation of the rules laid down for a demilitarised zone is to be regarded as equivalent to resort to war. The text refers to resort to war, but it was understood during the discussion that, while mention was made of the most serious and striking instance, it was in accordance with the spirit of the Protocol that acts of violence and force, which possibly may not constitute an actual state of war, should nevertheless be taken into consideration by the Council.

On the contrary, to ascertain the existence of aggression is a very difficult matter, for although the first of the two elements which together constitute aggression, namely, the violation of an engagement, is easy to verify, the second, namely, resort to force, is not an easy matter to ascertain. When one country attacks another, the latter necessarily defends itself, and when hostilities are in progress on both sides, the question arises which party began them.

This is a question of fact concerning which opinions may differ.

The first idea which occurs to the mind is to make it the duty of the Council to determine who is the aggressor. But, immediately, the question arises whether the Council must decide this question unanimously, or whether a majority vote would suffice. There are serious disadvantages in both solutions and they are therefore unacceptable.

To insist upon a unanimous decision of the Council exposes the State attacked to the loss of those definite guarantees to which it is entitled, if one single Member of the Council— be it in good

faith or otherwise — insists on adhering to an interpretation of the facts different from that of all his colleagues. It is impossible to admit that the very existence of a nation should be subject to such a hazard. It is not sufficient to point out that the Council would be bound to declare the existence of aggression in an obvious case and that it could not fail to carry out its duty. The duty would be a duty without a sanction and if by any chance the Council were not to do its duty, the State attacked would be deprived of all guarantees.

But it would also be dangerous to rely on a majority vote of the Council. In that case, the danger would be incurred by the State called upon to furnish assistance and to support the heavy burden of common action, if it still entertained some doubt as to the guilt of the country against which it had to take action. Such a country would run the risk of having to conform to a decision with which it did not agree.

The only escape from this dilemma appeared to lie in some automatic procedure which would not necessarily be based on a decision of the Council. After examining the difficulty and discussing it in all its aspects, the First Committee believes that it has found the solution in the idea of a presumption which shall hold good until the contrary has been established by a unanimous decision of the Council.

The Committee is of opinion that this presumption arises in three cases, namely, when a resort to war is accompanied:

By a refusal to accept the procedure of pacific settlement or to submit to the decision resulting therefrom;

By violation of provisional measures enjoined by the Council as contemplated by Article 7 of the Protocol;

Or by disregard of a decision recognising that the dispute arises out of a matter which lies exclusively within the domestic jurisdiction of the other party and by failure or by refusal to submit the question first to the Council or the Assembly.

In these cases, even if there is not absolute certainty, there exists at any rate a very strong presumption which should suffice for the application of sanctions unless proof to the contrary has been furnished by a unanimous decision of the Council.

It will be noticed that there is a characteristic difference between the first two cases and the third.

In the first two cases the presumption exists when, in addition to a state of war, the special condition referred to is also fulfilled.

In the third case, however, the presumption is dependent upon three conditions: disobedience to a decision, wilful failure to take advantage of the remedy provided in Article 11 of the Covenant, and the existence of a state of war.

This difference is due to the necessity of taking into account the provisions of Article 5 analysed above, which, by its reference to Article 11 of the Covenant, renders the application of paragraph 8 of Article 15 of the Covenant more flexible. After very careful consideration it appeared that it would be unreasonable and unjust to regard as *ipso facto* an aggressor a State which, being prevented through the operation of paragraph 8 of Article 15 from urging its claims by pacific methods and being thus left to its own resources, is in despair driven to war.

It was considered to be more in harmony with the requirements of justice and peace to give such a State which has been non-suited on the preliminary question of the domestic jurisdiction of its adversary, a last chance of arriving at an amicable agreement by offering it the final method of conciliation prescribed in Article 11 of the Covenant. It is only if, after rejecting this method, it has recourse to war that it will be presumed to be an aggressor.

This mitigation of the rigid character of paragraph 8 of Article 15 has been accepted, not only because it is just, but also because it opens no breach in the barrier set up by the Protocol against aggressive war: it in no way infringes the principle — which remains unshaken — that a war undertaken against a State whose exclusive jurisdiction has been formally recognised is an international crime to be avenged collectively by the signatories of the Protocol.

When a State whose demands have been met with the plea of the domestic jurisdiction of its adversary has employed the resource provided for in Article 11 of the Covenant, the presumption of aggression falls to the ground. The aggression itself remains. It will be for the Council to decide who is responsible for the aggression in accordance with the procedure which will be described below.

Apart from the above cases, there exists no presumption which can make it possible automatically to determine who is the aggressor. But this fact must be determined, and, if no other solution can be found, the decision must be left to the Council. The same principle applies where one of the parties is a State which is not a signatory of the Protocol and not a Member of the League.

If the Council is unanimous, no difficulty arises. If, however, the Council is not unanimous, the difficulty is to be overcome by directing that the Council must enjoin upon the belligerents an armistice the terms of which it will fix if need be by a two-thirds majority and the party which rejects the armistice or violates it is to be held to be an aggressor.

The system is therefore complete and is as automatic as it can be made.

Where a presumption has arisen and is not rejected by a unanimous decision of the Council, the facts themselves decide who is an aggressor; no further decision by the Council is needed and the question of unanimity or majority does not present itself; the facts once established, the Council is bound to act accordingly.

Where there is no presumption, the Council has to declare the fact of aggression; a decision is necessary and must be taken unanimously. If unanimity is not obtained, the Council is bound to enjoin an armistice, and for this purpose no decision properly speaking has to be taken: there exists an obligation which the Council must fulfil; it is only the fixing of the terms of the armistice which necessitates a decision, and for this purpose a two-thirds majority suffices.

It was proposed to declare that, in cases of extreme urgency, the Council might determine the aggressor, or fix the conditions of an armistice, without waiting for the arrival of the representative which a party not represented among its members has been invited to send under the terms of paragraph 5 of Article 4 of the Covenant.

It seemed preferable, however, not to lay down any rule on this matter at present but to ask the special Committee which the Council is to appoint for the drafting of amendments to the Covenant on the lines of the Protocol, to consider whether such a rule is really necessary.

It may in fact be thought that the Council already possesses all the necessary powers in this matter and that, in cases of extreme urgency, if the State invited to send a representative is too far distant from the seat of the Council, that body may decide that the representative shall be chosen from persons near at hand and shall attend the meeting within a prescribed period, on the expiry of which the matter may be considered in his absence.

The fact of aggression having been established by presumption or by unanimous decision of the Council or by refusal to accept or violation of the armistice, it will only remain to apply the sanctions and bring into play the obligations of the guarantor States. The Council will merely call upon them to fulfil their duty; here, again, there is no decision to be taken but an obligation to be fulfilled, and the question of majority or unanimous vote does not arise.

It is not, indeed, a matter of voting at all.

In order to leave no room for doubt, it has been formally laid down that a State which, at the invitation of the Council, engages in acts of violence against an aggressor is in the legal position of a belligerent and may consequently exercise the rights inherent in that character.

It was pointed out in the course of the discussion that such a State does not possess entire freedom of action. The force employed by it must be proportionate to the object in view and must be exercised within the limits and under the conditions recommended by the Council.

Article 18.

Likewise, in order to avoid any misunderstanding, it has been stipulated, in a special Article, that unanimity or the necessary majority in the Council is always calculated according to the rule referred to on several occasions in Article 15 of the Covenant and repeated in Article 16 of the Covenant for the case of expulsion of a Member from the League, viz., without counting the votes of the representatives of the parties to the dispute.

9. DISPUTES BETWEEN STATES SIGNATORY AND STATES NON-SIGNATORY OF THE PROTOCOL. Article 16.

As regards the settlement of disputes arising between a State signatory and one or more States non-signatory and non-Members of the League of Nations, the new system has had to be adapted to the former system.

In order that States signatory might enjoy the essential advantages offered by the Protocol, which forbids all wars of aggression, it has been necessary to bring the rule laid down in Article 17 of the Covenant into harmony with the provisions of the Protocol. It has therefore been decided that States non-signatory and non-Members of the League of Nations in conflict with a State signatory shall be invited to conform to the new procedure of pacific settlement and that, if they refuse to do so and resort to war against a State signatory, they shall be amenable to the sanctions provided by Article 16 of the Covenant as defined by the Protocol.

There is no change in the arrangements laid down in the Covenant for the settlement of disputes arising between States Members of the League of Nations of which one is a signatory of the Protocol and the other is not. The legal nexus established by the Covenant between two such parties does not allow the signatory States to apply as of right the new procedure of pacific settlement to non-signatory but Member States. All that signatory States are entitled to expect as regards such other States is that the Council should provide the latter with an opportunity to follow this procedure and it is to be hoped that they will do so. But such States can only be offered an opportunity to follow the new procedure; they cannot be obliged to follow it. If they refuse, preferring to adhere to the procedure laid down in the Covenant, no sanctions could possibly be applied to them.

The above indicated solution of the case of States non-signatory but Members of the League of Nations appears to be so obvious as to require no special mention in the Protocol. A proposal to make a special mention of the matter was made, but after explanations had been given, the authors withdrew their suggestion, declaring that they would be satisfied with the above reference to the subject.

At first sight the difference in the way it is proposed to treat non-signatories non-Members of the League of Nations and non-signatories Members of the League may cause some surprise, for it would seem that the signatory States impose greater obligations on the first category than on the second. This, however, is only an appearance. In reality, the signatory States impose no obligations on either category. They cannot do so because the present Protocol is *res inter alios acta* for all non-signatory States, whether they are Members of the League of Nations or not. The signatories merely undertake obligations as between themselves as to the manner in which they will behave if one of them becomes involved in a conflict with a third State. But whereas, in possible conflicts with a State non-signatory and non-Member of the League, they are entirely free to take such action as they choose, in conflicts which may arise between them and States non-signatory but Members, like themselves, of the League of Nations, their freedom of action is to some extent circumscribed because both parties are bound by legal obligations arising under the Covenant.

2. WORK OF THE THIRD COMMITTEE.

(*Rapporteur*: M. BENES)

SECURITY AND REDUCTION OF ARMAMENTS

(*Articles 7 to 9, 11 to 15, 17 and 21 of the Protocol*)

I. INTRODUCTION

The special work of the Third Committee was to deal with the problem of security (sanctions) and the reduction of armaments.

The work required, above all, important political negotiations. While the question of arbitration only required one political decision of principle, namely, the acceptance of compulsory arbitration, and the remainder was principally a matter of drafting—without question an extremely difficult task—of a scheme for the application of such arbitration, the questions of security and disarmament necessitated long and laborious political negotiations; for they involved fundamental interests, questions of vital importance to the States, engagements so far-reaching as radically to change the general situation of the various countries.

Although in the work of the First Committee the Assembly had distinctly indicated in its resolution of September 6th that there was a likelihood—indeed, a necessity—of amending the Covenant, the work of the Third Committee as regards questions of security and reduction of armaments had, in conformity with the debates of the Assembly, to remain within the framework of the Covenant. Above all, it was a question of developing and rendering more precise what is already laid down in the Covenant. All our discussions, all our labours, were guided by these principles, and a delicate task was thus imposed upon us. But the spirit of conciliation which pervaded all the discussions has permitted us to resolve the two problems which were placed before us. This is, indeed, an important result, and if the solution of the problem of arbitration which has been so happily arrived at by the First Committee be also taken into consideration, we are in the presence of a system the adoption of which may entirely modify our present political life.

This is the real import of the articles of the Protocol concerning the questions of security and reduction of armaments.

2. THREAT OF AGGRESSION: PREVENTIVE MEASURES.

Article 7.

The pacific settlement of disputes being provided for in the present Protocol, the signatory States undertake, should any conflict arise between them, not to resort to preparations for the settlement of such dispute by war and, in general, to abstain from any act calculated to aggravate or extend the said dispute. This provision applies both to the period preceding the submission of the dispute to arbitration or conciliation and to the period in which the case is pending.

This provision is not unaccompanied by sanctions. Any appeal against the violation of the aforesaid undertakings may, in conformity with Article 11 of the Covenant, be brought before the Council. One might say that, in addition to such primary dispute as is or might be submitted to the Council or to some other competent organ, a second dispute arises, caused by the violation of the undertakings provided for in the first paragraph.

The Council, unless it be of opinion that the appeal is not worthy of consideration, will proceed with the necessary enquiries and investigations. Should it be established that an offence has been committed against the provisions of the first paragraph, it will be the duty of the Council, in the light of the results of such enquiries and investigations, to call upon any State guilty of the offence to put an end thereto. Any such State failing to comply will be declared by the Council to be guilty of violation of the Covenant (Article 11) or the Protocol.

The Council must, further, take the necessary measures to put an end, as soon as possible, to a situation calculated to threaten the peace of the world. The text does not define the nature of these preventive measures. Its elasticity permits the Council to take such measures as may be appropriate in each concrete case, as, for example, the evacuation of territories.

Any decisions which may be taken by the Council in virtue of this Article may be taken by a two-thirds majority, except in the case of decisions dealing with questions of procedure which still come under the general rule of Article 5, paragraph 2, of the Covenant. The following decisions, therefore, can be taken by a two-thirds majority:

The decision as to whether there has or has not been an offence against the first paragraph;

The decision calling upon the guilty State to remedy the offence;

The decision as to whether there has or has not been refusal to remedy the offence;

Lastly, the decision as to the measures calculated to put an end, as soon as possible, to a situation calculated to threaten the peace of the world.

The original text of Article 7 provided that, in the case of enquiries and investigations, the Council should avail itself of the organisation to be set up by the Conference for the Reduction of Armaments in order to ensure respect for the decisions of that Conference. There is no longer any mention of this organisation, but this omission does not prejudice any decisions which the Conference may be called upon to take regarding the matter. It will be entirely free to set up an organisation, if it judges this necessary, and the Council's right to make use of this body for the enquiries and investigations contemplated will, *a fortiore*, remain intact.

.. Article 8.

Article 8 must be considered in relation to Article 2. Article 2 establishes the obligation not to resort to war, while Article 8, giving effect to Article 10 of the Covenant, goes further. The signatories undertake to abstain from any act which might constitute a threat of aggression against any other State. Thus, every act which comes within the scope of this idea of a threat of war — and its scope is sufficiently elastic — constitutes a breach of the Protocol, and therefore a dispute with which the Council is competent to deal.

If, for example, one State alleges that another State is engaged in preparations which are nothing less than a particular form of threat of war (such as any kind of secret mobilisation, concentration of troops, formation of armed bodies with the connivance of the Government, etc.), the Council, having established that there is a case for consideration, will apply the procedure which may be defined as the procedure of preventive measures; it will arrange for suitable enquiries and investigations, and, in the event of any breach of the provisions of paragraph 1 being established, will take the steps described in Article 7, paragraph 4.

3. SECURITY — SANCTIONS.

Article 11.

(Article 11, paragraphs 1 and 2, of the Protocol in its relation to Articles 10 and 16 of the Covenant.)

According to Article 10 of the Covenant, Members of the League undertake to preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

According to Article 16, should any Member of the League resort to war in disregard of its engagements under Articles 12, 13 or 15, all other Members of the League undertake immediately to apply economic sanctions; furthermore, it shall be the duty of the Council to recommend to the several Governments concerned what effective military, naval or air forces the Members of the League shall severally contribute to the armed forces to be used to protect the engagements of the League.

At the time when they were drafted at the Peace Conference in Paris in 1919, these articles gave rise to keen controversy as to the exact scope of the engagements entered into in these provisions, that is to say, as to the nature and extent of the obligations referred to in Article 10, the exact moment at which such obligations arose, and the legal consequences of the Council recommendations referred to in Article 16, paragraph 2. This controversy continued, as is well known, in the debates here in Geneva, where the question has been discussed in previous years.

Article 11 is intended to settle this controversy. The signatories of the present Protocol accept the obligation to apply against the aggressor the various sanctions laid down in the Covenant, as interpreted in Article 11 of the Protocol, when an act of aggression has been established and the Council has called upon the signatory States immediately to apply such sanctions (Article 10, last paragraph). Should they fail so to do, they will not be fulfilling their obligations.

The nature and extent of this obligation is clearly defined in paragraph 2 of Article 11. According to this paragraph, the reply to the question whether a signatory to the Protocol has or has not fulfilled its obligation depends on whether it has loyally and effectively co-operated in resisting the act of aggression to an extent consistent with its geographical position and its particular situation as regards armaments.

The State remains in control of its forces, and itself, and not the Council, directs them, but paragraph 2 of Article 11 gives us positive material upon which to form a judgment as to whether or not the obligation has been carried out in any concrete case. This criterion is supplied by the term: *loyally and effectively*.

In answering the question whether a State has or has not fulfilled its obligations in regard to sanctions, a certain elasticity in the obligations laid down in Article 11 allows of the possibility of *taking into account, from every point of view, the position of each State which is a signatory to the present Protocol*. The signatory States are not all in possession of equal facilities for acting when the time comes to apply the sanctions. This depends upon the geographical position and economic and social condition of the State, the nature of its population, internal institutions, etc.

Indeed, during the discussion as to the system of sanctions, certain delegations declared that their countries were in a special situation by reason of their geographical position or the state of their armaments. These countries desired to co-operate to the fullest extent of their resources in resistance to every act of aggression, but they drew attention to their special conditions. In order to take account of this situation, an addition has been made to paragraph 2 of Article 11 pointing out this state of affairs and laying stress on the particular situation of the countries in question. Moreover, Article 13 of the Protocol allows such countries to inform the Council of these matters beforehand.

I would further add that the obligations I refer to are imperfect obligations in the sense that no sanctions are provided for against any party which shall have failed loyally and effectively to co-operate in protecting the Covenant and resisting every act of aggression. It should, however, be emphasised that such a State would have failed in the fulfilment of its duties and would be guilty of a violation of engagements entered into.

In view of the foregoing, the gist of Article 11, paragraphs 1 and 2, might be expressed as follows: Each State is the judge of the manner in which it shall carry out its obligations but not of the existence of those obligations, that is to say, each State remains the judge of what it will do but no longer remains the judge of what it should do.

Now that the present Protocol has defined more precisely the origin, nature and extent of the obligations arising out of the Covenant, the *functions of the Council, as provided in Articles 10 and 16, have become clearer and more definite.*

Directly the Council has called upon the signatories to the Protocol to apply without delay the sanctions provided in Article 11, it becomes a regulating, or rather an advisory, body, but not an executive body. The nature of the acts of aggression may vary considerably; the means for their suppression will also vary. It would frequently be unnecessary to make use of all the means which, according to paragraphs 1 and 2 of Article 11, are, so to speak, available for resisting an act of aggression. It might even be dangerous if, from fear of failing in their duties, States made superfluous efforts. It will devolve upon the Council, which, under Article 13 can be put in possession of the necessary data, to give *its opinion*, should need occur, as to the best means of executing the obligations which arise directly it enjoins the application of sanctions, especially as to the sequence in which the sanctions must be applied.

The practical application of the sanctions would, however, always devolve upon the Governments; the real co-operation would ensue upon their getting into touch, through diplomatic channels — perhaps by conferences — and by direct relations between different General Staffs, as in the last war. The Council would, of course, be aware of all these negotiations, would be consulted and make recommendations.

The difference between the former state of affairs and the new will therefore be as follows: According to the system laid down by the Covenant:

1. The dispute arises.
2. In cases where neither the arbitral procedure nor the judicial settlement provided for in Article 13 of the Covenant is applied, the Council meets and discusses the dispute, attempts to effect conciliation, mediation, etc.
3. If it be unsuccessful and war breaks out, the Council, if unanimous, has to express an opinion as to which party is guilty. The Members of the League then decide for themselves whether this opinion is justified and whether their obligations to apply economic sanctions become operative.
4. It then has, *by a unanimous decision, to recommend* military sanctions.
5. If unanimity cannot be obtained, the Council ceasing to take action, each party is practically free to act as it chooses.

According to the new system defined in the Protocol, the situation is as follows:

1. The dispute arises.
2. The system of peaceful settlement provided for by the Protocol comes into play.
3. The Council intervenes, and if, after arbitration has been refused, war is resorted to, if the provisional preventive measures are not observed, etc., the Council decides which party is the aggressor and calls upon the signatory States to apply the sanctions.
4. This decision implies that such sanctions as the case requires — economic, financial, military, naval and air — shall be applied forthwith, and without further recommendations or decisions.

We have therefore the following new elements:

(a) The obligation to apply the necessary sanctions of every kind as a direct result of the decision of the Council.

(b) The elimination of the case in which all parties would be practically free to abstain from any action. The introduction of a system of arbitration and of provisional measures which permits of the determination in every case of the aggressor.

(c) No decision is taken as to the strength of the military, naval and air forces, and no details are given as to the measures which are to be adopted in a particular case. None the less, objective criteria are supplied which define the obligation of each signatory; it is bound, in resistance to an act of aggression, to collaborate *loyally and effectively* in applying the sanctions in accordance with its geographical situation and its particular situation as regards armaments.

That is why I said that *the great omission in the Covenant has been made good.*

It is true that no burden has been imposed on States beyond the sanctions already provided for in the Covenant. But, at present, a State seeking to elude the obligations of the Covenant can reckon on two means of escape:

- (1) The Council's recommendations need not be followed.
- (2) The Council may fail to obtain unanimity, making impossible any declaration of aggression, so that no obligation to apply military sanctions will be imposed and everyone will remain free to act as he chooses.

We have abandoned the above system and both these loopholes are now closed.

Article 11, paragraphs 3 and 4.

Paragraph 3 of Article 11 has been drafted with a view to giving greater precision to certain provisions of Article 11, paragraph 3, of the Covenant. Article 16, paragraph 3, refers to mutual support in the application of financial and economic measures. Article 11, paragraph 3, of the present Protocol establishes real economic and financial co-operation between a State which has been attacked and the various States which come to its assistance.

As, under Article 10 of the Protocol, it may happen that both States involved in a dispute are declared to be aggressors, the question arose as to what would be the best method of settling this problem. There were three alternatives: to apply the principle contained in paragraph 1, which is practically equivalent to making a sort of police war on both parties — or to leave the matter to pursue its course, or, finally, to compel States which disturb the peace of the world to desist from acts of war by the employment of means less severe than those indicated in paragraph 1. It is the last method which has been chosen. Only economic measures will be taken against such States, and naturally they will not be entitled to receive the assistance referred to in Article 11, paragraph 3.

Article 12.

Article 16, paragraph 1, of the Covenant provides for the immediate severance of all trade or financial relations with the aggressor State, and paragraph 3 of the same Article provides, *inter alia*, for economic and financial co-operation between the State attacked and the various States coming to its assistance.

As has already been pointed out, these engagements have been confirmed and made more definite in Article 11 of the Protocol.

But the severance of relations and the co-operation referred to necessarily involve measures so complex that, when the moment arises, doubts may well occur as to what measures are necessary and appropriate to give effect to the obligations assumed under the above provisions. These problems require full consideration in order that States may know beforehand what their attitude should be.

Article 12 defines the conditions of such investigation.

It is not expressly stated that the problem will be examined by the Council in collaboration with the various Governments, but the Council will naturally, if it deems it necessary, invite the Governments to furnish such information as it may require for the purpose of carrying out the task entrusted to it under Article 12.

Article 13, paragraph 1.

The above explanation of Article 11, paragraphs 1 and 2, contains many references to Article 13.

As I have already pointed out, in case sanctions have to be applied, it is highly important that there should exist some organ competent to express an opinion as to the best way in which their obligations could be carried out by the signatories. As you are aware, this organ, according to the Covenant, is the Council. In order that the Council may effectively fulfil this duty, Article 13 empowers it to receive undertakings from States, determining *in advance* the military, naval and air forces which they would be able to bring into action immediately in order to ensure the fulfilment of the obligations in regard to sanctions arising, out of the Covenant and the present Protocol.

It is also necessary to emphasise the fact that the means which the States signatories to the present Protocol have at their disposal for the fulfilment of the obligations arising out of Article 11 vary considerably owing to the differences in the geographical, economic, financial, political and social condition of different States. Information as to the means at the disposal of each State is therefore indispensable in order that the Council may in full understanding give its opinion as to the best method by which such obligations may best be carried out.

Finally, as regards the question of the reduction of armaments, which is the final goal to which our efforts are tending, the information thus furnished to the Council may be of very great importance, as every State, knowing what forces will be available for its assistance in case it is attacked, will be able to judge to what extent it may reduce its armaments without compromising its existence as a State, and every State will thus be able to provide the International Conference for the Reduction of Armaments with very valuable data. I should add, moreover, that Article 13, paragraph 1, does not render it compulsory for States to furnish this information. It is desirable that States should furnish the Council with this information, but they are at liberty not to do so.

Article 13, paragraphs 2 and 3.

The provisions of Article 13, paragraphs 2 and 3, refer to the special agreements which were discussed at such length last year. In view of the fact that, according to paragraph 2, such agreements can only come into force when the Council has invited the signatory States to apply the sanctions, the nature of these agreements may be defined as follows:

Special agreements must be regarded as the means for the rapid application of sanctions of every kind in a particular case of aggression. They are additional guarantees which give weaker States an absolute assurance that the system of sanctions will never fail. They guarantee that there will always be States prepared immediately to carry out the obligations provided for in Article 11 of the Protocol.

In accordance with Article 18 of the Covenant, it is expressly stated that these agreements will be registered and published by the Secretariat, and it has also been decided that they will remain open for signature to any State Member of the League of Nations which may desire to accede to them.

4. ENDING OF SANCTIONS: PUNISHMENT OF THE AGGRESSOR.

Article 14.

Article 14 is in perfect keeping with the last paragraphs of Articles 10 and 11. In the paragraphs in question, the coming into operation of the sanctions depends upon an injunction by the Council; it therefore also devolves upon the Council to declare that the object for which the sanctions were applied has been attained. Just as the application of the sanctions is a matter for the States, so it rests with them to liquidate the operations undertaken with a view to resisting the act of aggression.

Article 15.

Paragraph 1 is similar to Article 10 of the Draft Treaty of Mutual Assistance drawn up last year.

Paragraph 2 is designed to prevent the sanctions provided for in Article 11 from undergoing any change in character during the process of execution and developing into a war of annexation.

In view of the observations of various delegations regarding the punishment of the aggressor, it should be added that it would be incorrect to interpret this article as meaning that the only penalties to be apprehended by the aggressor as the result of his act shall be the burdens referred to in paragraph 1. If necessary, securities against fresh aggression, or pledges guaranteeing the fulfilment of the obligations imposed in accordance with paragraph 1, might be required. Only annexation of territory and measures involving the loss of political independence are declared inadmissible.

"Territory" is to be taken to mean the whole territory of a State, no distinction being made between the mother-country and the colonies.

5. REDUCTION OF ARMAMENTS.

Articles 17 and 21.

Although it has not been possible to solve the problem of the reduction of armaments in the clauses of the document submitted to the Assembly for approval, our work paves the way to it and makes it possible.

The reduction of armaments will result, in the first place, from the general security created by a diminution of the dangers of war arising from the compulsory pacific settlement of all disputes.

It will also ensue from the certainty which any State attacked will have of obtaining the economic and financial support of all the signatory States, and such support would be especially important should the aggressor be a great Power, capable of carrying on a long war.

Nevertheless, for States which, owing to their geographical position, are especially liable to attack, and for States whose most important centres are adjacent to their frontiers, the dangers of a sudden attack are so great that it will not be possible for them to base any plan for the reduction of their armaments simply upon the political and economic factors referred to above, no matter what the importance of such factors may be.

It has also been repeatedly declared that many States would require to know what military support they could count on, before the convening of the Conference, if they are to submit to the Conference proposals for large reductions of armaments; this might necessitate negotiations between the Governments and with the Council before the meeting of the Conference for the reduction of armaments provided for in Article 17. The undertakings referred to in Article 13 of the Protocol should be interpreted in the light of the above.

In drawing up the general programme of the Conference, it will also be necessary, as stated in paragraph 2 of Article 17, for the Council, apart from other criteria, "to take into account the undertakings mentioned".

In view of the close interdependence of the three great problems involved, namely, the pacific settlement of disputes, sanctions against those who disturb the peace of the world, and reduction of armaments, the Protocol provides for the convening by the Council of a general Conference for the Reduction of Armaments and for the preparation of the work of such a Conference. Furthermore, the application of the clauses concerning arbitration and sanctions will be conditional on the adoption by the said Conference of a plan for the reduction and limitation of armaments.

Moreover, in order to preserve the connection between the three big problems referred to above, it is provided that the whole Protocol will lapse in the event of the non-execution of the scheme adopted by the Conference. It devolves upon the Council to declare this under conditions to be determined by the Conference itself.

The last paragraph of Article 21 provides for the case of the partial lapsing of the Protocol after it has been put into force. Should the plan adopted by the Conference be regarded as having been put into effect, any State which fails to execute it, so far as it is concerned, will not benefit by the provisions of the Protocol.

6. THE COVENANT AND THE PROTOCOL.

Article 19.

The present Protocol emphasises and defines certain obligations arising out of the Covenant. Those of which the present Protocol makes no mention are not affected in any manner. They still exist. Examples which might be quoted are those laid down in Article 16, paragraph 3, of the Covenant, namely, the obligation of the States to give one another mutual support in order to minimise the loss and inconvenience resulting from the application of the economic and financial sanctions or the obligation of the States to take the necessary steps to afford passage through their territory to forces which are co-operating to protect the covenants of the League.

Moreover, as the Swiss Delegation suggests, attention should be directed to the fact that the present Protocol does not in any way affect the special position of Switzerland arising out of the Declaration of the Council at London on February 13th, 1920. As the special position of Switzerland is in accordance with the Covenant, it will also be in accordance with the Protocol.

III.

CONCLUSION

No further explanations need be added to these comments on the articles. The main principles of the Protocol are clear, as are the detailed provisions.

Our purpose was to make war impossible, to kill it, to annihilate it. To do this, we had to create a system for the pacific settlement of *all disputes* which might arise. In other words, it meant the creation of a system of arbitration from which no international dispute, whether legal or political, could escape. The plan drawn up leaves no loophole; it prohibits wars of every description and lays down that all disputes shall be settled by pacific means.

But this absolute character which has been given to the system of arbitration should also belong to the whole of the scheme, to the treatment of every question of principle. If there were one single gap in the system, if the smallest opening were left for any measure of force, the whole system would collapse.

To this end arbitration is provided for every kind of dispute, and aggression is defined in such a way as to give no cause for hesitation when the Council has to take a decision.

These reasons led us to fill in the gaps in the Covenant and to define the sanctions in such a way that no possible means could be found of evading them, and that there should be a sound and definite basis for the feeling of security.

Finally, the Conference for the Reduction of Armaments is indissolubly bound up with this whole system: *there can be no arbitration or security without disarmament, nor can there be disarmament without arbitration and security.*

The peace of the world is at stake.

The Fifth Assembly has undertaken a work of worldwide political importance which, if it succeeds, is destined profoundly to modify present political conditions. This year great progress in this direction has been made in our work. If we succeed, the League of Nations will have rendered an inestimable service to the whole modern world. Such success depends partly upon the Assembly itself and partly upon individual Governments. We submit to the Assembly the fruit of our labours: a work charged with the highest hopes. We beg the Assembly to examine our proposals with care, and to recommend them to the various Governments for acceptance.

In this spirit and with such hopes do we request the Assembly to vote the draft resolutions 1 and 2 that are presented with this Report.

LEAGUE OF NATIONS

Geneva, October 1st, 1924.

ARBITRATION, SECURITY AND REDUCTION OF ARMAMENTS

**Resolutions adopted by the Fifth Assembly
at its meeting held on Thursday, October 2nd, 1924 (morning)**
(Adopted on the Reports of the First and Third Committees.)

I. THE ASSEMBLY,

Having taken note of the reports of the First and Third Committees on the questions referred to them by the Assembly resolution of September 6th, 1924,

Welcomes warmly the draft Protocol on the Pacific Settlement of International Disputes proposed by the two Committees of which the text is annexed to this resolution, and

DECIDES:

- (1) To recommend to the earnest attention of all the Members of the League the acceptance of the said draft Protocol;
- (2) To open immediately the said Protocol in the terms proposed for signature by those representatives of Members of the League who are already in a position to sign it and to hold it open for signature by all other States;
- (3) To request the Council forthwith to appoint a Committee to draft the amendments to the Covenant contemplated by the terms of the said Protocol;
- (4) To request the Council to convene an International Conference for the Reduction of Armaments, which shall meet at Geneva as provided by the following stipulations of Article 17 of the draft Protocol:

"In preparation for the convening of the Conference, the Council shall draw up, with due regard to the undertakings contained in Articles 11 and 13 of the present Protocol, a general programme for the reduction and limitation of armaments which shall be laid before the Conference and be communicated to the Governments at the earliest possible date, and at the latest three months before the Conference meets.

"If by May 1st, 1925, ratifications have not been deposited by at least a majority of the permanent Members of the Council and ten other Members of the League, the Secretary-General of the League shall immediately consult the Council as to whether he shall cancel the invitations or merely adjourn the Conference to a subsequent date to be fixed by the Council so as to permit the necessary number of ratifications to be obtained."

- (5) To request the Council to put into immediate execution the provisions of Article 12 of the draft Protocol.

II. THE ASSEMBLY,

Having taken cognisance of the report of the First Committee (Document A. 135. 1924) upon the terms of Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice;

Considering that the study of the said terms shows them to be sufficiently wide to permit States to adhere to the special Protocol, opened for signature in virtue of Article 36, paragraph 2, with the reservations which they regard as indispensable;

Convinced that it is in the interest of the progress of international justice, and consistent with the expectations of the opinion of the world, that the greatest possible number of States should, to the widest possible extent, accept as compulsory the jurisdiction of the Court,

RECOMMENDS:

States to accede at the earliest possible date to the special Protocol opened for signature in virtue of Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice.

SOCIÉTÉ DES NATIONS

Genève, 2 octobre 1924. °

ARBITRAGE, SÉCURITÉ ET RÉDUCTION DES ARMEMENTS

**Résolutions adoptées par la cinquième Assemblée
dans sa séance du jeudi 2 octobre 1924 (matin) sur les rapports
des première et troisième Commissions.**

I. L'ASSEMBLÉE,

Ayant pris acte des rapports des première et troisième Commissions sur les questions qui leur avaient été renvoyées par la résolution de l'Assemblée en date du 6 septembre 1924,

Accueille avec la plus vive satisfaction le projet de Protocole sur le règlement pacifique des différends internationaux proposé par les deux Commissions et dont le texte figure en annexe à la présente résolution, et

DÉCIDE:

1. De recommander à tous les Membres de la Société de prendre en très sérieuse considération le dit projet de Protocole;

2. D'ouvrir immédiatement, dans les termes proposés, ledit Protocole à la signature des représentants des Membres de la Société qui sont dès maintenant en mesure de le signer et de le laisser ouvert à celle de tous autres Etats;

3. D'inviter le Conseil à nommer sans délai un Comité chargé de préparer la rédaction du texte des amendements au Pacte, envisagés dans ledit Protocole;

4. De prier le Conseil de convoquer une Conférence internationale pour la réduction des armements, qui se réunira à Genève, conformément aux dispositions suivantes de l'article 17 du projet de Protocole:

« En vue de la convocation de la Conférence, le Conseil préparera, en tenant compte des engagements prévus aux articles 11 et 13 du présent Protocole, un programme général pour la réduction et la limitation des armements qui sera mis à la disposition de cette Conférence et communiqué aux gouvernements le plus tôt possible et, au plus tard, trois mois avant la réunion.

« Si, au moins, la majorité des Membres représentés en permanence au Conseil et dix autres Membres de la Société n'ont pas déposé leur ratification pour le 1^{er} mai 1925, le Secrétaire général de la Société devra prendre immédiatement l'avis du Conseil pour savoir s'il doit annuler les invitations ou simplement ajourner la Conférence à une date ultérieure qui sera fixée par le Conseil pour permettre la réunion du nombre des ratifications nécessaire. »

5. De prier le Conseil de mettre dès à présent à exécution les dispositions de l'article 12 du projet de Protocole.

II. L'ASSEMBLÉE,

Ayant pris connaissance du rapport de la première Commission (Document A. 135. 1924) sur les termes de l'article 36, alinéa 2, du Statut de la Cour permanente de Justice internationale;

Considérant qu'il résulte de cet examen que lesdits termes sont assez souples pour permettre aux Etats d'adhérer au Protocole spécial, ouvert en vertu de l'article 36, alinéa 2, en faisant les réserves leur paraissant indispensables;

Convaincue qu'il importe au progrès de la justice internationale et qu'il est conforme à l'attente de l'opinion universelle de voir le plus grand nombre d'Etats accepter, de la manière la plus large possible, la compétence obligatoire de la Cour,

RECOMMANDE:

Aux Etats d'adhérer le plus tôt possible au Protocole spécial ouvert en vertu de l'article 36, alinéa 2, du Statut de la Cour permanente de Justice internationale.

SOCIÉTÉ DES NATIONS

LEAGUE OF NATIONS

GENEVA

16th October, 1921.

Dear Sir,

I enclose a summary of the Protocol for the Pacific : Settlement of International Disputes (recommended by the Assembly to the acceptance of the Governments) which I have prepared in order to make clear some of the governing points of the scheme. It does not, of course, cover the whole plan in detail; for this, reference must be made to the Protocol itself of which you will have received a copy.

Several considerations have arisen in the course of subsequent discussions of the Protocol and perhaps I might deal with one or two of them in an explanatory way. They may be dealt with under several headings:

1. The use to which the British fleet may be put.
2. The effect of the domestic jurisdiction provisions.
3. The question whether the Protocol would consolidate the status quo in Europe.

1) The question of the use of the British fleet or the armed force of any other State signatory of the Protocol is clearly defined. It was already an obligation upon all Members of the League to enforce financial and economic blockade against a Covenant-breaking State. The Council could, beyond this, recommend the use of armed forces. Under the Protocol, with all the provisions for compulsory settlement of disputes and for the definition of the aggressor, sanctions become obligatory in the general way and are to be applied in accordance with the necessities of the case. The obligation upon every signatory State is "loyally and effectively" to defend the Covenant, but each separate State remains in entire control of its own forces and fulfils its obligations according to its own assessment of what these obligations involve. According to circumstances, it may mean a boycott without use of force; it may mean the use of a few ships, or it may mean the full force of the British Navy. It depends upon how effective the less stringent measures may prove in the first case, but "loyally and effectively" to defend the Covenant are the governing terms.

The essential object of these provisions, based on the tightening up of the obligations and machinery for the peaceful settlement of disputes, is not so much to compel a State by ultimately overpowering force to observe its obligations as to prevent any outbreak of war by the convincing arguments of what

might be entailed by resort to war. It is first a preventive measure, and only in the last resort a punitive measure. There is no power in the world so deeply interested in the maintenance of peace as the British Empire. There is scarcely a spot where hostilities might break out without some part of the British Empire being closely concerned and Great Britain has, as a matter of fact, during the last century undertaken in various instances tasks similar to those which might devolve upon her under the Protocol. Frequently she has used her fleet to keep the peace, either in her own name or in the name of several Powers, and in cases like the international army during the Boxer rebellion she took her share in international action. The Great Powers, by their observance of their obligations under the Protocol, could effectively prevent the outbreak of hostilities occasioned by a smaller State; if a great State disturbed international Peace against its obligations it would be extremely difficult in any event for the British Empire to remain disentangled, and it is worthy of consideration whether it is not an advantage, in view of these specific considerations, if not of the wider considerations of international relations, whether the provisions regarding sanctions would not be an effectual preventive against any State taking so adventurous a step as to bring them in operation against itself. It is also to be borne in mind that the British Empire under the Protocol not only gives undertakings but receives undertakings. Unless it embarks upon aggressive warfare itself, any war in which it may become involved puts the whole League behind it.

2). Domestic Jurisdiction. These provisions do not mean that the League can settle questions which are decisively matters of domestic jurisdiction to any particular State. In the first place it is expressly set forth in the explanatory report to the Assembly that any State which goes to war against another State on a dispute which has been declared a matter of domestic jurisdiction for the State attacked, is guilty of what is declared to be the international crime of aggressive war and is subject to sanctions. There is no interference with the sovereignty of a State in its own domestic legislation. Where some confusion has arisen is on the provisions introduced to meet the Japanese demands. If you read together the paragraphs in the attached summary entitled "Domestic jurisdiction" and the last portion of the paragraph under the title of "Definition of the Aggressor", I think you will see what the precise situation is and that it does not involve interference with domestic jurisdiction. It provides only for a purely friendly effort at conciliation for the purpose of avoiding hostilities as implied under Article XI of the Covenant. But no compulsory decision or arbitration can be imposed, no compulsory procedure of any sort is involved, and no State is at liberty to go to war.

3). Maintenance of the Status Quo. Discussion has taken place as to whether the Protocol would in practice stereotype the existing Peace Treaties in what are considered to be not only their reasonable but in their unreasonable provisions. That must obviously be a matter of opinion, but it is reasonable to put forward the explanation which has been applied to Article X of the Covenant that the purpose of the Protocol is not to

stereotype existing world conditions which would obviously stultify progress, but merely to say that the conditions of the world shall not be changed by force of arms but by peaceful efforts. It is true that the question of the revision of Treaties is excluded from the procedure laid down in the Protocol, though Article XIX of the Covenant remains, giving the Assembly the possibility of reconsideration of treaties which have become inapplicable or whose continuance might endanger peace. It is evident that if this exclusion had not been made the League would have been at once faced with the impossible task of dealing with a host of requests for fundamental revision of the Peace Treaties. The probabilities are that such a circumstance would lead to grave and chaotic world conditions. To await the revision of what are considered to be unreasonable terms of the Peace Treaties before progress is made in the development of peaceful procedure, might easily be to invite efforts at revision by threat or use of arms. It is clear that the revision of treaties must come with progressive development of international outlook and the gradual adjustment of conditions to a more reasonable state. As a matter of fact there have already been several treaty modifications carried out under pressure of circumstances but there is no likely prospect of any fundamental revision of treaties within the next few years, and the fact that judicial or arbitration proceedings may produce decisions based on international laws contained in the treaties no more makes for stereotyping the treaties themselves than the absence of provisions for judicial or arbitration procedure makes for easy revision. It is further to be noted that the arbitrators need not necessarily fill the role of judges giving decisions of pure law, but may also have the function of arranging an amicable settlement with power to take account of considerations of equity.

Finally, it is important to remember in this connection that everything contained in the Protocol depends ultimately upon the adoption of a plan for the reduction of armaments and upon the execution of the plan, the theory being that security is not possible without sanctions, but that it is neither possible to obtain security nor safe to provide for sanctions without reduction of armaments as well. The reduction of armaments is in itself a form and expression of international security.

Yours very truly,

H.R. Loomis

P.S. We are issuing within the next week or so a pamphlet giving the Protocol, the Report, the final assembly debate, the signatures of the Protocol and the subsequent resolutions of the Council. Perhaps you would let me know if you would care to have a copy. For the rest of the work of the Assembly, which covered a very wide ground, the best thing to do is to refer you to the forthcoming issue of the Monthly Summary which contains an account of the work and all the resolutions.

THE LEAGUE PROTOCOL

The Protocol for the Pacific Settlement of International Disputes, unanimously recommended by the Assembly to the acceptance of all the Governments, is based on the creation of a system of arbitration from which no international dispute, whether juridical or political, can escape. It prohibits wars of every description and lays down that all disputes shall be settled by pacific means. Sanctions are defined for application against a State which fails to observe its obligations. The criteria for deciding what is a Covenant-breaking State are detailed, and as there can be no disarmament without arbitration and security, so it is agreed there can be no arbitration or security without disarmament.

The Protocol therefore depends upon the outcome of a conference for the reduction of armaments, and is designed to this end.

The general principle of the Protocol is the prohibition of aggressive war, which is declared an international crime.

Compulsory Jurisdiction. - In the first place the Protocol includes the acceptance of the compulsory jurisdiction clause of the Statute of the Permanent Court of International Justice in respect of all classes of legal dispute affecting the interpretation of a treaty, any question of international law, the existence of any fact which, if established, would constitute a breach of international obligation, the nature or extent of the reparation to be made for the breach of an international obligation. It is permissible to adhere to this clause with reservations, such as non-reference to the Court if one of the parties prefers first to submit a dispute to arbitration or to conciliation; or, as indicated by the British delegation, non-reference of maritime disputes which might arise during warlike operations undertaken on behalf of the League in defence of the Covenant.

Compulsory Arbitration. - If a dispute does not come within the compulsory jurisdiction of the Court and if the parties have been unable to come to an agreement to refer to the Court or submit to arbitration, it should, under the existing terms of the Covenant, be submitted to the Council, which would endeavour to secure settlement by reconciling the parties. If the Council is successful the matter obviously is concluded, and in this connection no change has been made in the procedure laid down by the Covenant. The new procedure set up by the Protocol will be applicable only in the event of the Council's failure to secure conciliation and by the failure of the parties to come to an understanding on the method of settlement to be adopted. The Council is then to call upon the parties to submit their dispute to judicial settlement or to arbitration, and it is only when this appeal fails that the procedure requires the compulsory character necessary to make certain a final settlement. There are three alternatives:

- a). Compulsory arbitration at the request of one of the parties,
- b). A unanimous decision by the Council,
- c). Compulsory arbitration enjoined by the Council.

a). If a single party desires arbitration, arbitration immediately becomes compulsory. The dispute is then referred to a committee of arbitrators, to be constituted within a time limit fixed by the Council, and full liberty is left to the parties themselves to constitute the committee of arbitrators. If the parties are not able to come to an understanding on all or any of the points necessary to enable the arbitration to be carried out, it lies with the Council to decide upon the unsettled points, acting as far as possible in accordance with the wishes of the parties.

b). If arbitration is refused by both parties, the case is referred back to the Council for a final settlement, and if the Council is unanimous, its decision is imposed upon the parties.

c). If the Council does not arrive at a unanimous decision, it has itself to submit the dispute to a committee of arbitrators, and it is for the Council to settle all the details of the powers and composition of the committee.

Failing a friendly arrangement, therefore, provision is made for arriving at a final solution in the form of a decree of the Court, an arbitral award, or a unanimous decision of the Council. To one or other of these solutions the parties are pledged to submit.

Attributes of Arbitrators. - It is important to note that the arbitrators may fill the rôle of judges giving decisions of pure law, or, on the other hand, they may have the functions of arranging an amicable settlement with power to take account of considerations of equity. When called upon to deal with points of law, they must, if one of the parties so desire, request the advisory opinion of the Court, and although this must exercise a strong influence upon their judgment, it is not legally binding upon them.

Failure to Conform. If the parties do not conform to the awards or decisions thus provided for, they are guilty of a breach of engagement, involving consequences and sanctions according to the degree of gravity of the case. The Council first endeavours to exert pacific pressure, and if this fails it may institute economic and financial sanctions. Unless there is also resort to force the League is not likely to exert force.

Domestic Jurisdiction. - If one of the parties to the dispute claims that it arises out of a matter within its domestic jurisdiction, the arbitrators must on this point take the advice of the Court, and instead of regarding the Court's view as purely advisory, as in all other cases, they will simply have to register this conclusion in their award. When it has been recognised that a dispute arises out of a matter solely within the domestic jurisdiction of one of the parties, that party or its opponent is entitled to appeal to the Council under

Article XI of the Covenant which makes it the duty of the League, in the event of war or threat of war, to take any action that may be deemed wise and effective to safeguard the peace of nations; this Article also gives each Member of the League the right to bring to the attention of the Council or Assembly any circumstances whatever affecting international relations which threaten to disturb international peace or the good understanding between nations upon which peace depends. But in these circumstances the Council cannot make, even by unanimous report, recommendations which become binding. There is no compulsory procedure. All the Council can do is to make an effort to conciliate the differences of the parties in the hope of maintaining peace.

Definition of Aggressor. - In order that the procedure of pacific settlement may be accompanied by appropriate sanctions, it has been necessary to provide for determining exactly a State guilty of aggression. First, aggression has to be defined, secondly, its existence has to be ascertained.

Any State which resorts to force in violation of the undertakings contained in the Covenant or in the Protocol is an aggressor, that is to say, for example, if it has refused to conform to an arbitral award or the unanimous decision of the Council.

The other part of the problem is to decide, when hostilities break out, which party began. This is faced by the Protocol in the following way:

If hostilities break out the presumption is that when a resort to war is accompanied

- 1) by a refusal to accept procedure of pacific settlement or to submit to a decision,
- 2) by violation of the provisional measures laid down by the Council to avoid any warlike action pending the discussion of the dispute, or
- 3) by disregard of a decision that the dispute arises out of a matter exclusively in the domestic jurisdiction of the other party, accompanied by failure or refusal to submit the question first to the Assembly or to the Council under Article XI of the Covenant.

A State guilty of either one of these three is the aggressor, against whom sanctions should be applied. This holds good unless proof to the contrary has been furnished by a unanimous decision of the Council.

The third condition requires a little further explanation. All it means is that when a State whose demands have been met with the plea of the domestic jurisdiction of its adversary has employed the resources provided for in Article XI of the Covenant, the presumption of aggression in the event of hostilities falls to the ground. That is to say, if war breaks out in these circumstances no presumption exists against either side, but the aggression itself remains, and it is then for the Council to decide who is responsible for the aggression in accordance with other procedure laid down in the Protocol. It in no way infringes the principle, which remains unshaken, that a war undertaken against a State whose exclusive jurisdiction has been formally recognised, is an international crime to be avenged collectively by the signatories of the Protocol. What has to be discovered by the Council is which State has started hostilities.

Where there is no presumption. - Apart from these three cases, there exists no presumption which makes it possible automatically to determine which is the aggressor, and the decision must be left to the Council. The same principle applies when one of the parties is a State which is not signatory of the Protocol and not a Member of the League. If the Council is unanimous, no difficulty arises; if it is not unanimous the difficulty may be overcome by enjoining upon the belligerents an armistice, the terms of which will be fixed, if need be, by a two-thirds majority, and the party which rejects the armistice or violates it is to be held the aggressor. Provision is made for investigation on the spot.

When Sanctions apply. - The fact of aggression having been established by presumption, by unanimous decision of the Council, or by refusal to accept or violation of the armistice, it remains only to apply the sanctions. The Council will merely call upon the States to fulfil their

duty. There is no decision to be taken but an obligation to be fulfilled. The question of majority or unanimous vote does not arise, it is not a matter of voting at all.

In all cases where voting takes place unanimity or the necessary majority of the Council is always calculated according to the existing terms of the Covenant, namely, not counting the votes of the parties to the dispute.

Position of Non-Members. - Regarding disputes between States signatory and States non-signatory and non-Members of the League, the same principle that exists in the Covenant has been followed. Non-Member and non-signatory States in conflict with a signatory will be invited to conform to the new procedure of pacific settlement. If they refuse to do so and resort to war against a State signatory, they will be amenable to sanctions. Resort to war is the governing phrase and the fact will have to be established by the Council in the manner already described.

Sanctions Obligations of Signatories. - The preceding pages cover the juridical side of the Protocol. With regard to security and reduction of armaments, the signatory States accept the obligation to apply sanctions against an aggressor. They undertake to co-operate "loyally and effectively" in resisting an act of aggression to an extent consistent with their geographical position and the special condition of their armaments. The degree of sanctions applied depends upon the particular circumstances of each case.

It must be emphasised, however, that in no circumstances are sanctions to be applied unless the aggressor has been properly defined according to procedure laid down. In the employment of sanctions each State remains in control of its forces and itself - not the Council - directs them. The signatory States are not all in possession of equal facilities of acting when the time comes to apply sanctions of any kind. This depends upon the economic, geographical and social position of the State and other factors.

Each State remains the judge of what it will do and the manner in which it shall carry out its obligations, but not of the existence of these obligations. Directly sanctions become necessary the Council does not become an executive body but may become an advisory body. The nature of the acts of aggression may vary considerably and the means of their suppression will also vary. It will obviously be unnecessary always to make use of all the means for resisting acts of aggression and it will devolve upon the Council to give its opinion, if need be, as to the best means of carrying out the obligations. It is also for the Council to decide when the object for which sanctions are applied has been attained.

If both States are declared to be aggressors, the only sanctions to be considered will be economic sanctions which, if applied, will be applied to both belligerents.

The Council is to draw up with the aid of the various organisations of the League for communication to the Members of the League, plans of action for the application of economic and financial sanctions.

Partial Treaties. - The Council is empowered to receive from States undertakings determining in advance the military, naval and air forces which they will be able to bring into action immediately, but this is purely optional on the part of the States. Such information as is given to the Council in this connection will be useful in drawing up the plan for reduction of armaments. Special agreements between several States may be brought into force to assist a victim of aggression as soon as the Council has called upon the States to apply sanctions. They provide a means for the rapid application of sanctions; they have to be registered and published by the League and open for signature to any Members of the League which desire to accede to them. This dispels the objections to partial treaties. They cannot come into operation without full international authority as defined in the Protocol.

Protocol depends on Reduction of Armaments. The whole Protocol is

preparatory to the International Conference for the Reduction of Armaments to be summoned on June 15 next year; all States, whether Members of the League or not, are to be invited. The Council is to draw up a general programme for the reduction and limitation of armaments to be laid before the Conference, which is not to take place unless and until a majority of the permanent members of the Council and ten other Members of the League have ratified the Protocol. If by May 1 these ratifications have not been received, the Council is to consider whether the invitations to the Conference shall be cancelled, or whether the Conference shall be postponed until a sufficient number of ratifications have been deposited. The Protocol is to come into force as soon as the plan for reduction of armaments has been adopted by the Conference, but if the plan adopted by the Conference is not carried out, the Council is to declare the Protocol null and void, the Conference itself to lay down the conditions upon which the Council shall decide.

Signatures. - At the end of the Assembly France signed the compulsory jurisdiction clause of the Court Statute without any reservations of substance, but subject, of course, to ratifications. Eleven States signed the Protocol, also subject to ratifications. The Council, on the day following the close of the Assembly, took measures for the preparatory work for the Disarmament Conference.

LEAGUE OF NATIONS

Geneva, September 1st, 1924.

Reduction of Armaments



LIMITATION OF NAVAL ARMAMENTS

REPLIES FROM GOVERNMENTS.

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LEAGUE OF NATIONS

LIMITATION OF NAVAL ARMAMENTS.

ACTION TAKEN BY THE COUNCIL AND THE COMMISSIONS OF THE LEAGUE ON THE RESOLUTIONS ADOPTED BY THE ASSEMBLY AT ITS FOURTH SESSION

The question of the limitation of naval armaments has, during this year, been considered in its technical aspects by the Permanent Advisory Commission.

The aim of this work and the procedure to be followed was determined by the third Assembly, as summarised in the following passage from the report of its Third Committee:

"The Third Committee is entirely in agreement with the Temporary Mixed Commission in thinking it desirable that a Conference should be summoned at an early date and that all States, whether Members of the League or not, should be invited to take part. It considers, however, that a certain elasticity with regard to the programme for this Conference should be allowed, and that it should be made quite clear that the Conference would not be in any way bound by the draft Treaty, but that, on the contrary, it should be free to take into consideration the special circumstances in any country, and, in particular, the special circumstances of new States which as yet have no navies. While agreeing to this view, however, the Third Committee feels strongly the great desirability of securing immediate limitation of the naval forces maintained by all countries, in order that the peoples of the world may be spared the economic burden which would be laid upon them by increases in the total tonnage or in the size of the warships maintained by their Governments. The Third Committee therefore recommends for the adoption of the Assembly the following resolution:

"(a) That an International Conference should be summoned by the Council as soon as possible, to which all States, whether Members of the League or not, should be invited, with a view to considering the extension of the principles of the Washington Treaty for the limitation of naval armaments to all non-signatory States, it being understood that any special cases, including that of the new States, shall be given due consideration at the Conference;

"(b) That the report of the Temporary Mixed Commission, together with the report and the draft Convention prepared by the Permanent Advisory Commission, as well as the text of the Washington Treaty, should be forwarded immediately to the various Governments for consideration."

In view of this report and of this resolution, the Temporary Mixed Commission requested the Council "to consider the advisability of issuing to the Permanent Advisory Commission the necessary instructions for examining the extension of its technical scheme to States not Members of the League."

The Council considered this question in September 1923 during the fourth session of the Assembly.

The Italian representative, reporting on the matter to the Council, expressed the following views:

"It would seem desirable that the necessary instructions should now be issued to the Commission to proceed with this work.

"At the same time, I would draw the attention of the Council to a point in connection with the draft scheme itself which is, in my opinion, of importance. This scheme, which takes the form of a draft Convention for the extension of the principles of the Washington Treaty to non-signatory States, was not unanimously adopted by the members of the Naval Sub-Commission who drew it up. As the report which accompanies the draft shows, the Spanish representative accepted it under reserve and the representative of Brazil opposed it entirely.

"Thus the representatives of two Powers belonging to the group of nations to which the Convention would be applied were not prepared to accept it.

"I think my colleagues will agree with me that it is of importance for the success of the International Conference on this subject which is eventually to be held that the draft Convention to be taken as a basis of discussion should be one on which naval expert opinion is as far as possible unanimously agreed.

"I would therefore suggest that the Naval Sub-Commission should be asked to re-examine their draft scheme in the light of the foregoing observations, and, at the same time, should invite to sit on the Commission such technical experts of States Members of the League as may be affected, and call into consultation naval experts from such of the nations not Members of the League — other than those whose naval armaments are already fixed by the Washington Treaty or by Treaties of Peace — as they may consider desirable.

"I therefore propose the following resolution:

"1. The Council, on the recommendation of the Temporary Mixed Commission, instructs the Permanent Advisory Commission to consider the question of the extension of its technical scheme, with regard to the application of the principles of the Washington Naval Treaty, to those States which have not signed the said Treaty, and which are not Members of the League of Nations.

"2. The Council further requests the Permanent Advisory Commission to reconsider its original draft Convention with a view to its universal acceptance from a naval technical point of view, and for this purpose suggests that the Commission should call into collaboration naval experts of such nations concerned — other than those whose naval armaments are already fixed by the Washington Treaty or by Treaties of Peace — as they may consider desirable."

The Naval Sub-Commission, to which the matter was referred by the Permanent Advisory Commission, decided that invitations should be addressed to all non-signatory States possessing "capital ships" as described in the Washington Treaty. Invitations were accordingly despatched to the following States, asking them to nominate naval experts to co-operate with the Naval Sub-Commission in the work preliminary to the International Conference:

Argentine,	Greece,	Union of Socialist Soviet
Chile,	Netherlands,	Republics,
Denmark,	Norway,	Turkey.

With the exception of Turkey, all the nations invited accepted the invitation and a meeting of the Naval Sub-Commission and representatives of the States mentioned above was held in Rome from February 14th to 25th. The results of the work of the naval experts are contained in Document C. 76. 1924. IX.

In March 1924, the Council examined the results of the Rome meeting, and, while reserving the examination of the report to a subsequent session, decided to request the Secretary-General to forward a copy of the report to all States Members and non-Members of the League, and to invite those States to communicate through the Secretary-General, if possible before the June session of the Council, any observations or suggestions concerning their countries which they might think desirable, in order to enable the Council to take a decision as to a second technical meeting and to determine the final date of the International Conference for the purpose of concluding the Convention.

A letter was accordingly despatched by the Secretary-General on April 4th, 1924. The replies received from the Governments will be distributed in a special document (Document A. 36. 1924. IX).

The Council, during its June session, again examined the question, and the representative of Czechoslovakia presented a report, which was adopted by the Council and which included the following paragraphs:

"Certain States, notably Roumania and Portugal, expressed the desire to take part in the preliminary technical work for a new conference. In a letter dated May 30th, 1924, the Roumanian Government again advocated a new preliminary technical conference 'which will take the necessary steps to reconcile different interests involved, as far as is practicable'. On the other hand, several of the replies which the Secretariat has received are definitely against this proposal; the British, Swedish, Danish and Netherlands Governments state that they are opposed to the holding of any further technical conference on the question.

"The Rome Conference revealed the existence of two quite different points of view among the countries which were represented. According to one view, the question was that of the extension pure and simple to non-signatory Powers of the two principles of the Washington Treaty, namely: first, the fixing of the tonnage of capital ships on the basis of the *status quo*, the date for which was still to be determined, and the naval holiday.

"According to the other view, the question was, independently of the *status quo*, one of the limitation of naval armaments to figures determined for each of the States concerned, regard being paid to national security and to the intention of Article 8 of the Covenant.

"It seems difficult to reconcile these two views. Considering the difference of opinion in regard to the principles and also in regard to the procedure to be followed in the matter of the limitation of naval armaments, I am of opinion that the Council would be well advised again to lay the question before the Assembly, in order that the Assembly may consider whether the original scope of the International Conference should be maintained, or whether it should be enlarged so as to admit of a discussion of the two points of view mentioned above.

"The Assembly might also give the Council its advice as to the most suitable date for the International Conference."

In view of the above considerations, the Council adopted the following resolution, which was duly communicated by the Secretary-General to all the Governments concerned on July 25th, 1924:

"The Council,

"In view of the differences of opinion which have come to light in the course of the preliminary technical discussions in regard both to the principles and to the procedure to be followed in the matter of the limitation of naval armaments:

"Decides to send the present report to the Governments of States Members of the League, and to lay the question before the fifth Assembly, in order to enable the Assembly to define the essential principles on which a general Conference on the limitation of naval armaments might be based."

The question has accordingly been placed on the Supplementary List of Questions for the Agenda of the Assembly.

C. 187. M. 55. 1924. IX.

REPLY FROM THE BRITISH GOVERNMENT.

London, April 11th, 1924.

In connection with the recent meeting of Naval Experts at Rome to discuss questions connected with the extension of the principles of the Washington Naval Treaty to non-signatory States, I am directed by Mr. Secretary Ramsay MacDonald to inform you that he observes, from the League of Nations document C. 107. 1924. IX./C.P.C. 30. 1924, that the Chairman of the Naval Sub-Commission, in his letter to you of February 7th, suggested that " a second meeting of the Naval Sub-Commission might, at the request of any Powers not represented at the meeting of the Naval Sub-Commission, be held prior to the full International Conference ".

2. Mr. Ramsay MacDonald observes further from the document quoted above, and from League of Nations Document C. 106. 1924. IX., C.P.C. 31, that such a request has now been made by both the Roumanian and Portuguese Governments.

3. Furthermore, by a resolution passed by the last session of the Council, copies of a report of the Rome Conference are to be forwarded to all States, Members or non-members of the League, inviting observations or suggestions in order to enable the Council to take a decision as to a second technical meeting and to determine the final date of the International Conference.

4. I am to inform you that, in the opinion of His Majesty's Government, there would be no object in holding a second preliminary conference of naval experts, as they consider that such a conference would be most unlikely to lead to agreement on matters which are primarily of a political nature, and should therefore be dealt with by the International Conference when it meets.

(Signed) Alexander CADOGAN.

C. 220. M. 76. 1924. IX.

REPLY FROM THE BULGARIAN GOVERNMENT.

[Translation.]

Berne, May 1st, 1924.

I am instructed to inform you that the Bulgarian Government is watching with sympathy the efforts which are being made to limit naval armaments. The success of such efforts would constitute an important step towards the suppression of the danger of war and towards the consolidation of general peace.

Since, however, Bulgaria's naval status is fixed by the Treaty of Peace of Neuilly-sur-Seine and since, in practice, therefore, the proposed Convention on the Limitation of Naval Armaments must, as far as Bulgaria is concerned, be inapplicable, the Bulgarian Government has no proposals or observations to offer on the report of the Naval Sub-Commission which met in Rome from February 14th to 25th, 1924.

(Signed) D. MIKOFF,
Chargé d'Affaires.

C. 219. M. 74. 1924. IX.

REPLY FROM THE BELGIAN GOVERNMENT.

[Translation.]

Brussels, May 10th, 1924.

I have the honour to communicate the opinion of the Belgian Government on the report presented by the Naval Sub-Commission of the Permanent Advisory Commission on Armaments as to the possibility of extending to non-signatory States the principles of the Washington Naval Convention.

The Belgian Government would desire an amendment to Article 12 of the draft Convention, which reads as follows :

" No vessel of war of any of the High Contracting Parties hereafter laid down, other than a capital ship, shall carry a gun with a calibre in excess of 8 inches (203 millimetres). "

Furthermore, in Part 4 a capital ship is defined as follows :

" A capital ship, in the case of ships hereafter built, is defined as a vessel of war, not an aircraft-carrier, whose displacement exceeds 10,000 tons or which carries a gun with a calibre exceeding 8 inches (203 millimetres). "

Owing to the necessities of her coast defence, Belgium requires three monitors of a total tonnage of 14,000 tons or perhaps only 12,000 tons, but carrying guns of a calibre between 204 mm. and 406 mm.

It would therefore be necessary that either Article 12 should be modified as regards the calibre of guns or that Belgium should be permitted to possess three capital ships as defined above.

(Signed) HYMANS.

C. 325. M. 100. 1924. IX.

REPLY FROM THE GOVERNMENT OF SALVADOR.

[*Translation.*]

San Salvador, May 15th, 1924.

I have the honour to inform you that Salvador has no observations to offer on the subject of the decision of the Council of the League of Nations to convene an international conference nor as to the report of the Naval Sub-Commission which met in Rome from February 14th-25th, 1924.

(*Signed*) R. Arrieta Rossi.

C. 326. M. 102. 1924. IX.

REPLY FROM THE GOVERNMENT OF SOUTH AFRICA.

Pretoria, May 28th, 1924.

The report of the Naval Sub-Commission dated Rome, February 25th, 1924, and the decisions taken by the Assembly and the Council, have been noted by the Government of the Union of South Africa, which has no observations to make on the report in question.

(*Signed*) U. SMUTS,
Prime Minister.

C. 276. M. 95. 1924. IX.
C.P.C. 61.

REPLY FROM THE ROUMANIAN GOVERNMENT.

[*Translation.*]

Berne, May 30th, 1924.

I am instructed by my Government again to call your attention to the astonishment felt in Roumania when it was known that my country had not been summoned to the preliminary Naval Conference which was held at Rome in February last, a feeling which was all the stronger since other countries not Members of the League of Nations were invited to attend and since questions of vital importance to my country were to be discussed.

I have already had the honour, in various documents which I forwarded to the Secretariat during February last, to acquaint you with my Government's point of view.

In expressing her earnest desire to take part in a preliminary conference on naval disarmament, Roumania had in mind Article II of a resolution of the Council of the League of Nations (Rome Session, May 19th, 1920), which reads as follows :

“ Any other States which are Members of the League may be invited to send a similar number of representatives to sit on the Commission temporarily when a question directly affecting them is under discussion. ”

Moreover, her request was supported by a resolution of the third Assembly, which explicitly provides that “ ... any special cases, including those of the new States, shall be given due consideration at the Conference. ”

On observing that an invitation had been extended to Powers whose interests conflicted with our own, especially in regard to the regime to be established in the Black Sea — to Powers which were not Members of the League of Nations and did not even fulfil the conditions previously laid down — the Roumanian Government felt justified in pressing the demand that its experts should also be heard.

It learnt to its regret that the Commission of Experts, ignoring the clear terms of the documents referred to above, had refused its request, and that the Council had decided that the question of convening a new preliminary Conference should be considered at a later date.

The Roumanian Government is of opinion that it is absolutely indispensable to summon a second preliminary conference which will take the necessary steps to reconcile competing interest as far as is practicable and thus ensure that any international conference will not from the first be doomed to failure.

With a view to obviating certain insurmountable difficulties and to achieving a durable peace, my Government has on several occasions advocated disarmament on that sea in which it is more particularly interest, namely, the Black Sea. Its peaceful aims therefore cannot be questioned. Nevertheless, should other riparian Powers secure the right to rebuild their pre-war fleets, my Government also will feel compelled to lay down vessels of the same design, tonnage and armament.

It will be understood that the problem of this equilibrium of naval strength in the Black Sea presents special difficulties when it is realised that, as the Straits are now open to any war vessels, a concentration of naval forces on this sea may easily be effected by any riparian Power possessing warships in seas other than that in which we are interested.

The maintenance of the *status quo* is an absolutely unacceptable solution in the case of Roumania, as in the case of a certain number of countries which have been restored or the territory of which has been increased since the war, a situation which the third Assembly fully realised.

In regard to the employment of submarines against merchant shipping and the use of asphyxiating gases, Roumania is prepared to accede to the provisions of the Washington Convention, subject to reciprocity on the part of the Black Sea riparian Powers, whether or no these Powers are Members of the League of Nations, and on the distinct understanding that effective penalties are provided against any Power which has violated the obligations laid down in the Convention.

In concluding these observations, I must, however, repeat once more that my Government desires the convening of a new conference of technical experts for the purpose of discovering the basis of an agreement which may be submitted at a later date to a full international conference for discussion.

(Signed) N. P. COMNÈNE,
Roumanian Minister.

C. 251. M. 84. 1924. IX.
[C.P.C. 58.1924.]

REPLY FROM THE UNITED STATES GOVERNMENT.

Berne, May 31st, 1924.

Acting under telegraphic instructions from my Government, I beg to transmit to you herewith the text of the acknowledgment by the Secretary of State of the United States of the communication addressed to him under date of April 4th, 1924 (C.L. 47. 1924. IX), enclosing a copy of the report on the Conference which met at Rome in February 1924 to consider the question of the extension to non-signatory maritime States of the principles of the Washington Naval Treaty and inviting the Government of the United States, as a State not a Member of the League of Nations, to communicate to you its observations or suggestions on the report. The mail acknowledgment of the Secretary of State will be transmitted to you as soon as it is received.

(Signed) Hugh GIBSON.

COMMUNICATION FROM THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

The Secretary of State of the United States of America has received with due appreciation the communication dated April 4th, 1924 (C.L. 47. 1924. IX) by which the Secretary-General of the League of Nations, in pursuance of a resolution of the Council of the League, forwarded a copy of the report on the Conference which met at Rome in February 1924 to consider the question of the extension to non-signatory maritime States of the principles of the Washington Naval Treaty and inviting the Government of the United States, as a State not a Member of the League of Nations, to communicate to the Secretary-General any observations or suggestions on the report which that Government may think desirable, in order to enable the Council to take a decision as to a second technical meeting and to determine the final date of the International Conference for the purpose of concluding the Convention.

The question of the limitation of naval armament is one, as the Secretary-General is aware, in which a deep interest has been and continues to be taken by the Government of the United States, which would view with satisfaction the acceptance by all maritime Governments having capital ships of the principles controlled by the Washington Naval Treaty. The attentive examination which has been given the report discloses the fact, however, that there were at the Rome meeting a want of accord and a diversity of views which would seem to make it undesirable for the Government of the United States to make any suggestions in response to the courteous invitation extended by the Secretary-General.

C. 287. M. 91. 1924. IX

REPLY FROM THE GREEK GOVERNMENT.

[Translation.]

Berne, June 3rd, 1924.

In conformity with instructions which I have received from the Ministry for Foreign Affairs at Athens, I am instructed by my Government to make the following declaration regarding the proposed extension of the principles of the Washington Treaty on the Limitation of Naval Armaments to non-signatory countries.

Greece is desirous of co-operating in the limitation of naval armaments and is accordingly prepared to accept the tonnage of 36,000 tons for her capital ships on condition that Turkey's tonnage does not exceed this figure. Further, if for any reason the construction of the cruiser *Salamis* is not completed, Greece reserves the right to replace her by another ship of the same type; in compensation she would, however, disarm the cruisers *Kilkis* and *Lemnos*.

(Signed) COLOCOTRONIS,
Chargé d'Affaires.

C. 286. M. 90. 1924. IX.

LETTER FROM THE SWEDISH GOVERNMENT.

[*Translation.*]

Stockholm, June 6th, 1924.

By letter dated April 4th last, you were good enough to furnish me with a copy of the report submitted to the Council by the Naval Sub-Commission of the Permanent Advisory Commission for Military, Naval and Air Questions, which met at Rome from February 14th-25th, 1924, with naval experts of certain States, in order to study the possibility of extending the principles of the Naval Treaty of Washington to States non-signatory to that Treaty.

At the same time you were good enough to ask me, in conformity with the resolution taken by the Council on March 14th last, to communicate to you any observations or proposals which the Royal Government might wish to present in order to enable the Council to take a decision as to the convocation of a second technical conference and to fix the definite date of the International Conference entrusted with concluding the Convention.

In conformity therewith, I have the honour to inform you that, in the opinion of the Royal Government, it does not appear necessary to convoke a second preliminary conference of experts. The divergencies of opinion manifested at the Rome Conference, as regards the most important points of the Draft Convention which were submitted to the Conference, appear to be so important that no satisfactory result could be expected from a further conference of experts.

(Signed) E. Marks von WUERTEMBERG.

C. 288. M. 92. 1924. IX.

REPLY FROM THE DANISH GOVERNMENT.

[*Translation.*]

Berne, June 10th, 1924.

In reply to letter C.L. 47. 1924. IX, dated April 4th, which you were good enough to address to the Danish Government, I have the honour, by order of my Government, to inform you that the Royal Government has no observations or proposals to make on the subject of the draft Convention drawn up by the Naval Meeting at Rome with a view to the extension of the principles of the Naval Treaty of Washington to States non-signatory to that Treaty.

The Danish Government is of opinion that the convocation of a further meeting of experts is unnecessary, and desires that an International Conference should be called shortly for the purpose of concluding the Convention.

(Signed) A. OLDENBURG.

*Minister for Denmark at Berne and
Representative of the Royal Government
accredited to the League of Nations.*

C. 322. M. 99. 1924. IX

REPLY FROM THE FRENCH GOVERNMENT.

[*Translation.*]

Paris, June 13th, 1924.

I have the honour to communicate to you the following observations, which represent the views of the French Government on the result of the Conference held at Rome last February.

The Naval Sub-Commission had been instructed to consider "the possibility of extending the principles of the Washington Naval Treaty to States non-signatory to that Treaty". At its meeting at Geneva in 1922, it realised the impossibility of obtaining any practical result by applying the principles of the *status quo* and of the "Naval Holiday", which were the bases of the Washington Treaty.

From that time onwards, the attitude adopted by Brazil and by Spain had resulted in introducing the conception of national security, as defined in Article 8 of the Covenant of the League of Nations, as a factor in the discussion.

Bearing in mind this consideration, and desiring that the principles of the Covenant should be applied in their widest possible sense, the Government of the Republic instructed its representative on the Naval Sub-Commission at Rome to support the view that the requirements of national security should be taken into account.

In conformity with his instructions, Admiral Jehenne urged the adoption of a system by which the present requirements of the national security of any State could be estimated by means of a comparison with the naval situation of that State at a given period — namely, the period at which the naval forces of the State in question might be taken as corresponding to the true requirements of its security.

Such a method appeared, and in our view still appears, to be one which would enable technical experts — who are not qualified to discuss the political aspects of the limitation of armaments — to arrive at a workable solution.

Unfortunately, this view did not commend itself to the majority of the States which were to be invited to limit their naval armaments. Accordingly, the Conference, having abandoned the principles of the Washington Naval Treaty and not being willing to accept the procedure suggested by our expert, was left without any satisfactory basis for a technical discussion.

The verbatim reports show the results of this situation; the delegates were constantly finding themselves confronted with political problems with which they were not qualified to deal. In these circumstances, it is not astonishing that the Conference was unable to reach an agreement on the tonnage figures which should be allotted to all the Powers concerned and represented at Rome.

Any further meeting of the Naval Sub-Commission to discuss the same matter would presumably encounter the same difficulties and would inevitably be doomed to failure, unless the technical experts who take part in it were enabled to take their stand on principles previously agreed to by all the States concerned.

For these reasons, I consider that it would serve no useful purpose to convene another technical conference unless it is to be held solely with the object of enabling certain States — such as Roumania and Esthonia, who have asked for such a conference, and who were not represented at Rome — to explain their views on the question at issue.

(Signed) E. LEFEBVRE DU PREY.

C. 329. M. 105. 1924. IX.

REPLY FROM THE NETHERLANDS GOVERNMENT.

[Translation.]

Berne, June 16th, 1924.

The Netherlands Government entirely concurs in the standpoint adopted by the Netherlands delegate at the Rome Conference, except that it must reserve its opinion on the Swedish delegate's proposal regarding the condition imposed upon the tonnage allowed for "capital ships", and also on the Greek delegate's proposal with reference to the "Naval Holiday".

I am further instructed to state that the Royal Netherlands Government accepts the British Government's view set forth in document C. 187. M. 55. 1924. IX, to the effect that the settlement of the problem would in no way be advanced by holding a second preliminary conference of naval experts on the limitation of naval armaments, as these experts could not deal with the political and legal aspects of the question. For this reason, my Government does not consider that it would be desirable to summon a second conference of experts.

The report submitted by the Rome Conference to the Council of the League gives a summary of the desiderata suggested by the naval experts, and this report might serve as the starting-point for the discussions of an international conference at which the participating States would be represented by diplomats, jurists and experts. In the opinion of my Government, a conference on these lines might reasonably be expected to reach a compromise which would make it possible to conclude a convention extending to non-signatory Power the principles of the Treaty of Washington on the Limitation of Naval Armaments.

(Signed) W. I. Doude van Troostwyk.

C. 330. M. 106. 1924. IX.

REPLY FROM THE KINGDOM OF THE SERBS, CROATS AND SLOVENES.

[Translation.]

Belgrade, June 18th, 1924.

The Royal Ministry for Foreign Affairs has the honour to inform you that the Royal Government has considered the report on the work of the Conference of Naval Experts held at Rome in February 1924 and would be glad to co-operate in the efforts of the League of Nations to bring about a general reduction in naval armaments and to take part in the International Conference which the Council of the League proposes to convene in order to consider the possibility of extending to non-signatory States, by means of an International Convention, the principles laid down in the Washington Treaty on the Limitation of Naval Armaments. It does not, however, think that any good purpose would be served by holding another preliminary conference before the International Conference.

C. 332. M. 108. 1924. IX.

REPLY FROM THE HUNGARIAN GOVERNMENT.

[*Translation.*]

Budapest, June 18th, 1924.

The Hungarian Government has no observations to make regarding the report of the Naval Meeting at Rome.

Concerned as it is for the maintenance of world peace, towards which the extension of the principles of the Washington Convention would be an important step, the Hungarian Government earnestly hopes that the League of Nations will be able to bring to a successful conclusion the task it has undertaken.

As, however, the subject of the proposed Conference is of only indirect concern to Hungary and as the Hungarian Government is obliged to exercise the strictest economy in every department, it regrets that it will be unable to send representatives to this Conference.

(Signed) DARUVARY.

C. 333. M. 109. 1924. IX.

REPLY FROM THE ALBANIAN GOVERNMENT.

[*Translation.*]

Tirana, June 21st, 1924.

The Albanian Government is following with the greatest interest every effort towards the limitation of naval armaments and the consolidation of general peace which should result therefrom. As Albania does not, at present, possess warships of any kind, and does not at the moment intend to build any, the Government has no observations to make; it adheres to the principles laid down in the Convention proposed by the Naval Sub-Commission.

(Signed) Suileman DELVINA,
Minister for Foreign Affairs.

C. 334. M. 110. 1924. IX.

REPLY FROM THE POLISH GOVERNMENT.

[*Translation.*]

Geneva, June 23rd, 1924.

The Polish Government is prepared actively to co-operate with the League of Nations in limiting naval armaments, being convinced that the stipulations of the proposed Treaty will provide satisfactory safeguards for the naval communications of Poland with other countries.

My Government is accordingly prepared to undertake to limit its naval armaments and to specify the composition of its future navy, on condition that similar undertakings, providing effective guarantees, are assumed simultaneously by all the other Baltic States.

(Signed) AL. SKRZYNSKI,
Delegate to the League of Nations.

C. 341. M. 114. 1924. IX.

REPLY FROM THE NORWEGIAN GOVERNMENT.

Christiania, June 28th, 1924.

[*Translation.*]

The Norwegian Government has no observations to offer as regards the report presented to the Council of the League by the Naval Sub-Commission of the Permanent Advisory Commission on the possibility of extending the principles of the Washington Treaty to States non-signatory to that Treaty.

(Signed) C. F. MICHELET.

C. 346. M. 117. 1924. IX.

REPLY FROM THE SPANISH GOVERNMENT.

Paris, July 3rd, 1924.

[*Translation.*]

With reference to your letter of April 4th last (C.L. 47, 1924. IX), to which it much regrets that it has not been able to reply, the Royal Government instructs me to inform you that it regards with misgiving the proposal to summon a second technical conference to consider the extension of the Washington Naval Treaty to States non-signatory thereto. The questions raised would be political rather than technical in character, and such a conference would be liable to lead to a repetition of the deadlock which was reached at the first meeting of experts at Rome. In regard to the holding of the new conference, however, Spain will fall in with the views of the majority of the States consulted.

The Royal Government takes this opportunity to emphasise its views that it is essential for Spain to have capital ships of a total tonnage of not less than one hundred and five thousand (105,000) tons, and that it cannot therefore accept any agreement by which this figure would be reduced.

(Signed) QUIÑONES DE LEÓN.

C. 379. M. 139. 1924. IX.
C.P.C. 68.

REPLY OF THE FINNISH GOVERNMENT.

[*Translation.*]

Helsingfors, July 25th, 1924.

In reply to your letter dated April 4th last, in which you requested the Finnish Government, in accordance with the resolution adopted by the Council of the League of Nations on March 14th, 1924, to communicate any observations or suggestions it might think desirable concerning the report of the Naval Conference at Rome, which was attached to your letter, I have the honour on behalf of the Finnish Government to offer the following observations.

The Finnish Government has noted with the utmost satisfaction the report of the Permanent Advisory Commission of the League of Nations on the limitation of naval armaments, with the draft Convention annexed thereto, and it regards this report as a further evidence of the League's efforts to bring to a successful conclusion one of its most important tasks. The Finnish Government, having been invited to express its opinion on the draft Convention in question, has the honour to set forth below the views which it would wish taken into account when the Convention is being finally drafted. In doing so, the Finnish Government feels that it is explicitly justified by the resolution of the Third Assembly, which recognised the necessity of paying regard to the special circumstances of newly-constituted States.

Finland, which has been able only during the past few years to draw up a programme for the creation of a fleet to defend her exceptionally long seaboard, is incontestably placed in special circumstances of the kind referred to. Her political and geographical situation and her economic resources do not enable her to concentrate all her moral and material strength on efforts to increase the prosperity of her people unless she is secured against all threats to her independence and territorial integrity from the sea.

It is regrettable that the present draft Convention is not such as to afford Finland that security which is essential to her. It would seem, however, from Article 20 of the draft, that the object of this general Convention, and of the Convention now in preparation regarding the reduction of land armaments, is directly connected with the provisions of Article 8 of the Covenant. Doubtless, therefore, the procedure best calculated to secure the desired result would be the procedure already adopted with a view to the reduction of land armaments. However, considering in conjunction the results of the Rome Conference and the special situation of Finland, the Finnish Government feels convinced that the Washington Treaty, though it has solved the problem of limiting the naval armaments of five great Powers while maintaining the balance between them would not be so successful if it were applied almost without amendment to the second-rate naval Powers. It would be of no value to countries which cannot afford to build and keep up a proper high-sea fleet or are not forced to do so by their political and commercial interests.

Now Finland belongs to this latter class of country, which, notwithstanding the above-mentioned resolution of the Third Assembly, the present draft Convention in no way concerns. A reduction in the total capital-ship tonnage of the principal neighbouring States would obviously in no way increase Finland's security, nor would it lessen the financial burden imposed upon her by the necessity of defending her seaboard, so long as these States were free to build and maintain an unlimited number of warships of a displacement less than 10,000 tons.

In view of these considerations, the Finnish Government is of opinion that, in order to secure completely the object to which Article 8 of the Covenant and the Resolution of the Third Assembly were directed, the draft Convention should be supplemented by more effective safeguards for the interests of the lesser Powers.

An important step in this direction would apparently be the introduction into the draft convention of provisions which would allow of the limitation of naval armaments on the basis of regional agreements, taking account of the special circumstances of a given geographical group. The Finnish Government considers that, with such additions, the draft would be more completely in the spirit of the Third Assembly resolution in question than if it contemplated the reduction of naval armaments in its technical naval aspect alone. In many cases the adoption of the regional principle would certainly offer a sounder basis for the solution of the problem. As the Permanent Advisory Commission's report shows, serious obstacles have arisen owing to the impossibility of finding an accepted standard on which to base the calculation of the tonnage of warships to be allocated to the various countries, which, because of their geographical, political and strategical situation, are difficult to compare. One example — that of Russia — clearly demonstrates the necessity of applying the principle of regional agreements in certain cases. As the coasts of Russia are washed by several seas between which there is no direct communication, it is obvious that the balance of naval power on those seas will be affected by the distribution of her naval forces among them and not by her actual capital ship tonnage; moreover, Russia's requirements for naval defence in those seas will of course depend upon the strength of the naval forces maintained in them by the other riparian States.

Again, measures for the limitation of naval armaments should not form an isolated system, unconnected with the League's programme for the general limitation of armaments. They should be a part of that general programme, or should at least follow the same broad principles by which the League is guided in connection with the limitation of land armaments.

In the draft Treaty of Mutual Assistance the object of which is the limitation of land armaments, the obligation of limiting such armaments is counterbalanced by the provision of adequate guarantees for the national security of the contracting countries. The Finnish Government is of opinion that the same principle should be followed in the draft Convention on the Limitation of Naval Armaments; in other words, that the draft convention should also include a general guarantee system based upon the authority of the League of Nations. Here again the contracting States should be given the option of concluding regional agreements.

Another necessity of the same kind would seem to be that of determining, more strictly than has actually been done, the maximum tonnages to be allocated to countries in the same geographical group. Within such a group, which may (as in the case of the Baltic States) contain both great and small Powers, equilibrium, — the essential condition of peace — cannot be attained merely by limiting the number, displacement and armament of capital ships; similarly, for obvious reasons, the same test cannot be applied to the armed naval forces of small countries as to the fleets of Powers whose chief interests are bound up with the high seas. To fix the total tonnage to be allocated to States in the same geographical group, and to lay down maximum limits, varying according to local circumstances, for the displacement of warships and the calibre of their guns, is the only means of ensuring an adequate degree of security to countries which have coasts on the same sea; and this method would also reduce the cost of security to a minimum.

Again, the Finnish Government thinks that every country should be left complete latitude in the use of the tonnage allocated to it within the limits laid down. Equity would seem to demand that every country should be free to organise its own naval defence in accordance with its individual needs and with the special configuration of its coast line.

Moreover, the Finnish Government considers that no satisfactory solution of the question can be reached unless those countries which, though having no capital ships, are directly concerned in the questions connected with the limitation of naval armaments are afforded an opportunity of taking part in any international conferences or meetings of experts which may be held for the further consideration of those questions.

The Finnish Government earnestly hopes that the Council will give its favourable consideration to the foregoing suggestions, which it has advanced with the single object of helping towards an equitable and practicable solution for the question of the limitation of naval armaments.

(Signed) H. J. PROCOPE.

[Communicated to the Council,
the Members of the League
and the Delegates at the Assembly.]

A. 35 (a). 1924. IX.

Geneva, September 5th, 1924.

LEAGUE OF NATIONS

REDUCTION OF ARMAMENTS

TREATY OF MUTUAL ASSISTANCE.

8

REPLY FROM THE JAPANESE GOVERNMENT

Geneva,
September, 3rd, 1924

[*Translation.*]

The Japanese Government fully appreciates the spirit which animates the draft Treaty of Mutual Assistance. It accepts the fundamental principle that security and disarmament are interdependent. Accordingly, it has examined in the most sympathetic spirit the draft Treaty in the light of the present situation in Japan and in the world as a whole. It ventures, however, to submit a few remarks on the measures proposed.

It considers that the provisions of Article 4 form the basis for putting in motion the machinery of mutual assistance and that they are the fundamental conditions on which the possibility of attaining our common end, the reduction of armaments, depends. It is of opinion, however, that it will be difficult in practice for the Council to give a precise definition of aggression and to decide within so short a period which is the aggressor State.

It also considers that the arguments against supplementary agreements are not entirely devoid of foundation since such agreements might easily lead to the formation of opposing groups even among the Members of the League of Nations and might thus produce a result entirely different from that which we are endeavouring to secure.

(Signed) Y. SUGIMURA,

Assistant Director of the Japanese League of Nations Bureau.

Genève, le 5 septembre 1924.

SOCIÉTÉ DES NATIONS

RÉDUCTION DES ARMEMENTS

TRAITÉ D'ASSISTANCE MUTUELLE

RÉPONSE DU GOUVERNEMENT JAPONAIS

Genève,

le 31 septembre 1924

Le Gouvernement du Japon apprécie hautement l'esprit qui inspire le projet de traité d'assistance mutuelle. Il accepte l'idée directrice selon laquelle sécurité et désarmement dépendent l'un de l'autre. Aussi est-ce avec empressement qu'il a examiné le projet en question à la lumière des circonstances actuelles dans son pays et dans le monde. Le Gouvernement se permet cependant de présenter quelques points de ses observations sur les dispositions envisagées.

Il considère que les dispositions de l'article 4 forment la base de la mise en mouvement de l'assistance mutuelle et qu'elles constituent les règles fondamentales dont dépend la possibilité d'atteindre notre but, qui est la limitation des armements. Il lui paraît toutefois malaisé pour le Conseil de donner en pratique une définition précise de l'agression et de déterminer dans une période aussi limitée qui est l'agresseur.

Il trouve également que les arguments contre les accords complémentaires ne sont pas dénués de tout fondement, car ces accords pourraient éventuellement donner naissance à des groupements opposés, même parmi les Membres de la Société des Nations, et ainsi risquer d'aboutir à un résultat différent de celui auquel tendent tous nos efforts sincères.

(Signé) Y. SUGIMURA,

Chef adjoint du Bureau du Japon à la Société des Nations.

[Communicated to the Council,
the Members of the League
and the Delegates at the Assembly.]

A. 35. 1924. IX.

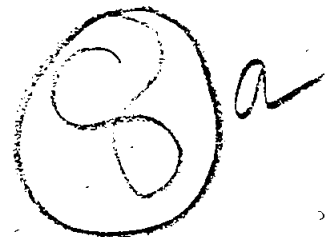
Geneva, September 1st, 1924.

LEAGUE OF NATIONS

REDUCTION OF ARMAMENTS

TREATY OF MUTUAL ASSISTANCE

Replies from Governments



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LEAGUE OF NATIONS

REDUCTION OF ARMAMENTS.

TREATY OF MUTUAL ASSISTANCE

ACTION TAKEN BY THE COUNCIL AND THE COMMISSIONS
OF THE LEAGUE ON THE RESOLUTIONS ADOPTED BY THE ASSEMBLY
AT ITS FOURTH SESSION

Resolution I. — Draft Treaty of Mutual Assistance.

“The Assembly,

“Having taken cognisance of the draft Treaty of Mutual Assistance drawn up by the Temporary Mixed Commission and amended by the Third Committee as a result of an exchange of views between its members, some of whom spoke in their personal capacity;

“Considering that this discussion has revealed some divergences of view and, further, that a large number of Governments have not yet expressed their opinions on Resolution XIV of the third Assembly:

“Decides to request the Council to submit the draft Treaty of Mutual Assistance to the Governments for their consideration, asking them to communicate their views in regard to the aforesaid draft Treaty.”

In conformity with this resolution, the Council in September 1923 decided to empower the Secretary-General to circulate to all the Governments of Members of the League the report of the Third Committee of the Assembly on the draft Treaty of Mutual Assistance, together with the report of the Temporary Mixed Commission to the Assembly on the same subject, and the Minutes of the Third Committee.

In accordance with the decision of the Assembly, the letter from the Secretary-General drew the attention of the Governments of the Members of the League to the fact that, in order that the work of co-ordinating the opinions of the Governments with regard to the draft Treaty might be taken in hand in sufficient time for the consideration of the next Assembly, it would be of the greatest utility that these opinions should reach the Secretariat of the League as early as possible in the year. The Council in December decided to extend this communication to States non-Members of the League, and a letter to that effect was sent by the Secretary-General on January 9th, 1924.

During its March session, the Council noted that only three Governments had by then replied to the first letter of the Secretary-General, dated October 25th, 1923. It adopted the following resolution:

“The Council, in view of Resolution No. I of the Assembly, in accordance with which the draft Treaty of Mutual Assistance was submitted to the Governments for their consideration, with the request that they should communicate their views in regard to the said draft;

“Considering that it is important that the next Assembly should be in a position to examine the draft again in the light of the views of the Governments:

“Instructs its President to approach all States Members of the League of Nations which have not yet communicated their views on this subject, requesting them to be good enough to do so, in order that their views on the Treaty of Mutual Assistance may reach the Secretariat in time to be submitted to the next Assembly.”

All the replies so far received by the Secretariat are included in the present Document.

REPLY FROM THE FINNISH GOVERNMENT.

[Translation.]

January 18th, 1924.

The Finnish Government considers that it is one of the primary duties of the League of Nations to secure the definite establishment and effective application of the guarantee provided for in Article 10 of the Covenant, and to develop the principles laid down therein. The Finnish Government, therefore, wishes to express its appreciation of the efforts made to create a system of mutual guarantee on the lines laid down in Resolution XIV of the third Assembly, and especially of the endeavour, first, to place on a solid and practical basis the logical relation which ought to exist between the right to security and the duty of reducing or limiting armaments — a relation the establishment of which is undoubtedly required by the spirit of the Covenant — and, secondly, to enlarge the community of nations for the purpose of the application — in the interests of the world's peace — of Articles 8, 10 and 16 of the Covenant. If, notwithstanding, my Government ventures to submit certain remarks on the scheme of mutual assistance drawn up by the Third Committee of the fourth Assembly, it is due to the fact that the problem is of wide general interest, and that its discussion from every point of view is indispensable.

I. — In accordance with the principle laid down in Article 14 of the draft, and with the definition of the aims of the Treaty given in the preamble, the Finnish Government considers that the Treaty of Mutual Assistance should be directed, above all, to the progressive consolidation of the League of Nations.

The draft Treaty of Assistance establishes the principle that a State which is not a Member of the League of Nations may participate in the organisation of mutual assistance. The Powers signatory to the Treaty of Assistance, which seeks to facilitate and direct the application of the two fundamental principles contained in Articles 10 and 16 of the Covenant, would therefore include States outside the League of Nations and not bound by the League's judicial system. Difficult as it may be to incorporate a Power which remains outside the League of Nations in an organisation depending for its motive power on the Council of the League, the Finnish Government cannot but express its satisfaction at the enlargement, whether immediate or not, of the League's sphere of action.

A serious difficulty results from another unavoidable anomaly in the system provided for in the draft Treaty, *i.e.*, the fact that a Member of the League of Nations might not be a party to the Treaty of Assistance. As the compulsory character of the Covenant and of the obligations based upon it will not and cannot suffer any limitation in consequence of the new Treaty, it will be necessary to fix a definite line of demarcation between the obligations resulting from the Covenant and those based upon the Treaty of Assistance. This appears essential, in view of the fact that States Members of the Council may have to deal with matters concerning the application of the Treaty of Assistance without themselves being parties to the Treaty, and, further, that the Council may have the same dispute submitted to it in its two distinct capacities; in the absence of unanimity, it could take no action as the organ of the organisation of assistance, but it could perhaps, composed in a slightly different manner, take action as an organ acting in virtue of the Covenant. It should be emphasised that the application of Articles 10 and 16 of the Covenant ought, in all fairness, to affect in equal measure all the Members of the League. In the opinion of the Finnish Government, only vital political and practical considerations could justify an arrangement whereby Members of the League of Nations would remain outside the new organisation of assistance.

Anxious to assist the common cause by exploring every avenue which may lead to the general acceptance of the Treaty, the Finnish Government feels bound to observe that, in view of the provisions of paragraph 4, Article 16 of the Covenant, the relation between the right to security and the duty of reducing or limiting armaments could, in its opinion, be established in another form than that adopted in the draft Treaty.

II. — The Government is fully aware of the difficulties raised by the requirement that all decisions of the Council should be unanimous — a principle which can only be justified on the ground that it is an unavoidable consequence of the virtual identity of the Council sitting as an executive organ of the League of Nations and, as such, ruled by this principle, with the Council acting as the motive power of the organisation of assistance. As long as the principle of unanimity remains a fundamental rule of the Covenant, it seems difficult to propose the acceptance of a contrary principle for the Treaty of Assistance. Nevertheless, the Finnish Government feels just fied in suggesting two necessary modifications on this point:

(1) The declaration provided for in Article 4, paragraph 1, for the purpose of deciding which States are the objects of aggression, is only a statement of fact. On purely logical grounds it would, therefore, seem natural that such a declaration should be made by a majority vote. Even if a decision as to the measures to be taken requires unanimity, the Council could hardly declare itself incompetent to settle this question of fact; the consequences of applying the unanimity rule to this case might be equivalent to a denial of justice.

(2) Could not this hard-and-fast rule be modified, as regards the measures provided for in Article 5, by applying the principle established in the Convention on the neutralisation of the Aaland Islands, to the effect that, if unanimity cannot be obtained, each of the High

Contracting Parties will be authorised to take the measures which the Council may recommend by a two-thirds majority? The Finnish Government ventures to recommend that, with a view to rendering easier the working of the Treaty, an application of this principle should be considered.

Mention should also be made of the grave drawback resulting from the connection between the general guarantee and the complementary agreements provided for in Article 6, tautologically defined in Article 7 as agreements "complementary to the present Treaty". It is clear from the provisions of the Treaty that a State which is party to a complementary agreement may refuse to carry out the obligation incumbent on it in virtue of this agreement as long as the Council has not succeeded in obtaining the unanimity required to decide, first, that there is a threat of aggression; secondly, which is the aggressor; and lastly, what measures should be taken in virtue of Article 5.

III. — Article 3 lays down with justice that any State "party or not to the present Treaty" and therefore conceivably not a Member of the League of Nations, may be denounced on account of its aggressive policy or hostile intentions. If there is reasonable ground for thinking that a menace of aggression has arisen, the Council may take, among other measures, those indicated in sub-paragraphs (a), (b), (c), (d) and (e) of the second paragraph of Article 5. The application of these measures necessarily presupposes a decision as to which Power is threatening aggression (or which is the presumed aggressor), and which is the victim of the aggression. The Council may therefore be called upon to deal with a question concerning a State which is not a Member of the League of Nations. The Finnish Government views this contingency with satisfaction, especially because this point of view entirely corresponds with the opinion it maintained before the Permanent Court of International Justice and the Assembly and Council of the League of Nations.

Article 3, paragraph 1, lays down that any State, party or not to the Treaty, may be denounced on account of its aggressive policy. But, in paragraph 3, the only States considered as liable to denunciation are the High Contracting Parties; it is these States which must be invited to send representatives to the Council. Why is the invitation of a State which, though not party to the Treaty of Assistance, may be denounced by a Contracting Party not expressly authorised on the analogy of Article 17 of the Covenant? The draft requires to be completed on this point.

For the same reasons, Article 4, paragraph 3, should be modified in order to make it quite clear that it is not with the High Contracting Parties *alone*, when engaged in hostilities, that the assistance organisation is concerned, and consequently that the measures laid down in the second paragraph of Article 5 may be applied in respect of a State which is not party to the Treaty, both in the circumstances indicated in Article 4 and in those described in Article 3.

IV. — The draft Treaty is also insufficiently clear owing to the fact that it does not indicate how the Council is to accomplish the important duties imposed upon it by Article 5 of the Treaty. How will it employ the forces which each State furnishing assistance will have to place at its disposal? How will it prepare a plan for co-operation when it has no permanent military organisation ready for action at the required moment? Does Article 5 take for granted that an organisation of this kind would be established in advance? The silence of the draft Treaty on this point is the more incomprehensible as Resolution XIV assumes that an organisation of this kind will be created. This resolution says: "The Council of the League should further formulate and submit to the Governments for their consideration and sovereign decision the plan of the machinery, both political and military, necessary to bring them (*i.e.*, the systems of achieving a general reduction of armaments) clearly into effect." In these circumstances, it might be expected that the draft Treaty would expressly stipulate that such machinery should be set up.

It is equally necessary, in the opinion of the Finnish Government, that the plans for financial co-operation provided for in sub-paragraph (e) of the second paragraph of Article 5 should be prepared in advance, in order to allow States victims of an aggression, the resources of which are insufficient for their national defence, to obtain the contemplated assistance at the outset of hostilities.

V. — According to Article 17, any State may notify its conditional or partial adherence to the proposed Treaty. It goes without saying that a State will not by such conditions or reservations be able to evade its obligations under the Covenant. Hence, the nature and extent of these conditions should be clearly defined, and also — what is even more important — the rights which may be claimed by these States, the position of which should be determined on a basis of perfect reciprocity.

The somewhat vague terms of Article 17 lend themselves to the interpretation that a State could adhere to the Treaty of Assistance even with the reservation that it should not be required to take any part in carrying out the economic measures provided for in the Treaty. But such a reservation would be quite inadmissible, as it is in contradiction with the fundamental rules of the Covenant. If conditional or partial adherence were to be equivalent to an attempt to evade certain obligations imposed by the Covenant, the Finnish Government would regard it as a "shirking of responsibilities" entirely contradictory to the principles of solidarity and co-operation laid down in the Covenant.

The article in question should also be considered from another point of view. Resolution XV of the third Assembly lays down the principle that certain countries which are in a special geographical position may conclude regional agreements of such a character as to make it possible to take measures for the reduction of armaments even exceeding those decided upon in respect of general reduction. Further, the Assembly recognised that special measures would have to be taken for the defence of countries which, for historical, geographical or other reasons, were in special danger of attack. But it is clear that the Council's task will be made even more difficult if, on account of the accentuated reduction of armaments in neighbouring countries, it is obliged to look to more distant countries for the special guarantees indicated above. The Finnish

Government therefore considers that the provisions of Article 17 should be modified so as to render partial or conditional adherence to the Treaty impossible in cases when the States in question intend to conclude regional agreements for the purpose of reducing their armaments to a greater extent than is provided for in the general scheme.

VI. — The procedure regarding the preparation of the general plan for the reduction of armaments as laid down in Article 11 of the Treaty seems destined in practice to give rise to serious difficulties. The first paragraph of this article obliges the High Contracting Parties to inform the Council of the reduction or limitation of armaments which they consider proportionate to the security furnished by the general Treaty or by the complementary defensive agreements, in order to enable the Council to prepare a general plan for the reduction of armaments on the basis of this information. But at the moment when the High Contracting Parties have to fulfil this obligation, they will probably not be possessed of any exact information in regard to the actual assistance on which they can count, in the event of danger, by virtue of the decisions taken by the Council under the terms of Article 5. There is reason to fear, therefore, that they will be unable to take such assistance into account when supplying information to the Council of the League, and that they will be unable to furnish the latter with a sound basis for its calculations or to fulfil the obligation expressly imposed by the first paragraph of Article 11 of the Treaty and accepted by them.

VII. — While it will be difficult to bring the Treaty of Assistance into effect, it will be easy to denounce it. The terms of Article 19 do not make it clear that the Treaty cannot be denounced in the course of the first fifteen years. If it can be denounced during the first period of fifteen years, and especially if denunciation on the part of a permanent Member of the Council, *i.e.*, of a Great Power, is sufficient not only to break up the contractual community formed by the States situated in the same continent, but to invalidate the whole Treaty, it must be admitted that the security furnished by the Treaty will be very slender.

VIII. — In comparison with the foregoing considerations, the note of the Committee of Jurists with regard to the term "aggressive war" is only of secondary importance; this term, although not strictly in accordance with the Covenant, is preferable to the amendments proposed by the Committee. The Committee also states that the Covenant "authorises, by implication, war in the case of States which comply with a unanimous recommendation by the Council and, in general, in the case of all parties to a dispute in which the Council fails to reach a unanimous recommendation." It should, however, be pointed out that whether a war is legitimate and whether it is in conformity with the Covenant are matters which do not depend solely on the formal and incidental question as to whether the Council has come to a unanimous decision or not, but rather on the actual facts of the case in point. For instance, a war may be contrary to Article 10 of the Covenant without being unanimously disapproved of by the Council. When the Committee describes as an international crime a war which violates the provisions of the Covenant, this is tautology as far as the Members of the League are concerned, while the States non-Members of the League would probably not recognise an act forbidden by the Covenant as an international crime unless it appeared as such in the light of the general principles of international law.

IX. — In the opinion of the Finnish Government, it would be preferable to make the co-operation of the Council in the conclusion of agreements concerning demilitarised zones optional and not obligatory as proposed in Article 9. But such agreements should, for the same reasons as in the case of the agreements referred to in Article 6, be regarded as complementary to the Treaty, and as such be subject to examination by the Council and to registration in conformity with Article 18 of the Covenant.

X. — Article 3 only deals with cases in which the State which tears the aggressive policy or preparations of another State appeals to the Council. But under Article 11 of the Covenant, any war or threat of war, whether immediately affecting any of the Members of the League or not, involves the immediate summoning of the Council and justifies any Member of the League in requesting the Council to meet.

Again, Article 15 (paragraphs 9 and 10) of the Covenant lays down that a question with which the Council has already dealt, in virtue of these provisions, may be laid before the Assembly. According to the Treaty of Assistance, the Assembly would play no part in the disputes with which the Treaty deals. It goes without saying, however, that the Treaty of Assistance does not take precedence over the Covenant, and that the option of laying a question before the Assembly still exists if the question at issue also calls for investigation under the terms of the Covenant. In consequence, this option should be expressly specified in the Treaty.

In its keen desire to further the efforts of the League of Nations in favour of an effective reduction of armaments based upon increased national security, the Finnish Government has considered it necessary to formulate certain objections to which the draft Treaty submitted to it gives rise. It expresses the sincere hope that the organs of the League of Nations will be able to solve satisfactorily this fundamental problem and to carry out successfully this task of completing the League's organisation and of safeguarding the interests of peace throughout the world.

(Signed) WENNOLA.

REPLY FROM THE ESTHONIAN GOVERNMENT.

[*Translation.*]

January 22nd, 1924.

In reply to your Note C.L.105, dated October 25th, 1923, concerning the draft Treaty of Mutual Assistance, I have the honour, on behalf of the Government of the Esthonian Republic, to inform you as follows.

The Esthonian Government has watched with interest and keen sympathy the work in which the League of Nations has been engaged for over a year in order to find a practical scheme which will enable the different Governments to reduce their armaments. The Esthonian Government congratulates the League of Nations on the first important fruits of this work — the draft Treaty of Mutual Assistance adopted by the fourth Assembly — and expresses its lively satisfaction at the attainment of so notable a result.

The Esthonian Government recognises the exceptional competence of the Temporary Mixed Commission and of the Third Committee of the Assembly, and is well aware that these Committees have spared no efforts to ensure that this scheme, while remaining true to the high general ideals upon which it is based, should at the same time be realisable in practice in the existing situation of world politics; the Esthonian Government does not, therefore, deem it necessary to offer any detailed comments on the draft adopted by the fourth Assembly, although it has given the proposals its most careful consideration. Its object, in the present communication, is rather to declare that it approves of the draft Treaty and is prepared to adhere to it, whenever it shall have been given its final form.

The Esthonian Government would, however, have preferred that the first article of the Treaty should have retained the concise and exact form in which it was originally drafted. Similarly, it believes that the Treaty would prove more effective if all the Contracting States undertook the same obligations and received in return the same guarantees; and, finally, it considers that a simple general Treaty would have been preferable to a Treaty supplemented by special agreements. However, it is well aware that concessions had to be made on these points in order that the draft should prove acceptable to as many States as possible, and also because these concessions rendered its practical application easier.

In regard to Article 18 of the draft, the Government of the Republic desires, in particular, to state that it approves the conditions for the coming into force of the Treaty in Europe as laid down in that article — which requires ratification by five States, three of which must be States permanently represented on the Council. It is, however, essential, in the view of the Esthonian Government, that the expiration of the Treaty should be made subject to the same conditions: in other words, that the Treaty must not cease to be in force in Europe until, out of the five ratifying States, less than three of the States which are permanent Members of the Council continue to be parties to the Treaty.

Finally, Esthonia, as a State which has accepted the optional clause for the compulsory jurisdiction of the Permanent Court of International Justice, and which is vitally interested in the complete elimination of war as an expedient for the settlement of international disputes, expresses its confident hope that the League of Nations will succeed, in a not distant future, in making the Treaty of Mutual Assistance an accomplished fact, and that the largest possible number of States will adhere to it.

(Signed) F. AKEL,
Minister.

C.T.A. 393.

REPLY FROM THE BELGIAN GOVERNMENT.

[*Translation.*]

February 8th, 1924.

I have the honour to communicate to you the views of the Belgian Government on the draft Treaty of Mutual Assistance, prepared by the Temporary Mixed Commission and amended by the Third Committee of the Assembly, which you were good enough to forward to me with your letter dated October 25th last.

The draft is based on two leading principles, to which the Government has already signified its assent, namely, the necessity of making the disarmament of each State proportionate to the guarantees of security furnished to it, and the combination of partial defensive agreements with the Treaty of General Guarantee.

The Belgian Government readily gives its adherence to the general lines of the draft, but it feels bound to submit the following observations, which have been suggested to it by a detailed examination of the articles.

The draft Treaty is closely connected with the Covenant of the League of Nations, of which it forms, to a certain extent, a supplement. Consequently, the existence, in the draft Treaty and the Covenant, of two different terminologies in regard to the definition of the kind of war which the Contracting Parties undertake not to wage against each other presents serious practical disadvantages which have been pointed out in the Note from the Committee of Jurists appointed to consider the text of the draft Treaty.

The Government therefore adopts the view of this Committee and proposes to draft Articles 1 and 2 as follows, specifying in article 2 the articles of the Covenant to which it refers:

Article 1. "The High Contracting Parties solemnly declare that a war waged in violation of the provisions of the Covenant is an international crime and severally undertake that no one of them will be guilty of this crime.

Article 2. "The High Contracting Parties jointly and severally undertake to furnish assistance, in accordance with the provisions of the present Treaty, to any of their number which, after having reduced its armaments in conformity with the provisions of the present Treaty, is the object of a war prohibited by the Covenant of the League of Nations either on account of its origin (Article 10 of the Covenant) or of its aims (Articles 12-15 of the Covenant)."

The textual amendments to these two articles do not in any way impair the value of the draft Treaty from the point of view of the military guarantees which it will add to the Covenant. The amendments do not affect the main advantage which the draft has to offer, namely, that the Contracting Parties substitute for limited engagements to furnish military assistance on certain occasions (Articles 10 to 15 of the Covenant) engagements which are both more precise and more extensive.

Article 5 of the draft lays down that in the cases referred to in Article 2 of the Treaty the High Contracting Parties shall furnish one another mutually with assistance in the form determined by the Council of the League of Nations, which has the right to "require", if necessary, the High Contracting Parties to furnish military assistance to one of their number.

Article 9 provides for the establishment of demilitarised zones. It would be desirable to define what is meant by this term, in order that the Council of the League of Nations may be enabled to take steps to establish zones of this kind.

Article 10 places upon the aggressor State the cost of the operations and of the damage caused, up to the extreme limits of its financial capacity.

Provision should be made for the case in which this financial capacity may prove inadequate. It might be stipulated that, in the event of the total or partial insolvency of the aggressor State, the cost of that part of the damage for which no reparation has been made would be borne by the High Contracting Parties in the proportion fixed by the Council of the League of Nations, which could take into account for this purpose the amount of their respective contributions to the expenses of the League of Nations.

Under the terms of *Article 11*, it will not be possible to alter the plan for the reduction of armaments, when once approved by the various Governments, until a period of five years has elapsed. But the situation might be considerably changed if a new State were admitted or if a State were excluded, and certain countries might thereby lose part of the security upon which they had relied.

Should such a situation arise, it should be laid down that the reduction of armaments by the signatory States might be modified accordingly, after the Council has considered the request put forward by the countries concerned or by any one of their number.

In *Article 12* no method of investigation is laid down to determine whether each State has actually reduced its armaments in accordance with the Treaty, or, on the other hand, whether it is still in a position to furnish the forces which are required of it.

Anxiety to avoid infringing State sovereignty was apparently the consideration which militated against the introduction of supervision of this kind. In order to provide a safeguard on this point, a system of supervision might be instituted, acceptable to the parties concerned, which could be carried out on identical lines in every country by a Commission composed of representatives of all the Powers signatory to the Treaty.

Article 12 of the draft Treaty contains no mention of sanctions. This omission might be repaired by stipulating that a refusal to communicate the necessary information could be pleaded by one of the High Contracting Parties as *prima-facie* evidence that the armaments of the High Contracting Party which fails to supply the information exceed the limits allowed it under the present Treaty. In such a case, Article 3 of the Treaty might be applied.

The Belgian Government is in favour of the following text proposed by the Committee of Jurists for Article 14:

Article 14. "Nothing in the present Treaty shall affect the rights and obligations resulting from the provisions of the Covenant of the League of Nations or of the Treaties of Peace signed in 1919 and 1922 at Versailles, Neuilly, St. Germain and Trianon and in 1923 at Lausanne, or from the provisions of treaties or agreements registered with the League of Nations at the date of the conclusion of the present Treaty."

The Belgian Government considers that more complete guarantees should be required in the event of the adherence to the Treaty of States non-Members of the League of Nations, as provided in the second paragraph of Article 16.

It proposes that such adherences should be subject to the consent of two-thirds of the High Contracting Parties in respect of which the Treaty has come into force, and subject also to the unanimous consent of those of the High Contracting Parties which are permanently represented on the Council of the League of Nations and in respect of which the Treaty has come into force.

Article 17 would gain in precision if it were drafted as follows:

“Any State may, with the consent of the Council of the League of Nations and subject to the provisions of the second paragraph of Article 16, notify its conditional or partial adherence to the provisions of this Treaty, provided always that such State has reduced or is prepared to reduce its armaments in conformity with the provisions of this Treaty.”

Article 18 of the draft does not appear sufficiently explicit. It refers to the date at which the Treaty of Guarantee will enter into force in respect of the various countries. The following wording is proposed:

“The present Treaty shall be ratified and the instruments of ratification shall be deposited as soon as possible at the Secretariat of the League of Nations. It shall come into force:

“In Europe when it shall have been ratified by *five European States*, of which three shall be permanently represented on the Council of the League of Nations;

“In Asia when it shall have been ratified by *two Asiatic States*, one of which shall be permanently represented on the Council of the League of Nations;

“In North America when it shall have been ratified by the United States of America;

“In Central America and the West Indies when it shall have been ratified by two States in Central America and one of the West Indies;

“In Africa and Oceania when ratified by *two States in those continents*.”

The rest of the article would remain as in Article 18 of the draft Treaty.

As a matter of less moment I may add that, although the Government gives its general approval to the commentary on the definition of a case of aggression prepared by the special committee of the Temporary Mixed Commission, it must nevertheless make the following reservations:

Paragraph 6 includes, among the signs of an intention of aggression, the organisation on paper of industrial mobilisation. It would, however, appear hardly possible to prohibit a country from examining the theoretical question of industrial mobilisation and still less possible to consider such an investigation as an act of aggression.

Moreover, according to Paragraph 8 (e), the refusal of either of the parties to withdraw its armed forces behind a line or lines indicated by the Council may also be considered as an act of aggression.

The Government's view is that when military operations have once been begun they cannot be subjected to any restrictions of this kind. If imposed upon countries with territory of small depth, such as Belgium, the withdrawal of the troops might have serious consequences which would menace the strategical position of the army.

(Signed) JASPAR.

REPLY FROM THE UNION OF SOCIALIST SOVIET REPUBLICS.

[Translation]

March 12th, 1924.

The Federal Government of the Union of Socialist Soviet Republics has examined with the utmost care the draft Treaty of Mutual Assistance which was drawn up by the Temporary Mixed Commission of the League of Nations, amended by the Third Committee of the fourth Assembly of the League and forwarded to the Commissariat for Foreign Affairs by the Secretariat in its letter of January 9th.

The Federal Government of the Union maintains the negative attitude which it has frequently expressed with regard to the "League of Nations" in its present form and as at present constituted. It nevertheless feels under an obligation to do everything in its power to assist in lightening the military armaments which oppress all nations in averting the risk of war.

In contradistinction to the provisions of the draft Treaty, the Federal Government of the Union considers it desirable to separate the question of the limitation of armaments from that of establishing an international organisation for the prevention of war. It regards the adoption of measures by all Governments for the limitation of armaments as so grave and urgent a task that it is imperative that the question should be raised immediately, independently of other problems which are more difficult to solve. On more than one occasion, *e.g.* at the Genoa Conference and at the Disarmament Conference held at Moscow, the Soviet Government has endeavoured to draw the attention of other Governments to this question and to obtain an agreement for a general and proportionate limitation of armaments. Although these efforts have not been crowned with success, it would still insist on the urgent need for an international examination of this problem. In the opinion of the Soviet Government, it is perfectly possible at the present moment to fix the maximum strengths of the standing armies and of the naval and aerial forces of each State, taking as a basis the area of its territory, the figures of its population and the amount of its public revenue and also taking count of the special local considerations of certain States. The Soviet Government considers that this limitation of armaments should be accompanied by the fixing of war budgets. It regards as indispensable the simultaneous disbandment by all the Contracting Parties of their irregular military forces. Subject to slight modifications, it approves of the proposal contained in Article 9 of the draft Treaty that each Contracting Party should be authorised to negotiate with the neighbouring States the establishment of controlled frontier zones. It recommends the institution of frontier zones of equal width on both sides, within which only a strictly limited number of regular troops could be stationed under the control of mixed commissions. This system has already been put into force as between the Union and Finland. The Soviet Government has proposed to its other neighbours in the West the adoption of the same system, but so far without success. The Soviet Government would recommend the general adoption of this measure.

The general limitation of armaments could, in the opinion of the Soviet Government, be carried out, without the participation of the League of Nations, by a general congress convened for the purpose, which would appoint its own executive organ for the purpose of putting into effect such decisions as might be taken.

The Committees and the Assembly of the League of Nations have approached the problem from the opposite angle. They have made the limitation of armaments depend upon the solution of the extremely complicated question of an international organisation for the prevention of wars, and in this way they have delayed it for an indefinite period. The third Assembly of the League of Nations decided that the limitation of armaments should be preceded by a general treaty of guarantee against aggression, which should itself be preceded by the obtaining of general consent to the limitation of armaments. In the report of the Third Committee of the fourth Assembly, this point is expressed as follows: the treaty of guarantee and disarmament are interdependent; there arises, in addition to the dependence of disarmament upon the guarantee, a further dependence of the guarantee on the necessary disarmament. Consequently, the Third Committee of the fourth Assembly proposed the following procedure: first, a general contractual guarantee is established in principle; next, each State determines the limitation which it considers it can effect in its armaments; subsequently, the Council of the League of Nations draws up the general plan for the limitation of armaments; then the adhering States agree to put this plan into operation within a fixed period; and it is only then that the treaty of guarantee comes into force. The Soviet Government is of opinion that the whole system of interdependence between disarmament and the treaty of guarantee merely delays the realisation of the immediate practical object — namely, the general limitation of armaments. This object, which is perfectly feasible and practicable in itself, is made conditional upon the execution of a plan the putting into force of which is hardly possible at the present time.

The Soviet Government feels that in an epoch such as ours, when the policy of all States is wholly dominated by their separate interests, any attempt to establish a system of international equity and of protection for the weak nations against the strong by means of an

international organisation is sure to fail. In the whole of its policy, the Soviet Government is endeavouring to help in dissipating world antagonism, in preventing war and in defending the weak nations against the strong. It is fully prepared to discuss any plan, whatever it may be, which is designed to achieve the same objects. But it categorically refuses to cooperate in carrying out plans the execution of which might furnish a weapon to certain States or groups of States for the satisfaction of their separate interests or aggressive designs and thus merely envenom the present international situation.

The Soviet Government therefore rejects any plan for an international organisation which implies the possibility of measures of constraint being exercised by any international authority whatsoever against a particular State. In the present state of international relations, a system of that kind would inevitably become, in the hands of a dominant group of Powers, an instrument of aggressive policy against other Powers. The Soviet Government considers that the establishment of an international organisation is at present both right and desirable, but only for the purpose of effecting the amicable settlement of all disputes, without application of penalties or measures of constraint. This world organisation might, in its opinion, take the form of general congresses of all Governments, which would arrive at agreements voluntarily with regard to the questions in which they were interested without any measure of constraint being employed against certain of them.

The draft Treaty of Mutual Assistance is based upon two original plans — that of Viscount Cecil and that of Colonel Réquin. These two plans are themselves based upon opposite principles. In accordance with the views expressed above, the Soviet Government rejects them both. The former places extremely wide powers in the hands of the Council of the League of Nations in all domains of international life. Most of these powers have been retained in the final draft: for instance, the Council of the League of Nations is to decide within a period of four days, in the event of hostilities, which of the belligerents is the aggressor, and all the Contracting Powers are then obliged to submit to its decision and take part in the struggle against the State in question. The Soviet Government objects, in the most emphatic and definite manner, to the attribution to a group of States of such wide powers, which are equivalent to an international dictatorship.

Moreover, the Soviet Government denies the possibility of determining in the case of every international conflict which State is the aggressor and which is the victim. There are, of course, cases in which a State attacks another without provocation, and the Soviet Government is prepared, in its conventions with other Governments, to undertake, in particular cases, to oppose attacks of this kind undertaken without due cause. But in the present international situation, it is impossible in most cases to say which party is the aggressor. Neither the entry into foreign territory nor the scale of war preparations can be regarded as satisfactory criteria. Hostilities generally break out after a series of mutual aggressive acts of the most varied character. For example, when the Japanese torpedo-boats attacked the Russian fleet at Port Arthur in 1904, it was clearly an act of aggression from a technical point of view, but, politically speaking, it was an act caused by the aggressive policy of the Czarist Government towards Japan, who, in order to forestall the danger, struck the first blow at her adversary. Nevertheless, Japan cannot be regarded as the victim, as the collision between the two States was not merely the result of the aggressive acts of the Czarist Government but also of the imperialist policy of the Japanese Government towards the peoples of China and Korea. The Soviet Government considers, therefore, that it is absolutely impossible to adopt the system of deciding which State is the aggressor in the case of each conflict and making definite consequences depend upon such decision.

Colonel Réquin's plan is based not on the attribution of extraordinary powers to the Council of the League of Nations but on the recognition of individual agreements between groups of States for the prevention of aggression, together with the communication of these agreements to the Council of the League of Nations. In the final draft, this plan is incorporated in the form of supplementary regional agreements between States for the prevention of aggression, subject to the preliminary examination of such agreements by the Council of the League of Nations.

The Soviet Government fully realises that the conclusion of local agreements between certain States is inevitable in the present state of international relations. It considers, however, that it is quite inadmissible that they should receive recognition from an international organisation or that they should be regarded as beneficial in the prevention of wars. It regards as even more inadmissible the obligation imposed on the other Contracting States to give assistance, in the event of hostilities, to these coalitions of Powers.

The Soviet Government absolutely refuses to accept the reservation contained in the draft Treaty confirming the Treaties of Versailles, Neuilly, Saint Germain and Trianon. The Soviet Government took no part in the conclusion of these treaties and maintains an entirely negative attitude with regard to the provisions contained in them.

While willingly responding to the invitation addressed to it to communicate its opinion regarding the draft Treaty of Mutual Assistance, the Soviet Government emphatically protests against that article of the draft whereby the adhesion of States not Members of the League of Nations is only possible with the consent of two-thirds of the signatories. The Soviet Government has no intention of addressing such a request to the Powers signatory to the Treaty or of appearing to ask for their indulgence. The Soviet Government always negotiates with other Governments on a footing of equality.

In any case, the essential object of the drafts communicated to the Soviet Government — *viz.* disarmament and the averting of the risk of war — cannot be achieved, even partially or, indeed, to any degree whatsoever, without the participation of the Soviet Republics.

(Signed) George TCHITCHERIN,
People's Commissary for Foreign Affairs of the Union of Socialist Soviet Republics.

C. 168. M. 44. 1924. IX.

C. T. A. 397.

REPLY FROM THE LATVIAN GOVERNMENT.

[Translation]

Riga, March 22nd, 1924.

With reference to your letter No. C. L. 105, dated October 25th, 1923, I have the honour to inform you that, in accordance with the resolution adopted by the fourth Assembly of the League of Nations, the Latvian Government has considered the draft Treaty of Mutual Assistance and has instructed me to communicate to you its opinion thereon.

The Latvian people are eminently peace-loving, and the Government has invariably been anxious to contribute to the development of good relations between all countries. The Government accordingly desires, in the first instance, to pay a tribute to the work of the League of Nations for the consolidation of the peace of the world.

The Government cannot do other than approve the draft taken as a whole. If, however, it makes a few observations on certain clauses in the draft, its only object is to increase the efficacy of the measures provided for in the draft.

In accordance with its frequently reiterated conviction that the best method of preventing disturbances of the peace consists in unanimous co-operation between all nations on the basis of mutual equality, and taking into consideration the present political situation, the Government approves the principle of partial agreements as a practical measure for guaranteeing the safety of States. The Government will, however, give its support to any endeavour in the field of mutual assistance the object of which is to render the general treaty more effective.

Among other obligations imposed on the Council by the draft Treaty and also by the Covenant is a military obligation :

(a) The Council shall decide, within four days of notification being addressed to the Secretary-General, which of the High Contracting Parties are the objects of aggression and whether they are entitled to claim the assistance provided under the Treaty (Article 4).

(b) The Council determines the form of assistance (Article 5).

(c) The Council may act as intermediary between two or more neighbouring countries for the establishment of demilitarised zones (Article 9).

(d) Under the Covenant and draft Treaty (Article 11) it is the duty of the Council to prepare a general plan for the reduction of armaments and to supervise the execution of such plan by the High Contracting Parties, and also to undertake the revision of armaments provided for in Article 13 of the Treaty.

(e) The Council receives and considers information on the armaments of the High Contracting Parties furnished by the latter to the military or other delegates of the League (Article 12).

(f) Finally, in accordance with the intentions of the Treaty and in order to enhance its efficacy, the Council obviously must prepare in advance some plan of military action, based on the terms of the Treaty, to meet cases in which political circumstances make a resort to arms a possible eventuality; the Council would also be called upon to direct the execution of such a plan.

Under present conditions the Council cannot carry out these obligations without consulting military experts — a somewhat protracted process, which, moreover, would not provide all the desired guarantees. The Government accordingly thinks that these disadvantages might be obviated with the help of a permanent military organisation which would possess qualifications greatly exceeding those possessed by experts selected *ad hoc*. The Government merely puts forward this idea, which it is ready to support when this subject comes up for discussion; it will not at the present moment go into details of the organisation, which would be within the competence of the Temporary Mixed Commission.

Article 17 admits of conditional or partial adherence to the provisions of the Treaty, the object obviously being to give States which, but for this clause, would abstain, an opportunity of adhering to the Treaty. States which, however, adhered to the Treaty in a conditional or partial form would only assume certain vaguely defined obligations and would, in certain cases and to the same extent as those States which adhered unconditionally, derive all the advantages resulting from the fact that the latter States had assumed *in toto* the obligations under the Treaty. The Latvian Government fears that a situation of this kind would seriously impair the efficacy of the general treaty and would tend to increase the number of States adhering under special privileged conditions.

Article 19 should be amended in such a way that the Treaty could only be denounced at the end of the fourteenth year. As the Treaty involves a genuine reduction of armaments, it should only be possible to denounce it upon the expiration of the period in question.

(Signed) L. SEJA,
Minister for Foreign Affairs.

REPLY FROM THE BULGARIAN GOVERNMENT.

[*Translation.*]

Sofia, June 10th, 1924.

The Bulgarian Government congratulates the League of Nations on its untiring efforts to evolve a general plan for the reduction of armaments, and on having produced, as a first result of these efforts, the draft of a Treaty of Mutual Assistance. Desirous of doing all that lies in its power to assist the League of Nations in its work in the cause of peace, the Bulgarian Government has subjected the draft to the most careful examination and declares that it approves it. It feels, however, that it should make certain observations which it considers important.

The Treaty of Mutual Assistance should be regarded as the continuation and development of the system of the Covenant of the League of Nations, for the preamble and Articles 8 and 9 of the Covenant provide for the general reduction of armaments.

The Bulgarian Government is firmly convinced that a general reduction of armaments is one of the most effective means of diminishing the danger of war, and earnestly hopes that the efforts of the League of Nations to this end will result in guaranteeing peace to a world, which has been so sorely tried.

But, although nearly six years have elapsed since the signing of the Covenant, the promises contained in Articles 8 and 9 have not been fulfilled. Side by side with countries which have voluntarily reduced their armaments, or which have been obliged to disarm under treaties, are to-day other countries which have maintained formidable armaments.

The inequality thus established is not favourable to the cause of general peace, since experience has, unfortunately, proved that armed countries cannot always resist the temptation of employing their forces, particularly when they are not in the right. The need for a general reduction of armaments was therefore never more urgent. Finally, it seems highly desirable that the undertaking to reduce armaments should be given a more positive form and that the general plan for this reduction should be laid down in the Treaty itself. The period of two years provided for in Article 11 of the draft might well be reduced to one year.

The Treaty of Mutual Assistance must be universal and general and must include all civilised countries: this principle was laid down in paragraph 1 of the Resolution XIV of the third Assembly. It is widely recognised that the partial grouping of countries possesses the great defect of giving rise to the formation of rival groups, which paves the way for a return to the former military alliances, and these constitute a danger to peace. For these reasons, partial agreements should only be permitted if they are concluded under the auspices of the League of Nations, and if their purely defensive character is established beyond all doubt.

It would also be desirable, in order that war should be eliminated as a means for settling international disputes, to enlarge the field of the application of compulsory arbitration, and to recommend that all the Contracting Parties should adhere to the optional clause concerning the obligatory jurisdiction of the Permanent Court of International Justice.

(Signed) Ch. KALFOFF,
Bulgarian Minister for Foreign Affairs.

C. 340. M. 113. 1924. IX.
C. T. A. 414.

REPLY FROM THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

Washington, June 16th, 1924.

The Secretary of State of the United States of America has the honour to acknowledge the receipt of a communication of the Secretary-General of the League of Nations submitting, by direction of the Council of the League of Nations, the draft Treaty of Mutual Assistance, proposed by the Third Committee to the fourth Assembly, and requesting the expression of the views of the Government of the United States.

In reply it may be said that the Government of the United States is most desirous that appropriate agreements should be reached to limit armament and thus to reduce the heavy burdens of expenditure caused by unnecessary and competitive outlays in providing facilities and munitions of war. The desire and purpose of this Government were fully manifested when the great military and naval Powers were invited by the President of the United States to send representatives to meet in conference at Washington in 1921 for the purpose of considering the limitation of armaments. While that Conference resulted in the conclusion of an important Naval Treaty between the United States of America, the British Empire, France, Italy and Japan for the limitation of capital fighting ships, it was found to be impossible to obtain an agreement for the limitation of the tonnage of auxiliary naval craft or to make any progress in the direction of limitation of land forces. The Government of the United States, having reduced its own armaments, continues to cherish the hope that the desired result in the case of other Powers may be achieved, and it notes with keen and sympathetic

interest every endeavour to that end. In this spirit the draft Treaty submitted has been carefully considered.

It appears from the preamble of the Treaty that it has been formulated with the desire " of establishing the general lines of a scheme of mutual assistance with a view to facilitate the application of Articles 10 and 16 of the Covenant of the League of Nations, and of a reduction or limitation of national armaments in accordance with Article 8 of the Covenant ' to the lowest point consistent with national safety and the enforcement by common action of international obligations ' "

The following provisions of the draft Treaty may be especially noted :

" *Article 2.* — The High Contracting Parties, jointly and severally, undertake to furnish assistance, in accordance with the provisions of the present Treaty, to any one of their number should the latter be the object of a war of aggression, provided that it has conformed to the provisions of the present Treaty regarding the reduction or limitation of armaments.

" *Article 3.* — In the event of one of the High Contracting Parties being of opinion that the armaments of any other High Contracting Party are in excess of the limits fixed for the latter High Contracting Party under the provisions of the present Treaty, or in the event of it having cause to apprehend an outbreak of hostilities, either on account of the aggressive policy or preparations of any State party or not to the present Treaty, it may inform the Secretary-General of the League of Nations that it is threatened with aggression, and the Secretary-General shall forthwith summon the Council.

" The Council, if it is of opinion that there is a reasonable ground for thinking that a menace of aggression has arisen, may take all necessary measures to remove such menace and, in particular, if the Council thinks right, those indicated in sub-paragraphs (a), (b), (c), (d) and (e) of the second paragraph of Article 5 of the present Treaty.

" The High Contracting Parties which have been denounced and those which have stated themselves to be the object of a threat of aggression shall be considered as especially interested and shall therefore be invited to send representatives to the Council in conformity with Articles 4, 15 and 17 of the Covenant. The vote of their representatives shall, however, not be reckoned when calculating unanimity.

" *Article 4.* — In the event of one or more of the High Contracting Parties becoming engaged in hostilities, the Council of the League of Nations shall decide, within four days of notification being addressed to the Secretary-General, which of the High Contracting Parties are the objects of aggression and whether they are entitled to claim the assistance provided under the Treaty.

" The High Contracting Parties undertake that they will accept such a decision by the Council of the League of Nations.

" The High Contracting Parties engaged in hostilities shall be regarded as especially interested, and shall therefore be invited to send representatives to the Council (within the terms of Articles 4, 15 and 17 of the Covenant), the vote of their representative not being reckoned when calculating unanimity ; the same shall apply to States signatory to any partial agreements involved on behalf of either of the two belligerents, unless the remaining Members of the Council shall decide otherwise.

" *Article 5.* — The High Contracting Parties undertake to furnish one another mutually with assistance in the case referred to in Article 2 of the Treaty in the form determined by the Council of the League of Nations as the most effective, and to take all appropriate measures without delay in the order of urgency demanded by the circumstances.

" In particular, the Council may :

" (a) Decide to apply immediately to the aggressor State the economic sanctions contemplated by Article 16 of the Covenant, the Members of the League not signatory to the present Treaty not being, however, bound by this decision, except in the case where the State attacked is entitled to avail itself of the Articles of the Covenant ;

" (b) Invoke by name the High Contracting Parties whose assistance it requires. No High Contracting Party situated in a continent other than that in which operations will take place shall, in principle, be required to co-operate in military, naval or air operations ;

" (c) Determine the forces which each State furnishing assistance shall place at its disposal ;

" (d) Prescribe all necessary measures for securing priority for the communications and transport connected with the operations ;

" (e) Prepare a plan for financial co-operation among the High Contracting Parties with a view to providing for the State attacked and for the States furnishing assistance the funds which they require for the operations ;

" (f) Appoint the Higher Command and establish the object and nature of his duty.

" The representatives of States recognised as aggressors under the provisions of Article 4 of the Treaty shall not take part in the deliberations of the Council specified in this article. The High Contracting Parties which are required by the Council to furnish assistance in accordance with sub-paragraph (b) shall, on the other hand, be considered as especially interested and, as such, shall be invited to send representatives, unless they are already represented, to the deliberations specified in sub-paragraphs (c), (d), (e) and (f). "

Without attempting an analysis of these provisions, or of other provisions of the draft Treaty, it is quite apparent that its fundamental principle is to provide guarantees of mutual

assistance and to establish the competency of the Council of the League of Nations with respect to the decisions contemplated, and, in view of the constitutional organisation of this Government and of the fact that the United States is not a Member of the League of Nations, this Government would find it impossible to give its adherence.

The Government of the United States has not failed to note that, under Article 17 of the draft Treaty, "any State may, with the consent of the Council of the League, notify its conditional or partial adherence to the provisions of this Treaty, provided always that such State has reduced or is prepared to reduce its armaments in conformity with the provisions of this Treaty", but it would not serve a useful purpose to consider the question of a conditional or partial adherence on the part of the Government of the United States when the conditions imposed would of necessity be of such a character as to deprive adherence of any substantial effect.

C. 394. M. 145. 1924. I.
C. T. A. 451.

REPLY FROM THE AUSTRALIAN GOVERNMENT.

Melbourne, July 4th, 1924. X.

The Commonwealth Government has given most careful consideration to the draft Treaty of Mutual Assistance and other relevant documents forwarded with your letter C.L. 105. 1923. IX of October 25th, 1923.

The Commonwealth Government earnestly desires to assist in every way to secure the maintenance of world peace, and realises that a general reduction of armaments is essential as a preliminary step in the pursuit of this objective.

As regards the application of this principle to Australia, it may be stated definitely that, being a young country, Australia, in the adoption of measures for her own defence, has not yet attained the lowest point consistent with national safety; and therefore the obligation relating to reduction or limitation of armaments is without that special significance for us which it has for other and older States.

The particular national and geographical situation of Australia needs emphasis. We are a small population, forming part of the British Empire and occupying a continent; and in this respect our position is entirely different from that of any European State. It follows that any treaty of mutual assistance specially designed to meet European conditions could be made applicable to Australia only after considerable reservation. This latter observation is specially warranted, in view of the provisions of Article 5 (b) of the draft Treaty, from which it must be inferred that the Continent of Europe was chiefly in mind when the Treaty was being drafted.

Resolution XIV of the Third Assembly affirms the undeniable proposition that, in the present state of the world, serious reduction of armaments can only be accepted in exchange for a satisfactory guarantee of safety; and it is in the light of this proposition that the Government of the Commonwealth of Australia has approached this important question.

The obligations of the draft Treaty, concisely stated, are:

(a) To reduce armaments in return for a guarantee of security;

(b) To keep a striking force available for duty at the call of the League,

and the provisions of Article 5 (b) of the Treaty have a special significance for Australia in this connection, in as much as they take no account of the fact that she is the sole occupant of a continent.

Article 5 (b) provides:

"In particular the Council may invoke by name the High Contracting Parties whose assistance it requires. No High Contracting Party situated in a continent other than that in which operations will take place shall, in principle, be required to co-operate in military, naval or air operations."

The result of this article, in its application to Australia, is that no nation signatory to this Treaty would be under any obligation to come to the assistance of Australia if she were attacked, and Australia herself would not be obliged to render assistance to anybody. In other words, there is neither obligation to assist nor guarantee of receiving assistance so far as Australia is concerned.

Additionally, the following views are expressed in connection with certain other provisions of the Treaty.

Article 5 of the draft Treaty, which authorises the Council to take measures and give directions, goes far beyond the provisions of Article 16 of the Covenant, under which the Council may only recommend action.

The proposal in Article 6 for complementary defensive agreements between individual Members of the League is an indication that the general treaty by itself would not be fully effective. Apart from other objections to this system of partial treaties, it is very difficult to see what part Australia could have in the linking-up of these treaties.

The question whether it would be possible for the Council to determine, within four days of the notification of hostilities, which nation is the aggressor is a most important one. The uncertainty of agreement on this matter within the prescribed time, or at all, seriously jeopardises the effective use of forces at the disposal of the League.

The foregoing are the main reasons why this draft Treaty is not acceptable to the Commonwealth Government. The Government thinks, however, that useful avenues of enquiry have been opened up by the report. That this particular scheme of international guarantees does not prove acceptable need not discourage the friends of the League. The League has done, and can still do, much to concentrate the moral force of the world on the urgent necessity for the solution of this great problem, and to devise means to that end.

(Signed) S. M. BRUCE,
Prime Minister.

C. 347. M. 118. 1924. IX.
[C. T. A. 439.]

REPLY FROM THE BRITISH GOVERNMENT.

London, July 5th, 1924.

His Majesty's Government have examined with the utmost care the report of the Third Committee of the fourth Assembly, the resolution of the fourth Assembly of the League of Nations and the report for 1923 of the Temporary Mixed Commission on the reduction of armaments, together with the other documents enclosed in your letter of October 25th, 1923. They desire to place on record their appreciation of the prolonged and exhaustive investigations which have been made into the important subject of treaties of mutual assistance as a step towards the reduction or limitation of armaments.

2. There is no question to which His Majesty's Government attach greater importance than the reduction or limitation of armaments, for they recognise that, as stated in Article 8 of the Covenant, the maintenance of peace, which is the principal object of the League of Nations, requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations. For this very reason, they hold that any measures designed to bring about the reduction or limitation of armaments must be subjected to the most careful scrutiny before adoption. No greater calamity to the cause which they have at heart can be imagined than that any scheme adopted by the League should, when submitted to the test of reality, fail owing to defects which ought to have been foreseen in advance. It is vital, therefore, that, before the League of Nations takes the responsibility of making any recommendations to its Members, it should satisfy itself that the scheme recommended is in all respects reliable and effective.

3. Out of the twenty-six nations whose replies are published with the report of the Temporary Mixed Commission, only a very small number are able to express unqualified acceptance of Resolution XIV adopted at the third session of the Assembly, which forms the basis of the reports now under consideration. The objections to the various proposals for treaties of mutual guarantee or assistance which have been considered by the League are to be found in the report of the Third Committee itself, as well as in the reports of experts and the opinions of Governments included in the documents circulated to Members of the League. From these detailed criticisms there emerge certain objections of principle which up to the present time do not appear to have been adequately met.

4. The main criticisms of the proposed treaty fall under two heads, which may be expressed in an interrogative form: Are the guarantees contained therein sufficient to justify a State in reducing its armaments? Are the obligations to be undertaken towards other States of such a nature that the nations of the world can conscientiously engage to carry them out?

5. In regard to the first group of criticisms, it is generally conceded that if a treaty of mutual assistance is to prove effective in bringing about a reduction of armaments, its stipulations must be such that the parties thereto can assume with absolute confidence not only that in the contingencies for which it provides it will be brought into operation with certainty, but also that it will effectually accomplish its purpose.

6. The effectiveness of the scheme will be seen to depend to a considerable extent on the ability of the Council of the League to determine, by unanimous vote of all Members not concerned in the dispute, which nation is the aggressor. This difficult question has to be settled within a period of four days from the notification of hostilities to the Secretary-General. It is unnecessary here to deal at length with the difficulties which might confront the Council in reaching agreement on such a point within the stipulated time, or the likelihood that unanimity might never be reached at all on a really controversial issue, since these considerations are fully discussed in the documents circulated to the various Governments. In this connection, the "commentary on the definition of a 'case of aggression'", drawn up by a Special Committee of the Temporary Mixed Commission, in collaboration with certain technical members of the Permanent Advisory Commission, is of great interest. The commentary does not provide a solution of the difficulty. It is stated therein more than once that no satisfactory definition of what constitutes an "act of aggression" could be drawn up

Consequently, the report does not provide that element of certainty and reliability which is essential if the League of Nations is to recommend the adoption of the treaty by its Members as a basis for reduction in armaments.

7. Another important objection of principle is the long delay which is liable to occur before the forces at the disposal of the League of Nations can be brought into effective operation against an aggressor State. It is not until after the determination by the Council of the question which State is the aggressor, which is likely to occupy the whole of the four days permitted by the draft Treaty, that the Council can begin to take the necessary steps for bringing pressure, whether military or economic, to bear on the aggressor. Economic pressure is admittedly slow in operation. As regards military pressure, all the technical experts who have advised the organs of the League on the subject are agreed that no military assistance can be considered immediate and effective unless it be given in accordance with a pre-arranged plan. It is obvious, however, and was recognised by the Third Committee of the fourth Assembly, that in the case of a general treaty of assistance plans can rarely be pre-arranged. They would therefore have to be drawn up, after the question which was the aggressor State had been determined, by the naval, military or air officers designated by the Council of the League to command the international forces. The experience of the recent world-war does not justify the assumption that where the forces of several nations are involved the immediate acceptance, much less the rapid execution, of plans of operations can with certainty be counted on. The possibility will always exist that the States most favourably situated for providing the necessary force may at a given moment not be in a position to do so, owing to commitments elsewhere, the state of public opinion, or the political condition of the country at the time. The appointment of the higher command will itself involve delay. The Council will have great difficulty in reaching a unanimous decision, for no nation places its troops under a foreign command without very careful considerations. A system which involves prolonged delays before the first step in bringing military pressure to bear on an aggressor nation can be taken does not reach that standard of effectiveness which is essential.

8. The necessary measures to carry the general guarantees into effect are, moreover, made dependent upon the explicit consent of each individual State which may be called upon to render assistance as a permanent or *ad hoc* Member of the Council. This consideration can but strengthen His Majesty's Government in the view that the guarantee afforded by the draft Treaty is so precarious that no responsible Government will feel justified in consenting to any material reduction of its armaments in return. If, as His Majesty's Government feel convinced, this is the case, the whole object of the Treaty is lost and its conclusion is objectless. His Majesty's Government, indeed, go further. They are persuaded, after careful examination of the draft scheme, that, if the obligations created by the Treaty be scrupulously carried out, they will involve an increase rather than a decrease in British armaments. The report of the Temporary Mixed Commission for 1922 stated that, "in the case of armed assistance, certain forces, such as aircraft and warships, are the most readily available and therefore the most likely to be asked for and to be effective in the initial stages of the war". It is the considered opinion of the British Naval Staff that a treaty such as is proposed will, if properly carried out, necessitate an increase in the British naval forces. His Majesty's Government cannot avoid the belief that the position will be the same in other countries.

9. It was owing to the recognition of the defects inherent in any general treaty of mutual assistance that the proposal was made to super-impose on a general treaty a system of partial treaties between groups of countries. It has been urged against such partial treaties that their conclusion by one group of States is likely to bring about the formation of competing groups, and that the result will be a reappearance of the former system of alliances and counter-alliances, which in the past has proved such a serious menace to the peace of the world. The proposal to meet this objection by bringing the partial treaties under the control of the League does not overcome the difficulty, particularly so long as important nations remain outside the League, and His Majesty's Government cannot but recognise the force of the above criticism.

10. A further objection to the scheme for partial treaties to be embodied in the Treaty of Mutual Assistance is the opening that would be afforded for conflict between the Council of the League and individual Governments. Under Article 4 of the draft Treaty it will be the duty of the Council to decide which of two belligerents is the aggressor. Under Article 8, States parties to a partial treaty will be at liberty to decide the point for themselves, before it is decided by the Council. The possibility of disagreement between the Council and States between which a partial treaty is operative is one which cannot be contemplated with equanimity.

11. The obligations involved in the proposed treaty are of such a nature that several of the nations whose opinions are forwarded with the report of the Temporary Mixed Commission have been unable to accept them. In this connection, His Majesty's Government desire to draw particular attention to the following extract from a letter to the Secretary-General of the League from the Government of Canada, dated June 19th, 1923 :

"It is intended that the obligation to render assistance shall be limited in principle to those countries situated in the same part of the globe. While Canada is situated in the North-American Continent, she is a nation forming part of the British Empire, and it seems difficult to devise a scheme which would give due effect to these conflicting

considerations. In any case, it seems very unlikely that the Canadian people in the present circumstances would be prepared to consent to any agreement binding Canada to give assistance as proposed to other nations, and the Government therefore does not see its way to a participation in the Treaty of Mutual Guarantee."

12. The draft Treaty further appears to involve an undesirable extension of the functions of the Council of the League. Under Article 16 of the Covenant, the Council can only recommend action, while even under Article 10 it can only *advise*. By Article 5 of the draft Treaty, the Council is authorised to decide to adopt various measures. Thus the Council would become an executive body with very large powers, instead of an advisory body. In any event, the Council of the League is a most inappropriate body to be entrusted with the control of military forces in operation against any particular State or States.

13. For the reasons which have been enumerated, the draft Treaty, in the eyes of His Majesty's Government, holds out no serious prospect of advantage sufficient to compensate the world for the immense complication of international relations which it would create, the uncertainty of the practical effect of its clauses, and the consequent difficulty of conducting national policy.

14. His Majesty's Government, therefore, have come to the conclusion that the adoption of the text included in the report of the Third Committee of the fourth Assembly cannot be recommended. They are, however, far from admitting that the careful study of these questions has been fruitless. The years of patient investigation which have been devoted to this subject by the various organs of the League are themselves a proof of the desire of nations Members of the League to find a solution to the difficult question of reduction and limitation of armaments. This sentiment finds strong expression in practically all the replies of the various nations published with the report of the Temporary Mixed Commission. If this study has not so far resulted in the submission of a draft treaty of mutual assistance in an acceptable form, the reports which have been under consideration nevertheless contain some encouraging and suggestive passages as to other lines of enquiry which might be followed with useful results.

15. It is the policy of His Majesty's Government that, whenever a favourable opportunity presents itself, the Governments of the world should meet in conference with the object of devising a scheme or schemes for the reduction of armaments. Such a conference should include the Governments of countries which are not yet Members of the League, and which are therefore not represented at the Assembly. At this conference every suggestion for the reduction of armaments, including the suggestion contained in the proposed Treaty of Mutual Assistance, would be open on its merits for full exploration and examination, and His Majesty's Government, in finding themselves unable to support the proposal submitted by the Third Committee of the fourth Assembly, desire to make it clear that there is no intention to prejudge in any way the further consideration of the proposed Treaty by the conference, which it is their policy to bring together, or help to bring together, whenever a favourable opportunity is presented. It is not within the province of His Majesty's Government, nor would it be wise on the present occasion, to attempt to formulate anything in the nature of an exhaustive category of the proposals which may be brought before such a conference. Among constructive proposals which have been already discussed are those defining zones of demilitarisation between States, safeguarding special frontiers under some form of international control, granting further powers to the International Court, and so on. His Majesty's Government believe that they ought to keep themselves free to consider any and every practicable proposal, and commit themselves at present only to a pledge to do everything in their power to bring about agreements that will have as an immediate effect a substantial reduction in armaments. On the practical side, it is noticeable that an advance in the reduction of armaments has already been made in Central and South America, and in the carrying-out of the recommendations of the Washington Conference.

(Signed) J. Ramsay MACDONALD,
Prime Minister.

C. 349. M. 120. 1924. IX.
[C. T. A. 440.]

REPLY FROM THE CANADIAN GOVERNMENT.

Ottawa, July 9th, 1924.

The Canadian Government has very earnestly considered the proposed Treaty of Mutual Assistance submitted to it by you in your communications of October 25th, 1923, and April 11th, 1924, and has also examined the documents accompanying the draft. Realising the vital importance of the subject and the devoted labour the formulation of the draft Treaty has entailed, and notwithstanding its profound sympathy with the objects sought to be attained, the Canadian Government finds itself unable to conclude that these objects would be

promoted by the arrangement suggested. It concurs generally with the conclusions on the subject expressed by the Government of Great Britain and submits only the following brief observations.

The position of Canada in the British Empire is such that, in spite of the fact that the application of the Treaty to the continent of North America is by its terms conditioned upon its ratification by the United States of America, the question of Canada's adherence to it has a more practical aspect than it would otherwise have. Apart from indications that the Government of the United States of America was likely to find the plan acceptable in principle, Canada has already indicated disapproval of the interpretation of the terms of Article 10 of the Covenant as implying an obligation upon her to intervene actively under that article. The proposed Treaty creates an obligation wider in its extent and more precise in its implications than any which Article 10 could be interpreted as imposing, and it proposes, moreover, to transfer the right to decide upon the scope of the action Canada should take from the Canadian Parliament to the Council of the League of Nations. It is true that, for the purpose of deciding upon the assistance to be given by Canada, the Council would include a Canadian representative and that the draft limits the liability of a signatory in another continent to measures not involving naval, military or air operations. But the presence of a Canadian representative on the Council would hardly compensate for the, at least nominal, transfer of authority, and, again, Canada's position in the British Empire affects the protection afforded her by the continental limitation of which in any event the utility is uncertain since it appears doubtful if hostile action can widely or indeed safely be undertaken by any State upon the principle of limited liability.

For these reasons and those expressed in the communication of the Government of Great Britain above referred to, the Canadian Government is of the opinion that the nature of the proposed Treaty is such that so far as it purports to impose a future obligation to take specific action in circumstances incapable of present definition, it would be hopeless to expect the people of Canada to accept it, and it is also of opinion that, even if those provisions of the draft were generally approved and brought into operation, their effect would neither be to minimise the danger of war nor to bring about any useful limitation of armaments. On the other hand, the Canadian Government considers that every extension by general agreement of the facilities for formal, regular, early and informed public discussion of possible causes of war is to be welcomed. It omits to deal more at large with such of the provisions of the draft Treaty as appear to be designed to bring about such an extension only because it conceives that those would not appear in their present form if the draft were confined to provisions of that character.

(Signed) Mackenzie KING,
Prime Minister.

C. 364. M. 128. 1924. IX.
C. T. A. 444.

REPLY FROM THE GERMAN GOVERNMENT.

[Translation from the German.]

Berlin, July 24th, 1924.

The German Government has examined with interest the draft of a treaty of mutual assistance which you forwarded to it in your letter of January 9th, 1924. In view of the great importance of the problem dealt with in the draft, the Government considered it advisable to obtain the views on the matter of certain German experts of repute. These experts, viz. :

Professor HOETZSH, Member of the Reichstag;
Professor KAAS, Prelate and Member of the Reichstag;
Professor KAHL (Geheimer Justizrat), Member of the Reichstag;
Dr. KRIEGE (Wirklicher Geheimer Rat), Ministerial Director;
Professor MEINECKE (Geheimer Regierungsrat);
Count MONTGELAS, Infantry General, retired;
Dr. SCHIFFER, Former Minister of the Reich and Member of the Reichstag; and
Professor SCHÜCKING, Member of the Reichstag;

have embodied the results of their investigation in a memorandum. In forwarding this memorandum to you, I have the honour to observe that the views to which expression is given therein are also the views of the German Government.

(Signed) STRESEMANN.

The draft of a Treaty of Mutual Assistance submitted to us is dominated by the idea of disarmament which the League of Nations has hitherto been unable to realise. In its opening sentence, the Covenant of the League of Nations incorporated in the Treaty of Versailles sets forth as its object the promotion of "international co-operation" and the achievement of "international peace and security by the acceptance of obligations not to resort to war". According to Article 8 and the Preamble to Part V of the Treaty of Versailles, the demand for "a general limitation of the armaments of all nations" shall serve to effect the realisation of this main motive. In order to render the nations capable and willing to fulfil this demand, a scheme is placed at their disposal for the peaceful settlement of their

disputes, and arrangements are, at the same time, made for opposing with united forces any party who shall evade or ignore their obligations and resort instead to arms. This scheme however, has not proved effective. The contractual disarmament provided for has not materialised. There are serious gaps in the legal protection afforded by the Covenant. In many cases it tolerates war or the use of force; and it fails to provide adequate guarantee that, in the event of illicit war, the culpable party shall be disabled with sufficient rapidity.

This shortcoming the draft under consideration seeks to make good by proceeding from the new starting-point that aggressive warfare must be prohibited. A war of aggression is principally declared to be an international crime and is categorically interdicted. The object of such a war is assured of the speediest assistance against the aggressor. The assurance of this assistance is to involve the obligation to proceed to the reduction or limitation of one's own armaments and to co-operate in the construction of a general scheme of disarmament. Moreover, protection against an aggressor is immediately coupled with the disarmament which it is intended to render possible, so that it is only to be accorded if the party menaced has fulfilled the stipulations concerning the reduction or limitation of armaments.

The object of this draft treaty is thus clearly defined. Its significance and value are beyond all manner of doubt. But whether the method adopted for the achievement of that object is practicable and appropriate is open to serious question.

For intervention, on the part of the contracting parties, the war must be shown to be a war of aggression. But, save for the purely negative definition contained in Article 1, paragraph 2, the draft gives no interpretation of the notion. Nor is it, indeed, able to give such an interpretation. The question who is the aggressor in a war — just like the question who is responsible for a war — cannot, as a rule, be answered according to the immediate and superficial features of the case; it is a problem which can be solved only after careful recognition and appreciation of all the many intrinsic and extrinsic factors which have contributed to originate it. Its solution involves a task of historic research and the application of international law, and this, in its turn, implies the reference to all sources, the disclosure of all records, the examination of witnesses and experts, as well as the taking of all sorts of other evidence. This demands time — an amount of time, indeed, which only scientific enquiry can assume. But, in the case before us, the verdict would have to be pronounced forthwith; for hereupon would depend the intervention, and upon the speediness of the intervention its very success. Looked at, therefore, from this point of view, it appears absolutely logical that the draft treaty appoints a period of only four days for the decision. But the logic of this stipulation does not, in any way, alter the fact that, in the great majority of cases, it would be impossible to issue a decision of an objectively exhaustive and conclusive character within such a limited period.

This impossibility is not lessened but only enhanced by the character of the organ to be entrusted with making the decision. This organ is to be the Council of the League of Nations. Its members are chosen with a political perspective; they act not according to their own convictions and free judgment but on the instructions of their respective Governments. Their votes are accordingly influenced by the special political interests of their various countries, and any resolution reached bears the nature not of an impartial verdict but of a political decree. True, the immediately interested parties will have no vote (it is to be assumed that this applies also to the States regularly represented on the Council, though the draft treaty only excludes expressly from voting States not represented on the Council and merely admitted to the proceedings in special cases). But with the interlocking of political relations the interests of a Power immediately concerned will very frequently be safeguarded by other Powers not directly involved. This heightens the danger of no decision whatever being reached, inasmuch as it must be unanimously adopted. A single partisan of the aggressor will suffice to prevent the latter from being subjected to an adverse decision and effectively to nullify the entire claim to assistance on the part of the party attacked. On the other hand, the Council of the League of Nations is given the control of economic, military, communicational and financial measures of an incisive character, and is thereby placed in a position to dictate to the individual States participation in a coalition war with the ultimate result that the effects of the war may be more serious for these participators than for the original parties to the dispute.

To entrust a premium of purely political orientation with such enormous powers is a very hazardous proceeding. But the situation becomes still more serious when, instead of action being taken by the Council of the League of Nations itself, the parties to the complementary defensive agreements permitted by the draft treaty adopt the initiative. Where such a complementary agreement has been concluded, the separate allies who, by virtue of their agreement, hold a partisan position from the very outset, are *ipso facto* legitimised to declare the case for assistance as established and to act accordingly. True, they must in this case inform the Council of the League of Nations without delay of the steps they have taken, and the Council has then to consider the situation just as it would have done if it had dealt with it from the first. But even if it should unanimously adopt a resolution contrary to the decision of the separate allies — which as regards a coalition of any significance and the actual situation created by it would certainly be a very rare occurrence — practically it would scarcely be possible to direct those who had hitherto marched as the confederates of one party into the camp of the other.

• Considering the unequal status of armaments now prevailing, especially on the European continent, the military action provided for in the draft will be absolutely unfeasible in the event of an illegal attack being made by a strong military Power, not to speak of a group

of strong military Powers allied by special agreement. The assistance provided for in the draft treaty will not be feasible until the inequalities of the status of armament have been removed by raising the standard of permissible armament in one direction and lowering it in another according to objectively ascertained requirements. But, as a matter of fact, in this direction the draft treaty contents itself with taking no steps; it leaves it entirely to the personal judgment of the various contracting parties to decide the extent to which they will reduce or limit their armaments and give their assent to the general scheme of disarmament.

It is also left to free agreement between contiguous States to establish demilitarised zones. While the draft treaty rightly demands that no "unilateral sacrifice from the military point of view" shall be required on the part of one of the interested Powers, a mechanical special equality will nevertheless not suffice, since consideration must be given to the difference of the circumstances decisive for military operations. Apart from local, natural and artificial conditions, this difference will also noticeably exist in the disproportion of armaments.

Keeping all this in view, it is difficult to recognise in the draft treaty any progress as compared with the Covenant. Frequently, indeed, the contrary appears to be the case in regard to inherent ideas. This is particularly so with the complementary defensive agreements, which, though they have perhaps their formal authorisation in Article 21 of the Covenant, are something materially different from the special agreements permitted by that article and contravene, indeed, the very spirit of the Covenant. Their admission means practically the sanctioning of the existing system of group alliances and military conventions, the system of secret diplomacy and the balance-of-power policy; consequently it would form a serious menace to the peace of the world; for a State against which such a special agreement is directed would feel itself to be continually threatened and in its turn would endeavour to protect itself by military agreements with other States; in other words, military conventions challenge the conclusion of fresh military conventions and render illusory the leading notion of the League of Nations, which is to replace the grouping of Powers by international organisation.

It must further be remembered that the contracting parties of the proposed Treaty of Mutual Assistance and the Members of the League of Nations will not, by any means, necessarily be identical. Consequently, the simultaneous existence of the new treaty and of the Covenant would create a most awkward uncertainty as to the competency of the two. In stressing the fact that its articles do not in any way affect the rights and duties emanating from the Covenant of the League of Nations, the draft treaty reveals the difficult complications which must arise from a State being a Member of the League of Nations, a signatory of the Treaty of Mutual Assistance, a party to a complementary defensive agreement — or to several such agreements — or being able to make use of the right to declare its merely conditional or partial adherence to the draft treaty. Under these circumstances, it is clearly a tempting and easy matter for a State to evade its obligations by playing off the articles of the one treaty against those of the other.

But further, the Treaty is to leave unaffected not only the Covenant of the League of Nations but also the Treaties of Versailles, Neuilly, St. Germain and Trianon. If, therefore, Germany were to adhere to the new treaty, her situation would be intolerably ambiguous and would involve her in well-nigh incalculable danger. Disarmed almost to the point of impotency, she would have to reckon with being drawn resistless and defenceless into all sorts of conflicts, and to look on while her unprotected territory became the battlefield of foreign Powers. The mere fulfilment of the obligation to permit transit and traffic through the country to one party would render her a prey to the other, inasmuch as the latter would be given a convenient pretext for treating her as an enemy State. The fact, moreover, that her adherence would require a two-thirds majority of the votes of the principal contracting parties reveals even more drastically the disproportion between the adverse character of the conditions under which Germany could join and the advantages which might accrue to her from doing so.

If we really wish to promote that realisation of disarmament, of such essential import to the League of Nations, we must not follow the lines laid down in the new draft treaty. They are lines which neither touch nor run parallel with the principles of the Covenant but which diverge further and further from them. Only an organic development of the Covenant can bring success — not a heterogeneous adjunct thereto. What we need is not an accumulation of treaties and agreements side by side with the Covenant but an intensification and refinement of the Covenant itself. This development cannot be achieved by opposing force to force. Illegal force will only be driven from the world by opposing it with justice whereby the force employed to meet injustice will be justified and hallowed. Forbid the forcible settlement of disputes; forbid the forcible attempt to obtain one's supposed rights altogether. Interdict all special agreements which shelve or contravene the general treaty. Remove all hindrances left by former treaties. Side by side with the Court of International Justice for purely legal disputes, create a court of arbitration for political conflicts and endow it with every guarantee for the juridical independence of its members. Decree compulsory adherence thereto as well as to the Permanent Court of International Justice. Endow both courts with the right and the duty to issue provisional injunctions *uti possidetis*, especially in reference to the ostensibly peaceful occupation of foreign territory. Appoint an organ which shall oppose the peace-breaker with the weight of the League of Nations in order to carry into effect the decrees and all other decisions of the Court of Arbitration and of the Court of International

Justice. Above all, make disarmament obligatory upon all nations. Finally, see to it that the justified wishes of the population for an adjustment of frontiers be met by means of properly regulated legal procedure. Remember that development never ends, and that, unless you wish it to find vent in some violent eruption, you must not make the bootless attempt to curb and enclose it. No, we must give it free progress along the lines of right and justice. So, and only so, will it be possible to provide the premises for the vigorous efficacy of the League of Nations; so, and only so, to create the possibility of an energetic growth of its authority; so, and only so, to prepare the way for that universality of its membership without which it will never be able to fulfil its great task. Then Germany, too, would no longer need to hesitate whether she should, on condition of equality of rights, enter the community of nations united in the League and to co-operate in the maintenance of peace on the footing of justice and righteousness.

Berlin, July 5th, 1924.

(Signed) HOETZSCH KAAS KAHL KRIEGE
MEINECKE MONTGELAS SCHIFFER SCHÜCKING.

C. 377. M. 138. 1924. IX.
C. T. A. 448.

REPLY FROM THE NETHERLANDS GOVERNMENT.

[Translation.]

The Hague, July 30th, 1924.

In your letter C.L. 105 of October 25th, 1923, you submitted for consideration by the Netherlands Government, in accordance with the Council's decision of September 29th, and a resolution of the fourth Assembly, the Draft Treaty of Mutual Assistance drawn up by the Third Committee of that Assembly. In the same letter you requested me to communicate Her Majesty's Government's opinion on the Draft.

In reply, I beg to refer to the letter which I sent you on June 23rd, 1923, and in which the Netherlands Government, in compliance with a request made by you, stated its opinion on the resolution adopted by the third Assembly concerning the question of treaties of mutual guarantee. The Royal Government mentioned the doubts which it had entertained from the outset whether the putting into effect of the treaties of guarantee would really achieve the proposed object — namely, the reduction of armaments. The Government questioned whether it was justifiable to assume that the universality which is essential for this purpose would be achieved more easily or more rapidly by means of the Treaty of Guarantee than by the Covenant of the League of Nations, or to suppose that a system of military co-operation which did not provide the necessary legal guarantees that the assistance to be given should only be granted to States in a position to claim it rightfully would be likely to create between countries that atmosphere of peace and confidence by which alone the reduction of armaments could be realised.

Further, the Government raised the question whether the system contemplated in the above-mentioned resolution was in accordance with the principles and spirit of the Covenant, and whether its adoption would promote the development of the League of Nations.

After taking cognisance of the discussions at the fourth Assembly, the Netherlands Government continued its enquiry into these questions and made a most careful examination of the Draft Treaty. As a result of that examination, it has not been led to modify its original point of view; rather, it is confirmed in its opinion.

I presume that it was not the object of your circular letter to invite the Governments to give in their replies a detailed criticism of the various articles in the Draft Treaty. I shall accordingly confine myself to referring to the speech of the first delegate of the Netherlands at the plenary meeting of the Assembly on September 29th, 1923. In his speech, Jonkheer Loudon drew attention to the inadequate interdependence established in the Draft Treaty between the guarantee and the reduction of armaments; he emphasised the preponderating weight given to partial treaties under the proposed system. The standpoint of Her Majesty's Government on this question is in complete agreement with the views expressed by the first delegate on that occasion.

The report submitted by the Permanent Advisory Commission in April 1923 showed that, in application, the principle of the mutual guarantee would necessarily result in the conclusion of separate treaties specifying in detail the terms upon which the Contracting States would assist one another in case of aggression. Accordingly separate treaties form an essential constituent of the system proposed in the Draft. Without contesting the right of States to conclude separate and original treaties of this nature, the Netherlands Government is of opinion that it would be contrary to the principles and spirit of the Covenant to expand the conclusion of such agreements into a system and to make them in a way the basis of the international commonwealth. Indeed, this system would rather appear likely to give rise to serious alarm with regard to the maintenance of peace.

• Further, the Netherlands Government entertains some doubt whether the Draft Treaty would accelerate the reduction of armaments stipulated in Article 8 of the Covenant. In view of the preponderating position given to separate agreements, the proposed system

involves a risk that, in practice, the limitations specified in that article would cease to be regarded as a maximum which should not be exceeded, and would come to be regarded rather as a minimum which the Contracting Parties would be entitled to demand from one another. The result might be that the weaker Powers would lose their freedom to decide on their own authority alone the various questions relating to the organisation of their armaments.

In the Government's opinion, the foregoing objections would become decisive if the legal guarantees which are intended to control the operation of the proposed system were to fail. It must be admitted that in this respect the Draft is far from satisfactory. Its failure on this point may be best inferred from Article 8, which provides for the automatic operation of the machinery of assistance.

While maintaining, therefore, its objections to the Draft Treaty, the Netherlands Government remains fully aware of the great importance for the entire world of the question of the reduction of armaments, and, again, the necessity of finding some method of arriving at a solution of this vital problem. Instead of employing for this purpose a system of an essentially military character based on the use of force, Her Majesty's Government thinks that it is chiefly essential to encourage the development of all the various institutions of the League of Nations and to give practical proof in international life and in relations between States of the League's spirit of conciliation, co-operation and mutual discussion. Once the League becomes universal, and once the States are genuinely and fully prepared to comply with the provisions and spirit of the Covenant, more particularly in regard to the peaceful consideration and settlement of disputes likely to lead to a rupture, that atmosphere of international security and confidence will be created which is both the most powerful argument for the general reduction of armaments and, at the same time, the essential condition thereof. Her Majesty's Government, which was among the first to adopt as obligatory the jurisdiction of the Permanent Court of International Justice, will constantly endeavour to strengthen the legal guarantees desired by the League of Nations and to give that body the universal character which is indispensable to its efficacy. The Government cannot, however, support proposals which would establish an organisation resting on might rather than on right, thus resulting in the creation of political groups on a military basis and, in consequence, in the disruption of the international commonwealth, instead of promoting the ideal of unity and general collaboration, which is one of the fundamental principles of the League of Nations.

(Signed) V. KARNEBEEK.

C. 392. M. 143. 1924. IX.
C. T. A. 449.

REPLY FROM THE PORTUGUESE GOVERNMENT.

Lisbon, August 1st, 1924.

The Portuguese Government, having examined the draft Treaty of Mutual Assistance and the documents accompanying your letter of October 25th, 1923, has the honour to inform you:

1. That the Government of the Republic accepts in principle the provisions of the Treaty of Mutual Assistance;
2. That, nevertheless, it considers the guarantees afforded in case of aggression to be inadequate and the indispensable definition of what constitutes aggression to be insufficiently clear and definite;
3. That the Portuguese delegation to the fifth Assembly has been instructed by the Government to give its opinion on the details of the Treaty if the latter is again brought up for discussion.

(Signed) V. GARDINE.

C. 375. M. 137. 1924. IX.
C. T. A. 447.

REPLY FROM THE CHINESE GOVERNMENT.

Translation.]

Rome, August 2nd, 1924.

I have the honour to inform you that my Government has given careful consideration to the Draft Treaty of Mutual Assistance which you submitted to it in your communication of October 25th, 1923 (C.L. 105. 1923. IX), and to the documents accompanying the Draft Treaty.

The Chinese Government considers that, taken as a whole, the text of this Treaty may be regarded as acceptable, as the draft is well calculated to promote the aims of those who are working to ensure universal peace and a reduction of armaments.

The Chinese Government wishes to point out, however, that it will continue to adhere to the plan drawn up by its Ministry of War in 1922 for the reduction of the strength of its army from 1,500,000 to 800,000 men. The latter figure may be still further reduced to the absolute minimum compatible with the armaments of the other Powers and the requirements of internal security.

As regards its naval forces, the Chinese Government wishes to repeat once more the reservation it has already put forward on several occasions to the effect that it must take into account the special position of the country. Its existing naval forces are far from sufficient for the defence of its coast line, which exceeds 3,000 nautical miles, and of its rivers; in the opinion of experts a fleet of at least 500,000 tons would be required, to say nothing of the construction of naval bases and arsenals.

The Chinese Government intends to send you a communication later in regard to its air armaments, in respect of which it also begs to refer you to the letter which I had the honour to send you on July 30th, 1923.

(Signed) TS. F. TANG.

C. 420. M. 158. 1924. IX.
C.T.A. 458.

REPLY FROM THE SPANISH GOVERNMENT.

Ministry for Foreign Affairs,

[Translation]

Madrid, August 4th, 1924.

The Spanish Government has examined the terms of the draft Treaty with all the attention and care which a document of such world-wide importance merits, and in the drawing-up of which the Government of His Majesty had zealously co-operated. It was, at the same time, important not to lose sight of the special position of Spain, or of the fact that, like all countries, she is obliged to see that her present means of defence are not replaced by means which may be less effective.

The Spanish Government was accordingly led to consider the close connection between the main points of the scheme, *i.e.* the decision as to when "aggression" has taken place and the application thereafter of effective pressure on the aggressor State. It quickly realised that it was difficult, if not impossible, to define an "act of aggression", although it is upon this definition that all subsequent action depends. For the purposes of this action, the scheme confers upon the Council powers which are perhaps even more extensive than those it possesses in virtue of the Covenant itself. We may therefore anticipate that, in practice, misgivings may be felt by countries which are not represented on the Council, since they will be compelled to act in accordance with the latter's decisions.

Further, even assuming that aggression is defined by the Council, one is inclined to think, on examination of the terms of the scheme, that the economic or military action which followed would only be carried out slowly by reason of its collective character. In these circumstances, the Government of His Majesty feels that the guarantees afforded by this scheme, however great its merits, may not inspire sufficient confidence to enable a Government conscious of its responsibilities to make a serious reduction in the national armaments.

These considerations should not be taken to indicate that the Government of His Majesty fails to appreciate the eminent desirability of continuing investigations for the purpose of attaining the result desired, by means of an agreement even more universal than the preliminary one which will only bind the present Members of the League of Nations. The Spanish Government realises, however, that it will require long and persevering effort to attain, by means of a general limitation of armaments, a state of mutual confidence which will dispel even the suspicion of action contrary to the free development of the creative energy of mankind. The Spanish Government is likewise persuaded that it is possible to work to this end, to prepare the way for this universal brotherhood, and to strengthen the Covenant which expresses its ideals, by means of other agreements which would give a contractual form to the idea of compulsory arbitration.

In the opinion of the Government of His Majesty this era of fraternity and concord may be attained by means of a general treaty, and not by partial agreements. Partial agreements, even if they were under the supervision of the League of Nations (assuming that the League could overcome the difficulties involved in such supervision), would — though based on high ideals in so far as they originated from motives of self-defence — soon be vitiated by realities and by the human tendency to partiality for one's own cause, and would consequently deteriorate into an unfortunate survival of a past which we trust will never return.

For these reasons, the Government of His Majesty regrets that it cannot adhere to the draft Treaty of Mutual Assistance communicated in your Note, C.L. 105 of October 25th, 1923. It is of opinion, nevertheless, that the work which has been taken in hand should be zealously

pursued and it is prepared to co-operate wholeheartedly therein in finding a method of quelling at the outset, by means of united action, any threat of armed conflict. Such action would constitute the most effective and valid guarantee for peace.

(Signed) Marquis DE MAGAZ,
Head of the Government ad interim

C. 393. M. 144. 1924. IX
C. T. A. 450.

REPLY FROM THE GOVERNMENT OF THE KINGDOM OF THE SERBS,
CROATS AND SLOVENES.

August 7th, 1924.

The Government of the Kingdom of the Serbs, Croats and Slovenes has given repeated proofs of its earnest desire to ensure the maintenance of peace. It cannot therefore fail to express its wholehearted admiration for the efforts which have been made with a view to diminishing the danger of war, in the future, by a Treaty of Mutual Assistance and by the reduction of armaments. It has consequently examined, with the greatest care, the draft of this Treaty transmitted to it with your letter C.L. 105 of October 25th, 1923.

In the opinion of this Government, a Treaty of Assistance should be general, at least as regards Europe; further, the measures which it provides should be effective and should guarantee *absolute security* to each signatory State.

The Government is, moreover, of opinion that the general reduction of armaments is *impossible until some practical solution has been found to the problem of assistance*.

Mutual assistance should be absolute and unconditional; it should be immediately effective both as regards time and the forces employed, and it should be founded on the maintenance of the *status quo*. It should come into action automatically and rapidly as soon as the need for it is felt. Unfortunately, these requirements are not sufficiently met by the draft submitted to the Royal Government.

In cases of aggression, the draft provides for a procedure which, in the opinion of the Royal Government, could, in most cases, only be set in motion and could only produce its final result — *i.e.* the action taken against the aggressor (if any such action follows, for even that is not certain) — slowly and with considerable delay. As any delay would place the aggressor State in a favourable situation as compared with its victim, especially if the latter were a small Power, the effect of intervention would thus be weakened. The State assisted, whose territory would be invaded and laid waste, would have difficulty in repairing the devastation, even if it obtained reparation for the damage caused by the enemy. This has been clearly proved by the example of the *last war*.

In view of the above considerations and without going further into the details of the scheme, the Serb-Croat-Slovene Government feels that it could not entrust its safety to the guarantees provided by the draft.

The Royal Government, looking confidently to the future, and earnestly desiring to assist in finding a solution for the difficult question of the reduction and limitation of armaments, which is indissolubly bound up with that of guarantees, will readily continue to co-operate in the work which has thus been begun and the final success of which has undoubtedly been advanced by the results already obtained.

(Signed) Dr. V. MARINKOVITCH,
Minister for Foreign Affairs.

C. 406 (1). M. 151 (1). 1924. IX.
C. T. A. 455 (1).

REPLY FROM THE NORWEGIAN GOVERNMENT

Ministry for Foreign Affairs,
Christiania, August 14th, 1924.

[Translation.]

The Royal Government does not think it necessary for the moment to submit the observations which might be suggested by a detailed consideration of the various provisions of the draft Treaty of Mutual Assistance.

When Norway adhered to the Covenant of the League of Nations, the greatest importance was attached, as appears from my predecessor's letter of July 17th, 1923, to maintaining absolutely intact the right of the country's constitutional authorities to decide for themselves in regard to this country's participation in military operations. This right would become illusory if the draft Treaty were adopted, since, according to Articles 3 and 5 of the draft, it is for the Council of the League to take a formal *decision* regarding the employment of military force. The Norwegian Government is unable to concur in such a proposal. In general,

it is opposed to the adoption of treaties of guarantee so largely increasing the obligations imposed upon the Members of the League by the Covenant.

Moreover, as already stated in my predecessor's letter of July 17th, 1923, the Royal Government considers that, in virtue of Article 8 of the Covenant, the Members of the League have already undertaken to reduce their armaments without other guarantees than those provided in the Covenant. The Royal Government is most anxious to promote general disarmament and will do all that lies in its power to bring it about; but it is of opinion that this result cannot be attained by the conclusion of a general treaty of mutual guarantee supplemented by special defensive agreements. Nor does it think that the guarantee of security which a number of States have found it necessary to demand before materially reducing their armaments can be provided by means of a treaty of military assistance. In its opinion, this security can rather be attained by the consistent pursuance of a peaceful policy on the part of the States themselves and by working for the reduction of armaments in every country, without having recourse to a system of military guarantee. The all-essential consideration is to develop progressively co-operation between nations in support of peace and justice, and to fortify international organisation without assigning to military strength so predominant a place as is given to it in the draft Treaty of guarantee under consideration.

As Resolution XIV of the Third Assembly points out, no plan for the reduction of armaments can fully succeed unless it is general: the draft Treaty now submitted to the various Governments stipulates therefore that, subject to certain conditions, every country may adhere thereto. In the opinion of the Royal Government it is probable that a plan of military assistance would result in the formation of groups of Powers and would consequently create a situation which experience has shown to contain the seeds of war. For this reason also, the Royal Government feels unable to give its support to the scheme.

(Signed) J. L. MOWINCKEL.

C. 419. M. 157. 1924. IX.
C.T.A. 457.

REPLY FROM THE POLISH GOVERNMENT

Ministry for Foreign Affairs,
Warsaw, August 16th, 1924.

[Translation.]

The Polish Government has no desire to criticise this complex document, which is the result of three years' continuous, devoted work in the cause of peace by certain eminent and exceptionally qualified men. On the contrary, the Polish Government is happy to pay tribute to the endeavours made to secure general disarmament by means of the establishment of a system of guarantees for the security of the different countries.

The Government of the Republic considers that a general Treaty of Mutual Assistance should be the most forcible manifestation of that international solidarity which is the very basis of the League of Nations.

Its chief anxiety being to safeguard the territorial integrity and independence of the country, as is the duty of every responsible Government, the Polish Government hastens to give its adhesion to the principle of establishing preliminary guarantees, already recognised as essential in Resolution XIV of the Third Assembly.

In the opinion of the Polish Government, the realisation of this principle, which is closely associated with the undertakings entered into in Articles 10 and 16 of the Covenant, which is incorporated in the Treaties of Peace, would constitute a valuable means of defending the political integrity and independence of the various countries.

Thereby it is laid down that any attack upon a country's heritage, which is the most heinous of all international crimes, will involve the operation of a complicated system of mutual assistance, military, economic, financial and political.

The reduction or limitation of national armaments, in conformity with the provisions of Article 8 of the Covenant, can only be made possible by putting into practice a scheme of guarantees facilitating the application of Articles 10 and 16 of the Covenant. By the universal authority which it enjoys, the League of Nations is able to achieve this task, on which the peace of the world depends. The Polish Government, therefore, will always assist in the work of international pacification undertaken by the League.

The Polish Government has given very careful consideration to the draft Treaty forwarded to it. Subject to the observations on points of detail which it will put forward during the discussions of the Assembly, it desires to submit below certain remarks which it considers of particular importance.

I. It is evident that the first decision to be taken by the Council will be whether or not an act of aggression has been committed. The work of the Temporary Mixed Commission and the Commentary drawn up by the Special Committee in co-operation with certain members of the Permanent Advisory Commission show that, failing an exact definition of the word "aggression", the chief difficulty which the Council would encounter in the matter would be the impossibility of establishing the fact that an act of aggression had really been committed, of deciding which was the aggressor State and, consequently, of putting the different clauses of the Treaty into effect.

The Polish Government considers, however, that this circumstance cannot be held to be an unsurmountable obstacle to the putting into force of a scheme designed to be a decisive contribution to the establishment of a new era in international relations.

In the opinion of the Polish Government, the fact should be recognised beyond all doubt that, quite apart from and independently of the " material sides of the aggressive intention ", which preoccupied the authors of the Commentary, the mere invasion of the territory or violation of the frontier of a neighbouring State constitutes not merely a presumption that an international crime has been committed but a wrongful act, which is a decisive factor in aggression, determining the immediate operation of the provisions for mutual assistance. Further, the task of the Council would be assisted if a detailed list of the measures to be regarded by it as expressive of an aggressive intention were appended to the Treaty. The list, which would be drawn up by a special committee of experts, should take into account improvements in military science and the conditions of modern warfare.

II. In the view of the Government of the Republic, the ideal of international solidarity, which is the foundation of the Covenant, the new international charter, should inspire every endeavour to create equal conditions of security for all States and so enable the work of disarmament to be undertaken in a practical manner.

It should, however, be stated that the favourable situation in which certain countries are placed as regards their security handicaps the full and complete realisation of the principle of international solidarity in the field of general assistance. It is accordingly the duty of responsible Governments, while duly making allowance for the present state of affairs, to seek for the means of arriving at immediate and effective assistance as provided for in Resolution XIV of the Third Assembly.

For the moment these guarantees can only be realised by means of the complementary agreements specified in Article 6 to 8 of the draft, since these agreements are designed to regulate beforehand the assistance which the signatory States would give one another in the event of a specific act of aggression being committed. As they would be disassociated from the schemes for general assistance laid down in the Treaty, the operation of which is subordinate to a system of decisions by the League, and as they would be both carefully drawn up according to pre-arranged plans, which could be immediately put into operation, the complementary agreements constitute the only genuine guarantees capable of realising the reduction of armaments.

III. Again, we must take into consideration the fact that the geographical, economic or political situation of certain countries or groups of countries would seem to indicate the necessity of bearing in mind that all the High Contracting Parties might not be required to support to the same extent the burdens of the engagements contained in the provisions of the draft. In certain cases, for example, effective financial aid might beneficially supplement the military assistance suitable to the particular conditions of the countries concerned.

Further, with a view to increasing the practical value of the draft so far as possible in time of war, it would be well to establish and specify beforehand the various means of coercion to be placed at the disposal of the Council. The list of these means should be kept up to date and regularly communicated to the Members of the League of Nations.

For this purpose every State adhering to the Treaty of Mutual Assistance should be required to declare :

(1) The extent and kind of assistance which it expects from the Council under the terms of the Treaty, and the assistance which it is able to give to the other High Contracting Parties ;

(2) The limit to the reduction of its armed forces.

Being thus in possession of the requisite information for regulating without restriction the operation of the various kinds of pressure to be brought to bear on the aggressor State, the Council would also be free to determine the individual rights and obligations of the High Contracting Parties in such conditions as were acceptable to each.

IV. The application of the principle of international solidarity might, in the view of the Polish Government, be immediately displayed in a general way by the universal reprobation of the act of aggression. The most suitable means might be the suspension of diplomatic relations with the aggressor by all countries signatories to the Treaty. If a stipulation of this kind were introduced into the Treaty, it would also be an effective means of completing Article 16 of the Covenant.

V. The Polish Government considers that the practical value of the Treaty might be enhanced by a stipulation establishing the system of guarantee at the time of the settlement of a dispute.

The only provision in the draft which refers, and that in an indirect manner, to the conditions governing the termination of a dispute is Article 1. Under the terms of this article, even in case of a war which shall not be considered as a war of aggression, no State shall violate the political independence and territorial integrity of any of the High Contracting Parties. There is, therefore, all the more ground for laying down that, in an aggressive war which, under the authority of the Council, has mobilised the united forces of the High Contracting Powers against the attacking country, the settlement of the dispute and the peace negotiations must be designed to include international guarantees safeguarding the territorial integrity and political independence of the countries attacked.

Accordingly, it is essential that at this all-important moment for the attacked country, the powers and duties of the Council should be at least as decisive and extensive as at the

beginning of the dispute or during the procedure regulating the assistance provided for in the Treaty.

VI. Although the Polish Government is far from ignoring the importance of the principle of unanimity which is the basis of the League's procedure, it thinks that the moral authority of the Council, in whose hands the peace of the world would be placed in the event of a threat of war, might be weakened by the strict application of this principle to the procedure contemplated in Articles 3 and 4 of the draft Treaty. The decisions of the Council, when the latter is summoned to organise combined action on the part of the High Contracting Parties against the aggressor, might run the risk of remaining inoperative, if any single High Contracting Party voted in opposition to the others. The Polish Government is of opinion that, in cases where unanimity is impossible to obtain, the Council might take a majority decision.

VII. Under the terms of Article 16 of the draft, States which are not Members of the League shall be entitled to adhere to the Treaty with the consent of two-thirds of the High Contracting Parties with regard to whom the Treaty has come into force. The Polish Government considers it extremely desirable, in view of the character of the Treaty, which is a natural corollary to the Covenant, that States desiring to adhere should first give *effective guarantees* as specified in Article 1, paragraph 2, of the Covenant.

(Signed) SKRZYNSKI,
Minister for Foreign Affairs.

C. 424. M. 161. 1924. IX.
C. T. A. 460.

REPLY FROM THE CZECHOSLOVAK GOVERNMENT.

[Translation.]

Prague, August 17th, 1924.

The Government of the Czechoslovak Republic desires to tender its thanks to the Secretariat of the League of Nations for forwarding to it the various documents regarding the discussion at the Fourth Assembly in September 1923 on the question of the Treaty of Mutual Assistance and the limitation and reduction of armaments. The Czechoslovak Government has examined these documents with the closest attention and it desires to pay tribute to the devoted work of all those who have contributed to the collection of the valuable information, the highly important material and the ideas, which must be recognised by all, as springing from the highest and most generous motives.

The Czechoslovak Government, since the establishment of the Republic, has followed with special attention and zeal all matters tending to settle the great question of general disarmament and the question closely connected with it—namely, that of security and the prevention of future wars. Czechoslovakia herself, after having, at the beginning of her independent existence, taken certain military measures and having obtained such armaments as were indispensable for her immediate security, has latterly become somewhat reassured as to the stability of the general situation and has consequently begun to effect progressive reductions in her expenditure on armaments and proposes to continue to do so.

Having thus given practical proof of her conception of the principles and aims of the League of Nations, she attaches the greatest importance to all efforts to assure a more permanent and definite peace. The future of the smaller nations is, in her opinion, guaranteed only by an international system, in which, as a result of obligations freely entered into, all the nations, without thought of national egoism, undertake to offer determined resistance to evil with all the material means at their disposal, even in cases in which their own interests are only affected indirectly or from the moral point of view.

It is the aim of the League of Nations to arrive by progressive stages at such a state of affairs. This goal can probably be reached by various ways; and for the last five years the League of Nations has made every effort to find such ways and to decide which is the most likely to succeed. The Government of the Republic considers it immaterial which method is adopted; it considers it essential, however, that every effort should be made to find a method; that such efforts should be unceasing; that the real object of them should never be lost sight of and that a positive result should be finally attained.

This positive result it desires for two reasons:

- (1) It is essential, after the Great War, that the nations should at last enjoy the assurance of a quieter life and the certainty of a lasting peace;
- (2) It is essential that the League of Nations should not meet with any check in this matter. For this question is the very essence of the League, its main object and, in the opinion of the Czechoslovak Government, its justification.

For some years past, the League of Nations has been endeavouring, by means of the efforts of its important organisations, to find a way by which these objects may be attained. One such way was thought at last to have been found in the proposal for a Treaty of Mutual Assistance drawn up by the Third Committee of the Fourth Assembly.

The Czechoslovak Republic, to which this question has been submitted for opinion, adheres to its general policy and to its principle of examining, without prejudice or reservation,

all proposals embodying the objects of the League and ventures to lay before you its candid and definite views on this matter.

I. The Czechoslovak Government considers the idea of the Treaty of Mutual Assistance capable of achieving what the League of Nations desired to achieve. The Czechoslovak Government is not aware, at the moment, of any other means by which this object can be attained and is doubtful if, indeed, other means exist. After full consideration, therefore, it accepts the idea of the Treaty of Mutual Assistance submitted to it for consideration as a basis for further efforts to bring about general disarmament and the security of nations. It accepts it as a basis, but is at the same time prepared to abandon it directly any plan is presented that is easier of realisation, more effective in result, and less open to objections than this draft Treaty. The Czechoslovak Government itself recognises these objections.

Until it sees a better method, the Czechoslovak Government considers it to be its duty, in view of the obligations entered into in regard to the League of Nations, to make every effort to improve the present proposal, to remove these drawbacks and to endeavour to bring it to a successful issue.

It is in this spirit that the Czechoslovak Government now declares itself a firm supporter of the Treaty of Mutual Assistance, but it would, at the same time, submit certain reservations in regard to various articles of the Treaty.

There is, in the first place, in the opinion of the Czechoslovak Government, a question of principle which should be further considered: in the case of aggression, the Council of the League would have to decide by unanimous vote which party is responsible for the aggression and what measures are to be taken against such party. Without considering the principle underlying this question, including the necessity of respecting the sovereignty of States in matters of such importance, the Czechoslovak Government is in favour, in such cases, of applying the principle of a majority vote pure and simple. It ventures, therefore, to submit reservations in regard to the article in question.

There are other reservations of less importance which it would desire to submit. The question of demilitarised zones appears to a small country in quite a different light from that in which it appears to large States whose territory cannot, therefore, fall easily and at a single blow into the hands of the enemy.

Finally, we have reservations to make in regard to Articles 13 and 18; the point in question is that of the revision of armaments which is permitted to individual States if the conditions of their security should change or deteriorate. Furthermore, it is necessary, from our point of view, to reconsider the question of the assistance which is to be given by other States to a State which is the object of aggression solely in cases where the Council has certified that the State in question has reduced its armaments in accordance with its undertakings. Again, disputes might arise as to whether the State in question had fulfilled its engagements or not; the Czechoslovak Government reserves the right on this point, as in the case of the other articles referred to, to submit during the coming discussion amendments to the text which, in its opinion, might tend to its general improvement. It intends, moreover, to propose certain amendments to the articles regarding partial defensive treaties.

II. There are certain general observations which inevitably occur to all those who, responsible to their country and to international public opinion, do not wish to treat lightly questions of such importance and are endeavouring to approach the very heart of the proposal submitted to us. From this point of view, the Czechoslovak Government has followed with the closest attention all official and unofficial expressions of opinion in the various countries regarding the question of the Treaty of Mutual Assistance and disarmament.

There is, in the first place, one important and serious objection to the very principle upon which the whole text of the Treaty is based: that is, the interdependence between security and the progressive reduction of armaments. This principle signifies, indeed, that there shall be no reduction of armaments except in proportion to the security furnished to any State attacked by the guarantee of the other States.

The following objection immediately arises: Does not the Covenant in Article 8 simply and unconditionally impose upon all the Members of the League the obligation to proceed to the reduction of armaments?

The Czechoslovak Government considers that such an interpretation of the Covenant is entirely wrong. It is of opinion that Article 8 must necessarily be supplemented by Articles 10 and 16, that one cannot be applied without the other, and that Articles 10 and 16 express simply and solely the idea of security which, in the draft Treaty in question, is still further accentuated and transferred, so to speak, from the theoretical plane of the Covenant into the practical sphere of the Treaty of Mutual Assistance.

It has been said, and rightly said, that the Treaty of Mutual Assistance is "an extension of the Covenant". I would say, further, it is *the putting into concrete, practical form of the Covenant*, and more especially of Articles 10 and 16. Finally, it appears to me that the idea of interdependence between security and the reduction of armaments is essentially inherent in the Covenant and entirely in keeping with its spirit. The Czechoslovak Government has never interpreted those articles of the Covenant in any other manner.

If, therefore, the Council of the League and the Assembly are endeavouring to put into practice the principles of the Covenant, they can only follow the method indicated by the principles expressed in the Treaty of Mutual Assistance, that is to say, they can only put into force the idea of disarmament, by developing at the same time the principles contained in Articles 10 and 16.

The Czechoslovak Government cannot conceal the fact that a certain amount of anxiety has for some time past been apparent in public opinion in its country. Public opinion in Czechoslovakia has not failed to note that for the last two years repeated attempts have been made in the League of Nations to reduce the importance of Article 10, to lessen its significance to the point of rendering it ineffective in the event of any real threat of aggression against a smaller country. I rather fear that these tendencies led to more or less positive results during the Fourth Assembly.

I venture to add that such tendencies appear to me contrary to the spirit of the Covenant and, in such a case, to the Covenant itself; the League of Nations would thereby lose much of its value and its real moral importance, and the very basis of the League would be jeopardised.

The Czechoslovak Government was therefore delighted to see the opposite tendency developing, the tendency to enhance the importance of the great principle of the Covenant contained in Article 10.

In conclusion, the Government of the Czechoslovak Republic is of opinion that to emphasise the interdependence of two essential principles — security and the reduction of armaments — is not to add a fresh condition to the execution of the Covenant but, on the contrary, to act in the spirit of the Covenant and to give it the true significance which it should always possess.

III. There is a whole series of other objections of principle which appear perhaps still more important. They may be summed up as follows :

The Treaty of Mutual Assistance cannot have the desired result and will be ineffective for the following reasons :

(a) A unanimous decision of the Members of the Council is required to decide which party is the aggressor. In practice, however, it is impossible to believe that in a really serious case unanimity could be obtained.

(b) In case of aggression it is necessary to act promptly; but the procedure laid down for the Council not only rules out, *a priori*, any such prompt action, but even precludes the possibility of a prompt agreement as to the military or other measures to be taken, the strategic plan of campaign, etc.

(c) The authors of the Treaty were indeed alive to this difficulty, and they finally adopted, as a complement to the general guarantees of the Treaty, the further special guarantee of the partial defensive Treaties, thus reverting to the old system of alliances, which encourage the formation of rival groups and are contrary to the spirit of the Covenant.

(d) In addition to this ineffectiveness as a practical instrument, and to its reversion to the pre-war system of alliances, the scheme contains a final and serious disadvantage. It weaves a whole web of grave international obligations, without in any way advancing the general cause; and these obligations are so complex that they seem likely to be a source of fresh difficulties rather than a means of avoiding disputes.

If these criticisms were justified, they would amount to a final condemnation of all schemes for a treaty of mutual assistance. Their arguments may be summed up as follows: You are seeking to create a system of obligations which will not procure the advantages desired and promised, but which will justify the formation of mischievous alliances — admittedly indefensible, from a moral point of view — and will provoke fresh international difficulties.

IV. The acceptance of such criticisms would, however, amount to a blank negation of the whole conception of the League of Nations; and, if they are justified, it would follow that the idea of the League of Nations, as now constituted and as conceived by its authors, is impracticable.

What is the essential basis of any conception of a League of Nations? Is it not the desire for universal and lasting peace; is it not the demand that the community of nations should guarantee the independence and freedom of each of its members; is it not the endeavour to make the brotherhood of nations a reality, and at the same time to offer an effective bar to any violation of public right or justice by using measures of constraint against those who commit such a crime against the law of nations?

In spite of these criticisms — which in our view are only justified up to a certain point in regard to the present Treaty — the Czechoslovak Government remains firm in its loyalty to the League of Nations ideal. It believes that it would be only a half-way measure to seek the final abolition of war through efforts for the reduction and limitation of armaments — since, in practice, we can never contemplate complete disarmament. For the question at once arises: would it not be possible to begin a war with reduced armaments and reduced supplies of munitions? Would it not be possible to violate the conventions establishing the demilitarised zones, or the other less important conventions? Is it not a fact that in the last war some States entered into the struggle almost without armaments, and only took steps to supply their requirements during the course of hostilities? And how are we going to act, and how is the League of Nations going to act, if such cases arise in future? Should we not be failing in our duty as Members of the League if we did not foresee such eventualities and prepare to guard against them?

The fact is that to endeavour to prevent wars by the reduction or limitation of armaments is to mistake the means for the end, thus committing a fundamental error. The employment of the means — even with a large measure of success — in no way implies that the goal has been attained.

The question which I have just raised is one which will always have to be faced by the League of Nations, particularly by the smaller nations which are so much exposed to aggression.

It, in spite of the reduction of armaments and of all these conventions, a State attacks one of its neighbours, notwithstanding its reduced armaments and in violation of its pledged word, what policy are we going to adopt ?

There are certain States whose social and economic structure enables them to increase so rapidly their supplies of the arms and munitions required for the scientific and technical warfare of to-day that their neighbours might be easily and rapidly overwhelmed if they possessed no other form of guarantee.

V. These are very disturbing questions ; they all lead back to the fundamental question : Do we desire, and is it in our power to prevent, wars ? Is it in our power to guarantee the safety of nations which may be the victims of aggression, and are we prepared to adopt measures of constraint in case of a violation of public right ?

If the answer is *No*, let us say so frankly and not blind ourselves with illusions. Let us expose the naked truth, before the eyes of the whole world, and particularly of certain small nations which are especially concerned about their future. For these nations have both the right and the duty of acquainting themselves with the facts and of shaping their policy accordingly. The world would draw the inevitable though somewhat melancholy conclusion — which, nevertheless, would be much better than uncertainty or the kind of vague hopefulness which at present prevails — that the League of Nations in its full idealistic sense is an impracticable idea, and that it must continue to play — no doubt an important — but still a secondary role as an organisation which may often be usefully employed for subsidiary tasks, but which is incapable of solving the real problems of international relationship, and in particular the most burning problem which now confronts humanity — the problem of permanent and durable peace.

If the answer is *Yes*, let us set to work without hesitation, let us redouble our efforts and strive to eradicate the defects in the schemes to secure the safety, liberty and independence of the peoples.

In the present case we might get rid of some of the difficulties in the way of the Draft Treaty of Mutual Assistance by adopting the principle of a majority in place of a unanimous vote for decisions in cases of aggression. This suggestion does not entail any amendment to the Covenant. The Covenant is not involved ; we are simply concerned here with the stipulations of a new treaty to be freely accepted by the High Contracting Parties. The principle of decisions by a majority vote would thus only apply within the ambit of the treaty, and would not necessarily entail any amendments to the Covenant. The results would quickly be evident.

We might also make a bold effort to hasten the procedure by which the Council is to afford assistance. We could arrange for the partial treaties to be operated under the supervision of the League. I am fully alive to the defects of the partial treaties. But these treaties exist, they will continue to exist, and no one has hitherto ventured to maintain that they would be contrary to the spirit of the Covenant, seeing that they must contain a clause to the effect that they can only become operative if compatible with the Covenant.

We are told, as a serious objection, that partial treaties are imperfect and even dangerous instruments. To that I would reply that every human institution has two aspects — its good side and its bad side, and that it may always be diverted to wrong uses. We do not stop using knives because it is easy to cut our fingers with them !

In this case we are concerned with a great idea, the development of which is being watched with anxiety and hope by a large section of mankind. Let us have the courage to recognise that, in order to realise so great an ideal and to attain so great a goal, it is necessary to take risks : we must choose the lesser evil. I prefer to accept the principle of the partial treaties, which certainly involve some difficulties — though it should be easy to surmount them if we grapple with them vigorously — rather than to abandon the idea of a Treaty of Mutual Assistance and so virtually condemn the very ideal of the League of Nations. Even the strictest moralists do not scruple, in their daily lives, to practise the rule of choosing the lesser evil. If all nations had practised this rule in political affairs, we should long ago have entered the era of eternal peace between nations.

VI. The last argument which the Czechoslovak Government would advance in favour of giving effect to the Treaty of Mutual Assistance is as follows : Why should we not adopt both courses simultaneously ? Why not seek to improve, and carry out, by successive stages, the scheme for security through a treaty of mutual assistance, and at the same time proceed with the necessary steps and measures for the conclusion of special conventions concerning the demilitarised zones, the specially exposed frontiers, the extension of arbitration, etc. ? Neither of these courses excludes the other. On the contrary, they mutually assist and supplement one another, and by thus supplementing one another they will mutually eliminate the objections which are peculiar to each.

To conclude, the Czechoslovak Government believes that the idea of the Treaty of Mutual Assistance is one which cannot be abandoned without the danger of provoking — particularly among the smaller nations — the impression that they can never obtain even comparative safety, and that in the last resort it will always be the force in the hands of the most powerful nations which will decide their rights and destinies. My Government, however, holds that there are other paths by which we may approach the same objective and that the use of these paths does not exclude that of this particular scheme, so that our efforts to attain the desired end by these paths should be continued. The Government of the Republic draws particular attention to the principle of compulsory arbitration, which it endeavours to apply in its own policy, whenever there is an opportunity for doing so.

Confident in its belief in a genuine human idealism — a belief which has inspired the views expressed in this letter — the Government of the Republic is convinced that the combination of methods which it has indicated offers the right, and indeed, the only path, to the solution of the great problem of disarmament and of a universal and durable peace.

(Signed) DR. EDUARD BENES.

C. 422. M. 160. 1924. IX.
C. T. A. 459.

REPLY LETTER FROM THE FRENCH GOVERNMENT.

[Translation.]

Ministry of Foreign Affairs,
Paris, August 19th, 1924.

The French Government has examined with the closest attention and the fullest sympathy the report of the Third Committee of the Fourth Assembly and the draft Treaty of Mutual Assistance, both of which you communicated to it in your letter of October 25th, 1923.

Before expressing any opinion on the text of the Treaty, the French Government desires to confirm the favourable opinion which it expressed on June 15th, 1923, as to the proposals put forward in Resolution XIV of the Third Assembly, and at the same time to state more definitely its views on certain points. These are the necessity of establishing, as the Third Assembly proposed, an indissoluble connection between the terms *security* and *armaments*, and of making any scheme for the reduction of armaments contingent upon the prior provision of mutual assistance in an immediate and effective form. Accordingly, as in the opinion of the French Government no reduction of armaments can be effected unless external support of equivalent value and equal rapidity in operation is forthcoming, any *a priori* scale of reduced armaments calculated on a more or less arbitrary basis must be rejected absolutely.

So far from awaiting the organisation, in the form of a treaty of mutual assistance on the principles laid down by the Third Assembly, the French Government has already — since it regards the Covenant of the League of Nations as constituting in itself a general treaty of mutual assistance affording the most valuable *moral* guarantees — effected the full reduction of armaments, which such guarantees rendered possible for France. This operation has taken the form of a reduction of the period of military service with the colours by 50 per cent, of the number of divisions of the line by 25 per cent, and of naval tonnage by over 50 per cent as compared with 1914. The French Government would emphasise that the reduction of national armaments can only be considered as a *whole* and with close reference to the guarantees of security; the various kinds of armament (land, sea and air) must not be taken separately, since, at least in the case of France, they constitute an *indissoluble* unit.

Further, since the primary condition of any organisation for mutual assistance is mutual confidence in the international obligations assumed by States, it is clear that no State could be admitted to such an organisation unless it had given, in the words of Article 1 of the Covenant of the League of Nations, "effective guarantees of its sincere intention to observe its international obligations".

In its letter of June 15th, 1923, to which reference has already been made, the French Government suggested a solution, the principle of which was embodied in the draft treaty by the Temporary Mixed Commission and by the Third Committee of the Assembly. This suggestion was that, according to the varying requirements of different countries in the matter of security, two forms of assistance should be combined.

The first would be military, immediate and practically automatic. It would be furnished by defensive agreements designed to meet certain specific possibilities of war, the intention being that the scope of these agreements should subsequently be enlarged by the adhesion of a greater number of countries.

The second form of assistance would be general, progressive in development, and conditional. It would be furnished by a general treaty for the application of Articles 10 and 16 of the Covenant, and under certain conditions the defensive agreements mentioned above would be incorporated in this treaty.

The foregoing is a statement of the position taken up by the French Government with regard to the draft Treaty of Mutual Assistance after the Third Assembly had adopted Resolution XIV and before the Treaty had even been drafted.

The French Government, after an exhaustive study of the draft, unreservedly approves the manner in which it combines the two forms of assistance — individual and general — in accordance with its own suggestion made in 1923. It also endorses the fundamental principles embodied in the preamble and in Article 1, namely :

(1) The *object* of the Treaty — a combination of *mutual assistance* (Articles 10 and 16 of the Covenant) with the *reduction or limitation of armaments* (Article 8 of the Covenant).

(2) The *solemn reprobation of aggressive warfare*, which will, it hopes, have the desired result of protecting political independence and territorial integrity — the foundations of peace in the modern world.

The principle of *general* mutual assistance, to be afforded by all countries, is the outcome of the conception of international solidarity. While fully realising the heavy mutual obligations which this principle may require the States to assume, the French Government feels that it is not possible in honour to repudiate obligations once assumed by the act of adhesion to the Covenant. Its own intention, therefore, is to contract, so far as is compatible with

the requirements of its own security, such obligations as are alone capable of giving vitality to the principle of international solidarity and of putting it gradually into effect through the practical organisation of mutual assistance between States. It was with this conception before her that France signed the Covenant of the League of Nations, and that in 1923 the French Government endorsed Resolution XIV of the Third Assembly.

It must be admitted that, in the event of aggression, the *practical value* of *general assistance* alone would seem likely to be very slight from the military standpoint, for its operation would be problematic, conditional, and gradual; regarded in this aspect, therefore, this form of assistance would not seem adequate to justify any considerable reduction in armaments.

Nevertheless, by improving general conditions of security, it might in course of time encourage such reductions. It would in any event have an incontestable *moral* value, combined with practical *economic and financial* efficacy. Indeed, any attempt to provide for the progressive organisation of general mutual assistance ought probably to begin with economic and financial assistance, which must not be confused with the economic measures to be taken against aggressors under Article 16 of the Covenant. This economic and financial assistance would be claimed and received from all States as a kind of insurance premium against the spread of the plague of war.

It is not, however, conceivable that any treaty of mutual assistance should afford less effective guarantees than those offered by the Covenant itself. Assistance should therefore be required, from one continent to another, not only in an economic and financial form but also, whenever possible, in the form of naval, air and even military co-operation.

While it concurs in the necessity of organising and developing the system of general assistance provided for in Articles 2 to 5 of the draft Treaty, the French Government is of opinion that immediate steps should be taken to ensure the security of countries which, "for historical, geographical or other reasons", are "in special danger of attack", as specified in Resolution XIV of the Third Assembly. That is indeed the object of the supplementary defensive agreements whose conditions of validity and operative machinery are laid down in Articles 6 to 8. The French Government is of opinion that such agreements will continue to be necessary until the military form of general assistance can be made "immediate and effective".

In the opinion of the French Government, the criticisms to which these agreements have been subjected were fully answered in the debates at the Third Committee of the Fourth Assembly, inasmuch as they clearly showed that it was no longer possible honestly to regard these agreements as similar to the old type of alliance and as being vitiated by the defects ascribed to those alliances. Whereas these alliances were secret and limited, the proposed agreements are to be public, and to be open to subsequent adhesion by other States. The Council is to consider and decide whether they can be incorporated in the general treaty as constituting the most effective instruments for the application of the principle of international solidarity. There is good ground for hoping, therefore, that the Governments would consider it to their advantage to submit such agreements to the Council in order to qualify for the benefits of general assistance, and would accordingly waive their incontestable right to conclude such agreements without reference to the general Treaty of Mutual Assistance or to the Covenant of the League.

While, however, it is essential that these agreements should be subject to certain conditions as a guarantee of their purely defensive character, they must not be deprived of their *raison d'être*, namely, their *efficacy*, which depends entirely upon their coming automatically into effect in certain previously specified cases. The French Government is anxious to make it clear that mutual assistance should not be brought automatically into play in every case of aggression but only in certain flagrant cases *recognised as casus foederis in advance by the Council* when the defensive agreements were submitted to it. In these specified cases, *and in no others*, the defensive agreement would carry with it the right to general assistance on the one condition that the Council should have acknowledged *the existence of the facts*. In other words, there could be no uncertainty as to the Council's decision if there arose one of the cases of aggression clearly defined in the agreements.

Nevertheless, while approving the draft as a whole as being in principle in conformity with its own policy, the French Government desires to offer comments on certain points of the text submitted to it. The following are the principal points which have engaged its attention:

(1) Though it is difficult to define specifically *all* cases of aggression, it is undoubtedly possible to specify the most flagrant cases, which would in themselves furnish a solid foundation for the provisions of the draft Treaty.

(2) The difficulty which the Council would experience in deciding within four days which party was the aggressor suggests that it might suffice to require such decision to be reached as speedily as possible, *e.g.* within not more than a fortnight.

(3) Failing a unanimous decision on the part of the Council as to which States was the aggressor, provision should be made for a majority vote; in this event, the High Contracting Parties would retain full freedom to take such action as they thought necessary for the upholding of right and justice. The vote should be open to all representatives, except those of the parties *actually engaged* in hostilities.

(4) There is some danger that the operation of mutual assistance might be paralysed by the rule requiring a unanimous vote of the Council, and it would therefore be better to require only a two-thirds majority.

(5) It would also be desirable to define more clearly the provisions of Article 18, and

especially to provide for the case of a State being attacked during the period between the ratification of the Treaty and the approval by the Governments of the scheme for the reduction of armaments. Such a State ought undoubtedly to be entitled to the benefits of mutual assistance during the period in question.

In offering these observations, and in suggesting some of the amendments which it thinks necessary, the French Government has been anxious to show that, while the existing draft cannot be regarded as final, there is no reason for giving up hope of rendering it generally acceptable. The French Government will always be ready to consider any proposal likely to contribute to the satisfactory solution of the problem of security, provided always that the reduction of armaments is to be proportionate to the value of the commensurable guarantees afforded by the scheme adopted, and it maintains its belief that, following the policy of international solidarity set forth in Resolution XIV of the Third Assembly, a solution, which will meet that Assembly's unanimous desire, can eventually be reached.

(Signed) HERRIOT.

REPLY FROM THE LITHUANIAN GOVERNMENT

Ministry of Foreign Affairs
Kovno, August 22nd, 1924.

[Translation.]

The Lithuanian Government views with great satisfaction the results so far obtained by the League of Nations in the important question of the reduction and limitation of armaments, and fully accepts the principles on which the draft Treaty of Mutual Assistance is based, since they will, in its view, strengthen international confidence and will afford States a guarantee of security in return for the reduction of their armaments.

The Lithuanian Government feels bound to point out, however, that the guarantees of security offered by the draft Treaty are open to serious criticism, and that the assistance provided for in the draft might not prove sufficient to enable States to reduce their armaments without jeopardising their national security. At the same time, it is the Lithuanian Government's opinion that the draft Treaty of Mutual Assistance marks an important step towards the realisation of the aim set before the Members of the League of Nations by Article 8 of the Covenant.

The Lithuanian Government considers, however, that the draft Treaty, in the form voted by the Third Committee of the Fourth Assembly, contains certain serious gaps to which it would venture to call the attention of the League of Nations.

In the Preamble of the draft it is stated that the aim of the Treaty is to establish the general lines of a scheme of Mutual Assistance with a view to facilitate the application of Articles 10 and 16 of the Covenant; in other words, the Powers adhering to the Treaty would, among other things, undertake to respect one another's territorial integrity. This provision obviously presupposes that frontiers have been regularly established and are recognised by the States concerned. Unfortunately, cases exist where there is no frontier regularly established by treaty or recognised by the States concerned, and where serious controversies on territorial questions have arisen. A striking example of this is the Lithuanian-Polish dispute regarding Vilna, with which the League is only too familiar. The Lithuanian Government could not undertake to come to the assistance of Poland, should the latter be the victim of an act of aggression, unless and until she restores Vilna, the age-long capital of Lithuania, together with the adjacent territory, which Poland now occupies in violation of treaties and of her own international engagements.

Moreover, the Lithuanian Government takes the view that States participating in the Treaty of Mutual Assistance should undertake not to resort to force for the purpose of settling international disputes, and also to accept the compulsory arbitration and obligatory jurisdiction of the Permanent Court of International Justice.

The Lithuanian Government accordingly ventures to propose that the following two provisions should be inserted in the draft Treaty of Mutual Assistance:

(1) The reference, in the Preamble, to Article 10 of the Covenant of the League of Nations shall in no wise prejudice already-existing disputes between States adhering to this Treaty;

(2) The Contracting Parties undertake to adhere to the optional clause regarding the jurisdiction of the Permanent Court of International Justice.

In view of the special circumstances in which Lithuania is placed, the Lithuanian Government can only adhere to the draft Treaty of Mutual Assistance on condition that the two provisions which it has suggested are adopted.

(Signed) CARNECKIS.

REPLY LETTER FROM THE ITALIAN GOVERNMENT.

Ministry of Foreign Affairs,
Rome, August 25th, 1924.

[*Translation from the Italian.*]

The Royal Government has examined with the closest attention the Draft Treaty of Mutual Assistance, drawn up by the Temporary Mixed Commission and amended by the Third Committee of the last Assembly of the League.

In confirmation of the statements in my note dated June 10th, 1923, the Royal Government cannot but regard with satisfaction any proposal which aims, directly or indirectly, at the reduction of armaments; and accordingly it would welcome the conclusion of a general treaty of mutual guarantee, freely accepted by all nations, if the intention and the practical effect of such treaty contributed to that end.

Resolution XIV of the Third Assembly and the Draft Treaty now submitted to the Governments for consideration, contemplate that the guarantees of security offered to the different countries to enable them to reduce their armaments might take the form of a general treaty and of partial and regional agreements.

With reference to the conclusion of partial and regional agreements, the Royal Government shares the misgivings which were authoritatively expressed in the course of the preparatory work on the Draft. It fears that, so far from furthering, they may jeopardise the operation of the general treaty as a means of securing peace.

As regards the provisions of Article 4 of the Draft Treaty, to the effect that, in the event of hostilities, the Council of the League of Nations will determine within four days which of the High Contracting Parties is the victim of aggression and will accordingly set the machinery of the guarantee in motion against the aggressor, the Royal Government feels bound to express the opinion that in most cases it will be extremely difficult, if not impossible, for the Council to decide, within the brief period allowed, which party is the aggressor and which the victim; for it is not easy to define what either in law or in fact constitutes aggression.

Lastly, the Royal Government considers that, if the great humanitarian object of the Treaty is to be attained, a larger number of adhesions will be necessary than is contemplated in Article 18 of the Draft; this, indeed, should be an essential condition for the operation of the Treaty.

(Signed) MUSSOLINI.

REPLY FROM THE ROUMANIAN GOVERNMENT.

Ministry for Foreign Affairs,

Sir,

Bucarest, August 25th, 1924.

The Roumanian Government has given its careful consideration to the report on the Draft Treaty of Mutual Assistance which you transmitted to us in your letter of October 25th, 1923.

Pursuing as she does an eminently peaceful policy, no country would welcome with greater satisfaction than Roumania the attainment of general disarmament, but, in view of her geographical position and of the special dangers to which it exposes her, the Roumanian Government is clearly unable to assume the grave responsibility of reducing the national armaments unless it is offered real and effective guarantees of security.

It is therefore in the light of this vital consideration that we have examined the draft prepared by the Temporary Mixed Commission and amended by the Third Committee.

After most careful consideration we have been obliged to come to the conclusion that the draft is not of a nature to provide us with real and effective guarantees.

If a treaty of mutual guarantee be really effective and if it is not to expose the States which disarm to serious danger, it appears to us that it is an essential condition that the treaty should be a general treaty.

As long as there exist, side by side with the countries which disarm, countries which continue to arm, it is impossible for true disarmament to be attained or for serious guarantees to be offered of countries which consent to follow such a policy.

The 14th Resolution of the Third Assembly bears witness to the truth of this when it says in point I that "No scheme for the reduction of armaments within the meaning of Article 8 of the Covenant can be really successful unless it is general".

Not only, however, does the present situation preclude the plan from having a really general character, but the procedure which has been adopted renders it possible for certain Members of the League of Nations to evade their most important obligations.

For this reason Article 17, which provides for the possibility of conditional or partial adhesion, appears to us particularly liable to deprive the pact of mutual guarantee of its real efficacy.

Again, we consider that it would, if necessary, be possible to accept even a scheme which was not definitely general in character if mutual assistance in case of aggression were so organised as to ensure the maximum aid and security to countries against which an act of aggression was committed.

Unfortunately, the draft does not seem to us to provide the requisite guarantees even from this point of view.

1. It does not define the facts which constitute aggression. It leaves the decision of this vital point to the Council.

2. It fails to provide for sufficiently rapid action in case of aggression, as it does not state the time limits within which the necessary decisions must be taken. The seriousness of this omission, from the point of view of the State threatened, is obvious.

3. It does not provide for adequate assistance in case of aggression, as the determination of the military contingents is left to the discretion of the Council, which may even confine itself to taking merely economic measures.

4. It attempts to combine and to dovetail into each other a number of over-complicated and over-intricate systems of mutual guarantees, whereas the first requisites of the situation are simplicity and speed.

5. As regards the period during which disarmament is to be carried out, there is no clause definitely stating whether a country which is actually reducing its army can rely on the assistance of the other signatory States in the event of aggression.

6. Lastly, Article 19 lays down that denunciation by one of the great Powers permanently represented on the Council renders the Treaty invalid, thus simultaneously depriving the signatory States which have reduced their armies of every guarantee. This is, in our opinion, quite inadmissible.

In these circumstances, the Roumanian Government considers that the present Draft does not offer adequate guarantees to ensure the success of a policy of general disarmament.

If the League of Nations, whose praiseworthy efforts to ensure the establishment of world peace we warmly appreciate, succeeds in discovering a system which obviates the drawbacks mentioned above and provides more effective guarantees for the security of countries which agree to disarm, the Roumanian Government will be glad to give its support.

Having achieved her national unity, Roumania needs to devote all her resources to the work of consolidation and progress incumbent upon her, and is therefore most anxious to relieve her budget of the military burdens imposed by the present general situation.

(Signed) J. G. DUCA,
Minister of Foreign Affairs.

C. 432. M. 163. 1924. IX.
C. T. A. 461.

REPLY FROM THE SWEDISH GOVERNMENT.

[Translation.]

Stockholm, August 25th, 1924.

The object of the present draft Treaty is to facilitate the carrying-out of an international reduction of armaments which, according to Article 8 of the Covenant, is one of the duties of the League of Nations.

The Royal Government considers it of capital importance that the League of Nations should take, as soon as possible, effective steps to carry out this important duty. If all the States, whose attitude in this matter might in any way concern Sweden agreed to reduce their armaments simultaneously, the Swedish Government would also be prepared to adhere to an agreement upon equitable terms.

The authors, in working out this draft Treaty, hoped no doubt that by so doing, they would be taking the first step towards the reduction of armaments. It is, however, extremely doubtful whether the desired result can be attained by a treaty of this kind. This Treaty does not provide for any binding undertaking by the signatory Powers to reduce their armaments, but only a promise on the part of each Power to bring about, as far as that Power considers possible a reduction or limitation of its armaments and to co-operate with the other signatory Powers in a general plan for the reduction of armaments. Even these restricted engagements would be dependent on the carrying-out of the system of guarantees provided for in the Treaty. It is, therefore, probable that the whole question of disarmament would be postponed until the Treaty had been accepted. The Royal Government has serious doubts as to the advisability of thus combining the two questions, especially since past experience had clearly revealed the difficulties that would have to be overcome in order to make the Treaty acceptable to the majority of States.

The principal idea underlying the Treaty is that the contracting parties should undertake to give assistance to any party who is a victim of a war of aggression on condition that the State attacked has conformed to the terms of the Treaty in the clauses relating to the reduction of armaments.

The Royal Government wishes, in the first place, to stress the fact that the nature of the engagement in question has given rise to certain differences of interpretation on an essential point. By the terms of Article 2 of the Treaty, such an engagement should only be carried out "in accordance with the provisions of the present Treaty"; one of these provisions, however, is contained in the last paragraph of Article 5, which lays down that a decision regarding the military assistance to be furnished to the State attacked can only be valid if such decision has been taken unanimously by the Members of the Council of the League of Nations, including the State whose assistance has been called for.

A recognised authority on the subject has pointed out, in reference to the provisions of Articles 2 and 5 mentioned above, that any State has the right to decide for itself whether or not, in any case that arises, it will furnish military assistance to the State which is the victim of an aggression, and that the Treaty in this respect only involves a moral obligation. If this interpretation is correct and it is therefore possible for a State to refuse to adhere to a decision of the Council concerning the measures for assistance without such a refusal being considered a breach of the Treaty, there is no doubt that the value of the Treaty is negligible as a guarantee. We cannot therefore see that the acceptance of the Treaty would remove the hesitation shown by certain States in the matter of the reduction of their armaments.

The Royal Government, however, has grounds for putting another interpretation on the Treaty. The Government is of the opinion that the draft Treaty really implies, for the contracting parties, a strictly obligatory engagement to furnish military assistance to one another, leaving the State whose assistance is asked for free, of course, to form an opinion at the meeting of the Council, whether aggression has been committed or not. If this interpretation is admitted, the Treaty must call forth serious objections on the part of the Swedish Government.

According to the Government's statement in the letter which it had the honour to address to you on June 1st, 1923, on the subject of the draft Treaty then submitted, the Government and the Rikstag had, in the course of the discussions preceding the entry of Sweden into the League of Nations, carefully examined the extent of the obligations which this country's entry into the League would involve. They had considered the fact to be of special importance that their adhesion to the League did not involve the obligation for Sweden to renounce the right of herself considering the question of her possible participation in any military sanctions taken by virtue of Article 16 of the Covenant. There is no reason to believe that public opinion in Sweden has changed on this subject. There are still less grounds for believing that the Rikstag would be disposed to assume the obligation of furnishing military assistance to an extent beyond that provided for in the above-mentioned article.

Such, however, would be the consequence of the draft. Whereas the sanctions, whether economic or military, stipulated in the Covenant would only be applicable in the case of sudden aggression — a method of action which, under Article 13 of the Covenant, all Members of the League of Nations have declared themselves prepared to abandon unconditionally — the Powers signatory to the Treaty would, under the terms of the draft, be obliged in addition to take part in military operations in the event of a State resorting to war merely on the failure of the conciliation procedure provided for under Article 15 of the Covenant to result in a unanimous recommendation by the Council. Even should a State resort to war in pursuance of a decision by the Permanent Court of International Justice or an arbitral tribunal or, finally, on a unanimous recommendation by the Council under Article 15 of the Covenant, a war of this nature might, in certain circumstances, call for military measures on the part of the signatory Powers. The latter would, under Article 1 of the draft, be obliged to intervene if there were ground for supposing that the aggressor intended to violate the political independence or the territorial integrity of another State.

Further, the Royal Government considers that the extension of the system of sanctions contained in the Covenant is unacceptable, since it is not accompanied by a corresponding extension of the rules contained in the Covenant for the solution of international disputes. If it is desired to apply military sanctions in a general manner to a State which embarks upon a war of aggression, specific stipulations must be made that all disputes which cannot be settled in a friendly manner should be submitted to the decision of a tribunal or other international authority, which would of course be a great step forward, but one for which the majority of States is not yet ripe.

If, again, the draft is examined from the point of view of the security against attacks which acceptance of the draft is to secure for the signatory Powers, it is impossible not to express certain doubts concerning the efficacy of the guarantees contained in it. Even if the only guarantee under consideration in the present case were the less extensive guarantee mentioned in Article 16 of the Covenant — which obliged the Members of the League automatically to apply the economic blockade to the aggressor State — we cannot be sure that we could invariably rely on the assistance of all States without exception, which is a necessary condition for the effective working of the system. We could even less certainly rely on the execution by all countries, at the proper moment, of the military undertakings stipulated in the Treaty. The Treaty can only become operative if the Council unanimously decides which of the opposing States is the aggressor and unanimously take certain decisions regarding the assistance to be furnished. The organisation of the Council, however, does not fit it for this kind of work. The Council is a political organisation consisting of persons who act under the instructions of their Governments. We cannot help feeling that the decisions taken by a body of this character might sometimes be influenced by political considerations.

If a single Member of the Council voted upon considerations other than those of justice and truth, the whole system of guarantees would break down. Again, the task incumbent upon the Council under the draft of deciding within four days by whom the act of aggression had been committed appears extremely difficult and even impracticable, particularly since the Treaty, as worded, contains no directions for the Council in cases in which it may be called upon to define the term, "war of aggression". The extremely interesting commentary on the definition of the case of aggression drawn up by the Temporary Mixed Commission and annexed to the draft gives an idea of the difficulties with which the Council will be confronted in this matter.

It is very natural, in view of the purely relative efficacy of the proposed system, that the general Treaty should contain a stipulation suggesting that the signatory States should separately conclude, either as between two of them or as between a larger number, complementary defensive agreements and should determine in them the nature and extent of the assistance which they would undertake to furnish one another. Agreements of this nature are already in existence and are not incompatible with the Covenant. If, however, the view of the Royal Government is accepted that separate agreements of this kind tend to the formation of mutually hostile groups of Powers and consequently to involve certain dangers to Peace, the agreements proposed under the Treaty cannot be contemplated without certain misgivings. The stipulations under which a certain measure of control is conferred upon the Council as regards these agreements are not, in the opinion of the Royal Government, sufficient to remove the disadvantages inherent in the system.

The Royal Government has not yet dealt with Article 17 of the Treaty, which provides for the possibility, subject to the Council's consent, of conditional or partial adhesion to the stipulations of the Treaty. There is no exact definition of the scope of this stipulation, a fact which may also be inferred from the proceedings of the Third Committee of the 1923 Assembly. Obviously, from the Swedish point of view, partial adhesion, under which the country would be free from certain obligations stipulated in the Treaty, would meet with fewer objections than unconditional adhesion. As the Treaty does not mention the advantages to be gained by partial adhesion, it would appear that it is for the Council to take a decision in the matter should occasion arise. We could only, however, expect advantages which would counterbalance the obligations assumed. If these obligations did not include military participation, there would accordingly be no compensation at all.

In view of the considerations set forth above, the Royal Government is of opinion :

That acceptance of the draft does not offer States which sign the Treaty any advantages which would counterbalance the risks inherent in adhesion ;

That, under these circumstances, there is no prospect of the Treaty obtaining general acceptance ; and

That in consequence it is not desirable to make the realisation of disarmament as specified in Article 8 of the Covenant depend upon the acceptance of the Treaty.

The Royal Government, therefore, much regrets to inform you that it does not consider that Sweden should adhere to a treaty of this nature.

(Signed) E. MARKS DE WURTEMBERG.

REPLY FROM THE GOVERNMENT OF URUGUAY.

Ministry for Foreign Affairs,

Montevideo, August 7th, 1924.

The Uruguayan Government has given careful consideration to the Draft Treaty of Mutual Assistance adopted by the Third Committee of the Fourth Assembly, concerning which this Government has been asked by the President of the Council, in his note C. L. 48. 1924. IX, of April 11th last, to give an opinion.

In general, the Uruguayan Government considers that the Committee's conclusions are in accordance with the spirit of the Covenant and with the high ideals of the League of Nations. It ventures, however, to make a few observations, which it hopes will be taken into consideration when the treaty comes up for discussion.

Uruguay, like almost all South American countries, is in a very peculiar position as regards the putting into operation of the machinery of mutual guarantee set up under the Draft Treaty.

It is only natural that, in the Draft Treaty, account should have been taken mainly of the geographical, economic and military situation in Europe, because, in the first place, the dangers and possibilities of conflict on that continent are more immediate, and also because (as the question has been dealt with in a European atmosphere) the special circumstances to which the situation in Europe daily, and almost hourly, gives rise have necessarily been taken into account.

The assistance which Members of the League would in accordance with the instructions of the Council be called upon to furnish to a state when it is attacked may be very easy and expeditious in Europe, where means of communication have the advantage of being very rapid, where it can be known almost immediately what country will go to the assistance of another, and where such co-operation can be given without any appreciable delay.

The position of the Members of the League in this part of the world is very different. Communications with countries in other continents, are slow and at times difficult; it may therefore happen that measures for cooperation and effective assistance can only be carried out when the situation has become virtually irretrievable.

Within the continent itself, or even in each district of the continent, the position is no better. Uruguay, for instance, owing to the difficulty of communications, is further from the northern countries of South America than from all, or nearly all, the countries of Europe.

If, in accordance with the terms of paragraph B of Article 5, mutual guarantee is limited, as regards participation in military, naval and air operations, to the countries belonging to the continent where the conflict, or danger of conflict, arises, a threatened country situated at one end of the American continent may be said, at least in certain circumstances, to be left completely unprotected. Such a country therefore would have to assume all the obligations imposed upon it by the Draft Treaty and would be obliged to furnish such military assistance as the Council required in accordance with the terms of the Treaty, without being in a position itself to receive the cooperation and military assistance for which provision is made.

The situation would be even less satisfactory if the continental divisions fixed by Article 18 for the whole of America are taken to mean that American countries are to be grouped into three divisions for the purposes of the Treaty, for in that case no State of Northern or Central America would be obliged to come to the assistance of any South American State requiring military assistance. Article 18, to which we refer, differs fundamentally from Article 25 of the draft formerly submitted by Lord Robert Cecil, because the latter treated the whole of the American continent as a single unit for the purposes of the treaty whereas the text now submitted for consideration to the various Governments provides for three continental divisions, as mentioned above.

The Uruguayan Government recognises that the sole object of this continental grouping is to facilitate the observance of such text as may finally be adopted, with a view to ensuring earlier ratification by the countries concerned. This Government, however, feels or at least fears, that in practice the arrangements suggested in the present draft may be taken to mean — by an extension of the principle that co-operation is limited to continental divisions — that the grouping adopted for ratification will, in short, be the grouping which shall govern the execution of the military obligations imposed by the treaty.

The Uruguayan Government expects that in the course of the discussions to which the draft text will give rise, amendments will be proposed which will meet these objections. In addition the Uruguayan Delegates will undoubtedly avail themselves of such opportunity to present a full and thorough explanation of them, and any other proposals which may be made, when the Assembly comes to consider the problem.

(Signed) ALVARO SARALEGUI.

C. 436. M. 166. 1924. IX.
C. T. A. 464.

REPLY FROM THE GREEK GOVERNMENT

Ministry for Foreign Affairs,
Athens, August 12th, 1924.

[Translation.]

Sir,

I. The object of the draft under consideration is to enforce the observance of signed treaties and, by the promise of mutual assistance between nations, to render possible a reduction of armaments.

II. This latter point, which is the crux of the whole question, has been taken into serious consideration by the Greek Government which, on its own initiative, has found it possible to take certain measures which testify to its desire to reduce its military forces to a minimum.

Greece has accordingly:

- (a) Reduced the period of military service from 24 months to 18 months,
 - (b) Reduced her ordinary military expenditure by diminishing the sums appropriated for this purpose in her Budget.
 - (c) Although the population of Greece has increased by a quarter since 1913, while 200 square kilometres have been added to her territory, Greece has reduced the number of her Army Corps from 5 to 4 and that of her Divisions from 15 to 12.
- These measures sufficiently demonstrate Greece's willingness to restrict her armaments and her sincere desire to contribute, to the peaceful solution of disputes.

III. The Greek Government is therefore in favour of the conclusion of a Treaty of Mutual Assistance which would provide the basis of a general agreement leading to the limitation of armaments while guaranteeing the security of the signatory States.

The Greek Government does not consider, however, that the draft in itself provides sufficient guarantees of peace or that it is likely to bring about the reduction of armaments.

Indeed, a Treaty of Mutual Assistance, owing to its general character and the large number of eventualities for which the Contracting States would have to be prepared, would oblige them to keep considerable military resources at their immediate disposal, and the final result would be an increase rather than a reduction in military expenditure.

IV. The Greek Government also fears that a general treaty would be ineffective.

The Treaty could only be put into operation with the consent of all the signatory States; this would necessarily be a somewhat slow process; and even after this consent had been obtained it would be necessary to discuss the military measures to be taken, the composition of the contingents, the organisation of the higher command and the plan of campaign. Discussion of all these points would take too much time for the security of the countries attacked not to be jeopardised, and we fear that in many cases the Council would find itself faced with accomplished facts before a decision had been reached.

V. In these circumstances the Greek Government considers that the measure which has most to recommend it from the practical point of view is the conclusion of complementary agreements (Article 6 of the draft).

Such agreements would obviate the delays and imperfections of a general pact, and as every country would know exactly what eventualities it might be called upon to face and would share the risks and responsibilities with certain other States, it would know exactly how far it could reduce its armaments.

VI. However, we consider two conditions to be absolutely essential if these separate treaties are to retain their defensive character and are not to become pacts of aggression:

(1) The text of the complementary treaties must immediately be registered with the League of Nations.

(2) The exclusive purpose of the contracting parties must be to ensure the observance of signed treaties.

The Greek Government is prepared to give its consideration to agreements of this nature which in its opinion would be particularly effective.

(Signed) Roussos,
Minister of Foreign Affairs.

Letter from the Greek Government

Ministry for Foreign Affairs,
Athens, August 12th, 1924

[Translation.]

Sir,

In communicating to the Secretariat of the League of Nations its reply regarding the draft Treaty of Mutual Assistance, the Greek Government desires to point out that, quite apart from the general considerations set forth in this reply, Greece finds herself in a very special position.

Her territorial status and nearly all the vital questions affecting her national life are governed by the Treaties of Neuilly, and Lausanne.

(a) As regards the Treaty of Neuilly, however, Bulgaria has consistently violated its military clauses for the last three years, and

(b) The Treaty of Lausanne imposes on Turkey no restrictions in regard to her military and naval forces.

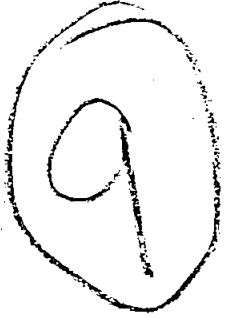
In order to provide for her security, Greece is therefore obliged to take military measures which she would have been glad to be able to reduce if she had been placed in more favourable circumstances.

(Signed) Roussos,
Minister of Foreign Affairs.

Geneva, September 4th, 1924.

LEAGUE OF NATIONS

REDUCTION OF ARMAMENTS



**LIMITATION OF NATIONAL EXPENDITURE
ON ARMAMENTS**

REPLIES FROM GOVERNMENTS

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REDUCTION OF ARMAMENTS.

LIMITATION OF NATIONAL EXPENDITURE ON ARMAMENTS

ACTION TAKEN BY THE COUNCIL AND THE COMMISSIONS
OF THE LEAGUE ON THE RESOLUTIONS ADOPTED BY THE ASSEMBLY
AT ITS FOURTH SESSION.

Resolution II. — Limitation of National Expenditure on Armaments.

“ The Assembly

“ Notes with great satisfaction that in the course of the last three years the States Members of the League have, with very few exceptions, been able to reduce their expenditure on armaments ;

• “ Desires that this fortunate development should become more marked and more general ;

• “ Recalls the resolutions of the preceding Assemblies concerning the limitation of expenditure on armaments ;

• “ And requests the Council to recommend to the Members of the League not to exceed, during the period necessary for the elaboration and the adoption of the general scheme for the reduction of armaments, the total expenditure on military, naval and air armaments provided for in the budget of the present fiscal year ;

“ Subject to the reservation, however, that allowance shall be made :

“ (a) for all contributions of effectives, material, or money recommended by the Council for the execution of the obligations provided for in Article 16 of the Covenant ;

“ (b) for all exceptional situations brought to the notice of the Council and recognised by it as such. ”

During its twenty-ninth session, in June 1924, the Council considered this resolution of the Assembly and gave effect to it in the following decision :

“ The Council, endorsing the Assembly’s resolution recommending the Members of the League, subject to certain reservations, not to exceed, during the period necessary for the elaboration and adoption of the general scheme for the reduction of armaments, the total expenditure on military, naval and air armaments provided for in the budget of the present fiscal year :

“ Decides to instruct the Secretary-General to send the above recommendation to all State Members of the League and to request them to state what action they propose to take with regard to the recommendation. ”

The Secretary-General, by a letter dated June 27th, 1924, communicated this decision of the Council to the States Members of the League.

The replies received to this enquiry are included in the present document.

C. 357. M. 124. 1924. IX.
(C. T. A. 442.)

REPLY FROM THE PORTUGUESE GOVERNMENT.

Lisbon, July 15th, 1924.

In your letter of June 27th last, you were good enough to communicate to the Government of the Republic the decisions of the Council of the League of Nations with regard to the limitation of expenditure on armaments, and you enquired what action our Government proposes to take in pursuance of the recommendation of the Council adopted on June 14th, 1924.

The Government of the Republic has devoted its efforts during the last few years to overcoming a serious financial crisis which had arisen as a direct consequence of the participation of Portugal in the Great War. In consequence of the depreciation of the currency, the Government has not only been compelled to refrain from any sort of renovation of the country's armaments but it has not even been able to maintain those armaments up to the strength prescribed in the constitutional laws regarding the organisation of the military and naval forces of Portugal.

The situation is an exceptional one and is of the kind provided for in paragraph (b) of the Assembly's resolution.

In view of the persistence of the financial crisis, the Government of the Republic does not at the present moment intend to incur any further expenditure on armaments, but it must make every reservation, in accordance with the provisions of paragraph (b) already referred to, regarding the necessity of renewing its war equipment as soon as the budgetary position improves.

(Signed) Augusto DE VASCONCELLOS.

C. 370. M. 133. 1924. IX.
(C. T. A. 445.)

REPLY FROM THE ROUMANIAN GOVERNMENT.

[Translation.]

Bucharest, July 23rd, 1924.

In reply to your letter of June 27th last, I have the honour to inform you that the Royal Government has carefully considered the resolution adopted by the Council of the League of Nations on June 14th, 1924.

Although, as you are aware, the Roumanian Government is anxious to do nothing which might stand in the way of the objects which the League has in view in recommending Governments not to exceed, during the period required for the elaboration and adoption of the general plan for the reduction of armaments, the total amount provided for military, naval, and air expenditure in the budget of the present financial year, it feels that it cannot conform at present to this recommendation. The continual threats to which Roumania is exposed oblige the Roumanian Government to take all measures dictated by the requirements of national defence.

(Signed) J. S. DUCA,
Minister for Foreign Affairs.

C. 371. M. 134. 1924. IX.
C. T. A. 446.

REPLY FROM THE SPANISH GOVERNMENT.

[Translation.]

Paris, July 28th, 1924.

In reply to your letter of June 27th last, I am instructed by my Government to inform you of its views regarding the Fourth Assembly's resolution transmitted by the Council, and recommending the Members of the League of Nations not to exceed, during the period necessary for the elaboration and the adoption of the general scheme for the reduction of armaments, the total expenditure on military, naval and air armaments provided for in the budget of the present fiscal year.

The principle of the Assembly's resolution has also been adopted by the Spanish Government, which has so closely observed it that not only has there been no increase but the total expenditure provided for in the budget has been reduced. The Spanish Government firmly intends to continue to observe this principle. It must, however, make the reservation that it is not in its power to guarantee that the necessity of providing for the defence of Spanish interests in Morocco may not at some time and under certain circumstances compel it to increase its military expenditure.

(Signed) QUIÑONES DE LEÓN.

C. 403. M. 148. 1924. IX,
C. T. A. 453.

REPLY FROM THE ESTHONIAN GOVERNMENT.

[*Translation.*]

Reval, August 8th, 1924.

I have the honour to inform you that, in drawing up its military budget for 1924, the Esthonian Government bore the recommendation of the Fourth Assembly in mind, and it is glad to be able to point out that not only is the military expenditure in the budget for the current financial year not larger but it has been very considerably reduced. For instance, on the Army alone expenditure has been reduced by about 180 million Esthonian marks, while expenditure on the Navy and Air Force has been reduced proportionately.

(Signed) T. R. PUSTA,
Minister.

REPLY FROM THE GOVERNMENT OF LIBERIA

Department of State,
Monrovia, Liberia,
August 8th, 1924.

With respect to Secretariat Document C.L. 82. 1924, IX, on the subject of limitation of expenditure on armaments, I have the honour to say that the Liberian Government accept absolutely the principle contained in the resolution of June 4th dealing with this matter.

Secretary of State.

C. 400. M. 147. 1924. IX.
C. T. A. 452.

REPLY FROM THE LATVIAN GOVERNMENT.

[*Translation.*]

Riga, August 9th, 1924.

In reply to your letter C.L. 82, dated June 27th, regarding the limitation of expenditure on armaments, I am instructed by my Government to give you the following information:

While the Latvian Government is in full sympathy with the efforts of the League of Nations to establish universal peace, it considers that the recommendation forwarded by the Council cannot be applied in the strictest sense by new States whose military organisation is in process of development and whose geographical position exposes them to a constant threat of aggression on the part of Powers which do not belong to the League of Nations.

Moreover, military expenditure amounts to only 18.16 per cent of the Latvian Budget; this percentage is one of the lowest in Europe. Although the actual expenditure figures show an increase of 10 per cent over those of the 1923-1924 financial period, this is only an apparent increase due to the rise in the cost of living and in the cost of purchases made at home and abroad for the equipment and arming of the troops. Actually the real value of the expenditure has decreased by 15 per cent. Latvia is therefore pursuing a policy in conformity with the recommendation adopted by the Assembly of the League of Nations, and will always do her best to give effect to the wishes of the Assembly in so far as the requirements of her national security permit.

(Signed) L. SEJA,
Minister for Foreign Affairs.

C. 405. M. 150. 1924. IX.
C. T. A. 454.

REPLY FROM THE GOVERNMENT OF THE KINGDOM OF THE SERBS,
CROATS AND SLOVENES.

Ministry for Foreign Affairs,
Belgrade, August 11th, 1924.

[*Translation.*]

The Royal Government has noted the resolution adopted by the Fourth Assembly regarding the reduction of expenditure on military, naval and air armaments.

Conscious of its duty to maintain peace and national security, the Serb-Croat-Slovene Government has had to take the necessary steps to provide its army with modern and complete equipment. When peace was concluded, the Kingdom of the Serbs, Croats and Slovenes only possessed the army of Old Serbia reduced by six years' of warfare to a seventh of its

normal strength, and provided with the most inadequate armament and equipment. It should be remembered that, when the country was evacuated, the entire stores of war material were destroyed. The financial crisis and the depreciation of the currency have only rendered it possible to replace the material and equipment very gradually, and these have not yet attained the minimum required for the defence of a country three times as large as formerly. The Royal Government has entered into certain undertakings with manufacturers at home and abroad which it is obliged to fulfil. These considerations render it impossible to limit this expenditure to the sum at present provided in the budget.

In view of this exceptional situation — which is, indeed, provided for in paragraph (b) of the Assembly's resolution — the Royal Government regrets that for the moment it is unable to give effect to the resolution in question. As soon as circumstances permit, it will endeavour to restrict its expenditure on armaments, the more so as such restriction cannot fail to benefit the general economic situation of the country.

(Signed) MARINKOVITCH,
Minister of Foreign Affairs.

C. 405. M. 150. 1924. IX.
C. T. A. 454.

REPLY FROM THE CZECHOSLOVAK GOVERNMENT.

Prague, August 14th, 1924.

[Translation.]

.....I have the honour to inform you that the Czechoslovak Government, in loyal observance of the Peace Treaties and the Covenant, of which it was one of the signatories, is taking all measures calculated to ensure peace and a general reduction of armaments.

In the military budget submitted to the Chambers, the Government have even kept below the limits required for the essential needs of national defence and have undertaken a further reduction, the importance of which may be seen from the following table :

Year.	Military budget.	Percentage of general budget.
1919	1,740,166,000 Czech Crowns	20.20 %
1920	2,364,518,000 " "	15.47 %
1921	2,561,796,000 " "	14.20 %
1922	3,108,846,000 " "	15.62 %
1923	2,775,137,000 " "	14.32 %
1924	2,299,973,000 " "	13.53 %

These figures show both an absolute reduction and a reduction in the percentage of a very remarkable character.

I also desire to point out that the credits voted in respect of previous years have not been entirely used up by the Ministry of National Defence. This will enable considerable economies to be effected of which I shall be able to give exact details when the accounts for the years 1922 and 1923 have been closed.

Moreover, as regards effectives and length of service, the Government of the Republic have given orders for the period of obligatory military service to be reduced this year from two years to 18 months. Further, by the law of December 7th, 1922, regarding recruits whose family circumstances are particularly difficult and who may be released on that account after six months' service, the Government has further reduced the strength of the army by about 4,000 men.

It is a particular pleasure to me to be able to bring to your notice these various measures for a reduction of armaments. The Republic, in spite of the difficult situation in which it was placed at the time of its constitution, and the necessity imposed upon it, if it was to ensure its existence, of providing itself with at least a minimum of armaments and equipment — a minimum which is still far below the level maintained during the past few years by other countries — has not hesitated to enter upon the path marked out by the League of Nations, and has thus supplied further clear proof of its pacific aims, to which it has given practical expression to the extreme limit compatible with the national security.

I feel it necessary, however, to observe that the measures so far taken have been based on the assumption that the clauses of the Peace Treaty and of the Covenant will be strictly observed. The development of such measures in the future will depend directly both upon the extent and efficacy of control and upon the conclusion in the near future of a treaty of mutual guarantee.

(Signed) DR. EDUARD BENES.

C. 416. M. 155. 1924. IX.
C.T.A. 456.

REPLY FROM THE BRITISH GOVERNMENT.

Foreign Office, August 18th, 1924.

In your letter C.L. 82. 1924. XI of June 27th last you enquired, by direction of the Council of the League, what action His Majesty's Government proposed to take with regard to the resolution of the Council of June 14th last, recommending that, during the period necessary for the elaboration and adoption of a general scheme for the reduction of armaments, Members of the League should not exceed the total expenditure on military, naval and air armaments for which provision is made in their budgets for the present fiscal year.

2. The attitude of His Majesty's Government towards this recommendation has already been explained by their representative on the Council. They have deeply at heart the desirability of reducing expenditure on armaments to a minimum, and the figures given in the League of Nations "Statistical Enquiry into National Peace-time Armaments" (A. 20. 1923. IX) show with what success the United Kingdom has pursued this policy in recent years. They are happy to be able to point to a further prospective decrease in such expenditure in the current year and they earnestly trust that further reductions will be possible in the future. The recommendation, however, applies to an indeterminate period and His Majesty's Government consider it impossible to bind either themselves or their successors not to exceed in any circumstances the expenditure actually incurred in the present fiscal year. The aim of His Majesty's Government will continue to be directed towards a reduction of expenditure to the lowest level consistent with the requirements of national security, and as this must depend upon policy His Majesty's Government will continue to strive to create and maintain international relationships which will conduce to progressive disarmament. As Members of the League are aware, much of the world's military expenditure is purely competitive and can be limited only by mutual agreement. His Majesty's Government are always ready to consider such agreements with a view to increase national security by international reduction of armaments.

For Mr. Ramsay MacDonald :
(Signed) G. VILLIERS.

REPLY FROM THE POLISH GOVERNMENT.

Warsaw, August 26th, 1924.

I have the honour to inform you that the military budget of the Polish Republic for the year 1925 shows no increase, and does not in its main features differ from that of 1924.

I venture to draw your attention to the fact that the military budget of the Polish Republic, which covers the period during which the finances of the Treasury are being set in order by the Polish Government, by no means answers to actual requirements and to the present situation of the country, and that consequently it cannot be regarded as a fixed basis for the framing in future of the normal peace budget.

It will not be possible to frame this normal budget before 1927, by which time the work of re-establishing the Treasury finances will have been finally completed. It would therefore be premature as yet to pass judgment upon the figures of the military budget, in view of the fact that the latter will depend entirely upon the country's future conditions of security.

I can, however, assure you that the Polish Government, seeking as it does to co-ordinate its endeavours as closely as possible with those of the League of Nations with a view to preserving the peace of the world, will do its utmost to comply with the decisions taken by the League of Nations, and there is no doubt that a happy solution of the problem of general disarmament will be reflected also in the military budget of Poland.

(Signed) AL. SKRZYŃSKI,
Polish Delegate to the League of Nations.

REPLY FROM THE ITALIAN GOVERNMENT.

[*Translation.*]

Ministry for Foreign Affairs,
Treaty and League of Nations Office,
Rome, August 28th, 1924.

In a letter dated June 27th, 1924, in which you notified me of the resolution adopted by the Council of the League of Nations on the 14th of that month with reference to the limitation of expenditure on armaments, you requested me to inform you of what action the Italian

Government proposed to take on the recommendation that the total expenditure on military, naval and air armaments provided for in the budget of the present financial year should not be exceeded during the period necessary for the preparation and adoption of the general armament scheme.

The statistics published by the League of Nations show that Italy, with 46 per cent, takes first place among the countries which have effected large reductions in their total expenditure on armaments as compared with pre-war figures, account being, of course, taken of the depreciation of the currency.

It will be seen quite clearly from these facts that the Italian Government is following a pacific policy and has deferred to the recommendations of the League not merely formally but in a practical manner.

Nevertheless, while the Royal Government is sincerely anxious to continue this policy, it cannot, as a matter of principle, neglect to consider the attitude which may be taken up or maintained in the future by other States, whether Members of the League or not.

(Signed) MUSSOLINI.

REPLY FROM THE BULGARIAN GOVERNMENT.

Sofia, August 29th, 1924.

[Translation.]

In reply to your letter of June 27th, 1924, No. C.L. 82. 1924. IX, I have the honour to remind you that the armaments policy of Bulgaria is governed by the Treaty of Peace of Neuilly. The budget of the Ministry of War, which provides for an expenditure of 1,167,961,980 levas for the financial year 1924-1925, is more than one-sixth of the total budget of the kingdom. This is due not to an increase in the establishment or armaments of the military forces of Bulgaria, which are still below the limits laid down by the Treaty of Peace, but to the system of recruiting by means of voluntary enlistment which has been imposed upon Bulgaria. Apart from its other defects, this system has proved extremely expensive.

The Bulgarian Government has at all times been at pains to comply with the recommendations of the Council of the League of Nations regarding the limitation of expenditure on armaments. If its efforts in this direction have not proved as successful as was hoped, it must be recognised that this is due in the first place to the recruiting system.

It is beyond dispute that the surest way of effecting a substantial reduction in the military expenditure of Bulgaria would be to replace the system of voluntary enlistment by one of compulsory recruiting. The relief which would thus be afforded to the budget would be of the first importance in assisting the economic and financial recovery of Bulgaria.

(Signed) CH. KALFOFF,
Minister for Foreign Affairs of Bulgaria.

REPLY FROM THE NETHERLANDS GOVERNMENT.

Berne, September 2nd, 1924.

[Translation.]

Her Majesty's Government has the honour to inform the Secretary-General that, while maintaining the reservations stated in the letter from Jonkheer van Panhuys dated May 17th, 1921, No. 2932, notably as regards the exceptional situation of the Dutch navy, Her Majesty's Government is prepared to conform with the above recommendation.

The Netherlands Government would observe that the budget of the Ministry of War for 1924 is less than that for 1923 by 1,400,000 florins, and it is hoped that a further reduction may be possible in the budget for 1925.

(Signed) W. DOUDE VAN TROOSTWYK.

[Communiqué au Conseil,
aux Membres de la Société
et aux Délégués à l'Assemblée.]

Annexe II à **A. 135.** 1924.

SOCIÉTÉ DES NATIONS

Genève,
le 1^{er} octobre 1924

PROJET

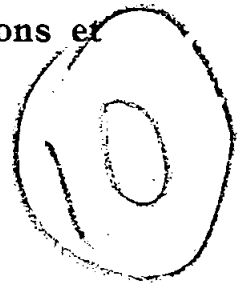
PROTOCOLE

POUR LE

Règlement pacifique des différends internationaux

(Texte approuvé par les première et troisième Commissions et
révisé par le Comité de rédaction)

*Présenté à l'Assemblée le 1^{er} octobre 1924
par les première et troisième Commissions.*



LEAGUE OF NATIONS

DRAFT

PROTOCOL

FOR THE

Pacific Settlement of International Disputes

(Text approved by the First and Third Committees and revised
by the Drafting Committee.)

*Submitted to the Assembly on October 1st, 1924,
by the First and Third Committees.*

PROTOCOLE POUR LE RÈGLEMENT PACIFIQUE DES DIFFÉRENDS INTERNATIONAUX

Animés de la ferme volonté d'assurer le maintien de la paix générale et la sécurité des peuples dont l'existence, l'indépendance ou les territoires pourraient être menacés;

Reconnaissant la solidarité qui unit les membres de la communauté internationale;

Affirmant que la guerre d'agression constitue une infraction à cette solidarité et un crime international;

Désireux de faciliter la complète application du système prévu au Pacte de la Société des Nations pour le règlement pacifique des différends entre les Etats et assurer la répression des crimes internationaux; et

Afin de réaliser, comme l'envisage l'article 8 du Pacte, la réduction des armements nationaux au minimum compatible avec la sécurité nationale et avec l'exécution des obligations internationales imposées par une action commune,

Les Soussignés, dûment autorisés à cet effet, sont convenus des dispositions suivantes:

Article premier.

Les Etats signataires s'engagent à faire tous efforts en leur pouvoir pour l'introduction dans le Pacte d'amendements conformes au sens des dispositions contenues dans les articles suivants.

Ils conviennent que ces dispositions deviendront obligatoires dans leurs rapports respectifs à la date de la mise en vigueur du présent Protocole et que, vis-à-vis d'eux, l'Assemblée et le Conseil de la Société des Nations seront, dès lors, autorisés à exercer tous les droits et devoirs qui leur sont conférés par ce Protocole.

Article 2.

Les Etats signataires conviennent qu'en aucun cas ils ne doivent recourir à la guerre, ni entre eux ni contre tout Etat qui, le cas échéant, accepterait toutes les obligations ci-après définies, excepté dans le cas de résistance à des actes d'agression ou quand ils agissent en accord avec le Conseil ou l'Assemblée de la Société des Nations, selon les dispositions du Pacte et du présent Protocole.

Article 3.

Les Etats signataires s'engagent à reconnaître comme obligatoire, de plein droit et sans convention spéciale, la juridiction de la Cour permanente de Justice internationale dans les cas visés au paragraphe 2 de l'article 36 du Statut de la Cour, mais sans préjudice de la faculté pour un Etat quelconque, lorsqu'il adhèrera au protocole spécial ouvert le 16 décembre 1920, prévu par ledit article, de formuler les réserves compatibles avec ladite clause.

L'adhésion à ce protocole spécial ouvert le 16 décembre 1920 devra être faite dans le délai d'un mois qui suivra la mise en vigueur du présent Protocole.

Les Etats qui adhéreront au présent Protocole après sa mise en vigueur devront s'acquitter de l'obligation ci-dessus dans le mois qui suivra leur adhésion.

Article 4.

En vue de compléter les dispositions des alinéas 4, 5, 6 et 7 de l'article 15 du Pacte, les Etats signataires conviennent de se conformer à la procédure suivante:

- 1^o Si le différend soumis au Conseil n'a pu être réglé par lui ainsi qu'il est prévu au paragraphe 3 dudit article 15, le Conseil engagera les Parties à soumettre le différend à un règlement judiciaire ou arbitral.
- 2^o a) Si les Parties s'y refusent, il est procédé, à la demande d'au moins l'une des Parties, à la constitution d'un Comité d'arbitres. Le Comité sera constitué, autant que possible, par l'accord des Parties.
b) Si, dans le délai que le Conseil aura fixé, elles ne se sont pas entendues en tout ou en partie sur le nombre, le nom et les pouvoirs des arbitres, ainsi que sur la procédure, le Conseil réglera les points en suspens. Il choisira d'urgence — en consultant les Parties — les arbitres et leur président, parmi les personnes qui, par leur nationalité, leur caractère et leur expérience, lui paraîtront donner les plus hautes garanties de compétence et d'impartialité.
c) Après que les conclusions des Parties auront été formulées, le Comité d'arbitres, à la demande de toute Partie, sollicitera, par l'entremise du Conseil, sur les points de droit contestés, l'avis consultatif de la Cour permanente de Justice internationale qui, dans ce cas, se réunira d'urgence.

PROTOCOL FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES

Animated by the firm desire to ensure the maintenance of general peace and the security of nations whose existence, independence or territories may be threatened;

Recognising the solidarity of the members of the international community;

Asserting that a war of aggression constitutes a violation of this solidarity and an international crime;

Desirous of facilitating the complete application of the system provided in the Covenant of the League of Nations for the pacific settlement of disputes between States and of ensuring the repression of international crimes; and

For the purpose of realising, as contemplated by Article 8 of the Covenant, the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations;

The Undersigned, duly authorised to that effect, agree as follows:

Article 1.

The signatory States undertake to make every effort in their power to secure the introduction into the Covenant of amendments on the lines of the provisions contained in the following articles.

They agree that, as between themselves, these provisions shall be binding as from the coming into force of the present Protocol and that, so far as they are concerned, the Assembly and the Council of the League of Nations shall thenceforth have power to exercise all the rights and perform all the duties conferred upon them by the Protocol.

Article 2.

The signatory States agree in no case to resort to war either with one another or against a State which, if the occasion arises, accepts all the obligations hereinafter set out, except in case of resistance to acts of aggression or when acting in agreement with the Council or the Assembly of the League of Nations in accordance with the provisions of the Covenant and of the present Protocol.

Article 3.

The signatory States undertake to recognise as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Permanent Court of International Justice in the cases covered by paragraph 2 of Article 36 of the Statute of the Court, but without prejudice to the right of any State, when acceding to the special protocol provided for in the said Article and opened for signature on December 16th, 1920, to make reservations compatible with the said clause.

Accession to this special protocol, opened for signature on December 16th, 1920, must be given within the month following the coming into force of the present Protocol.

States which accede to the present Protocol, after its coming into force, must carry out the above obligation within the month following their accession.

Article 4.

With a view to render more complete the provisions of paragraphs 4, 5, 6, and 7 of Article 15 of the Covenant, the signatory States agree to comply with the following procedure:

1. If the dispute submitted to the Council is not settled by it as provided in paragraph 3 of the said Article 15, the Council shall endeavour to persuade the parties to submit the dispute to judicial settlement or arbitration.

2. (a) If the parties cannot agree to do so, there shall, at the request of at least one of the parties, be constituted a Committee of Arbitrators. The Committee shall so far as possible be constituted by agreement between the parties.

(b) If within the period fixed by the Council the parties have failed to agree, in whole or in part, upon the number, the names and the powers of the arbitrators and upon the procedure, the Council shall settle the points remaining in suspense. It shall with the utmost possible despatch select in consultation with the parties the arbitrators and their President from among persons who by their nationality, their personal character and their experience, appear to it to furnish the highest guarantees of competence and impartiality.

(c) After the claims of the parties have been formulated, the Committee of Arbitrators, on the request of any party, shall through the medium of the Council request advisory opinion upon any points of law in dispute from the Permanent Court of International Justice, which in such case shall meet with the utmost possible despatch.

- 3° Si aucune des Parties ne demande l'arbitrage, le Conseil reprendra l'examen du différend. Au cas où le Conseil établit un rapport voté à l'unanimité de ses membres autres que les représentants de toute Partie au différend, les Etats signataires conviennent de se conformer aux solutions recommandées par lui.
- 4° Au cas où le Conseil ne peut établir un rapport accepté par tous ses membres autres que les représentants de toute Partie au différend, il soumettra le différend à l'arbitrage. Il réglera lui-même la composition, les pouvoirs et la procédure du Comité d'arbitres et aura égard, dans le choix des arbitres, aux garanties de compétence et d'impartialité visées au N° 2b ci-dessus.
- 5° En aucun cas ne pourront être remises en question les solutions ayant déjà fait l'objet d'une recommandation unanime du Conseil acceptée par l'une des Parties intéressées.
- 6° Les Etats signataires s'engagent à exécuter de bonne foi les sentences judiciaires ou arbitrales et à se conformer, comme il a été dit à l'alinéa 3 ci-dessus, aux solutions recommandées par le Conseil. Dans le cas où un Etat manquerait à ces engagements, le Conseil exercera toute son influence pour en assurer le respect. S'il ne peut y réussir, il proposera les mesures qui doivent en assurer l'effet, ainsi qu'il est dit à la fin de l'article 13 du Pacte. Dans le cas où un Etat, manquant à ces engagements, recourrait à la guerre, les sanctions prévues à l'article 16 du Pacte, interprétées de la manière indiquée au présent Protocole, lui deviendraient immédiatement applicables.
- 7° Les dispositions du présent article ne s'appliquent pas au règlement des différends qui pourraient s'élever à la suite des mesures de guerre prises par un ou plusieurs Etats signataires en accord avec le Conseil ou l'Assemblée.

Article 5.

La disposition de l'alinéa 8 de l'article 15 du Pacte demeure applicable devant le Conseil.

Si, pendant le cours d'une des procédures d'arbitrage prévues à l'article 4 ci-dessus, l'une des Parties prétend que le différend, ou une partie du différend, porte sur une question que le droit international laisse à la compétence exclusive de cette Partie, les arbitres consulteront sur ce point la Cour permanente de Justice internationale par l'entremise du Conseil. L'avis de la Cour liera les arbitres qui se borneront, si cet avis est affirmatif, à le constater dans leur sentence.

Si la question est reconnue par la Cour permanente ou par le Conseil comme étant de la compétence exclusive d'un Etat, la décision intervenue n'empêchera pas que la situation soit examinée par le Conseil ou par l'Assemblée, conformément à l'article 11 du Pacte.

Article 6.

Si, conformément à l'alinéa 9 de l'article 15 du Pacte, le différend est porté devant l'Assemblée, celle-ci aura, pour le règlement du différend, tous les pouvoirs dévolus au Conseil en ce qui concerne l'essai de conciliation des Parties, tel qu'il est prévu aux alinéas 1, 2 et 3 de l'article 15 du Pacte et au N° 1 de l'article 4 ci-dessus.

A défaut de règlement amiable obtenu par l'Assemblée :

Si l'une des Parties demande l'arbitrage, il est procédé par le Conseil à la constitution du Comité d'arbitres, dans les conditions prévues au N° 2 de l'article 4 ci-dessus, lettres *a*, *b* et *c* ;
Si aucune des Parties ne demande l'arbitrage, l'Assemblée reprend, avec les mêmes pouvoirs que le Conseil, l'examen du différend. Les solutions recommandées par le Rapport de l'Assemblée, dans les conditions d'approbation prévues à la fin de l'alinéa 10 de l'article 15 du Pacte, ont la même valeur et produiront les mêmes effets, en tout ce qui concerne le présent Protocole, que celles recommandées par le Rapport du Conseil dans les conditions prévues au N° 3 de l'article 4 ci-dessus.

Si la majorité nécessaire ne peut être obtenue, le différend sera soumis à l'arbitrage et le Conseil réglera lui-même la composition, les pouvoirs et la procédure du Comité d'arbitres, comme il est dit au N° 4 dudit article 4.

Article 7.

Dans le cas d'un différend s'élevant entre deux ou plusieurs Etats signataires, ceux-ci conviennent que, soit avant que le différend ait été soumis à une procédure de règlement pacifique, soit au cours d'une telle procédure, ils ne procéderont à aucune augmentation d'armements ou d'effectifs qui pourrait modifier la situation fixée par la Conférence pour la réduction des armements prévue à l'article 17 du présent Protocole ; ils ne procéderont non plus à aucune mesure de mobilisation militaire, navale, aérienne, industrielle ou économique, ni en général à aucun acte de nature à aggraver ou à étendre le différend.

Conformément aux dispositions de l'article 11 du Pacte, il est du devoir du Conseil d'examiner toute plainte en violation des engagements ci-dessus, qui pourrait lui être adressée par un ou plusieurs des Etats parties au différend. Si le Conseil considère que la plainte est recevable, il doit, s'il l'estime convenable, organiser des enquêtes et des investigations dans un ou plusieurs des pays

3. If none of the parties asks for arbitration, the Council shall again take the dispute under consideration. If the Council reaches a report which is unanimously agreed to by the members thereof other than the representatives of any of the parties to the dispute, the signatory States agree to comply with the recommendations therein.
4. If the Council fails to reach a report which is concurred in by all its members, other than the representatives of any of the parties to the dispute, it shall submit the dispute to arbitration. It shall itself determine the composition, the powers and the procedure of the Committee of Arbitrators and, in the choice of the arbitrators, shall bear in mind the guarantees of competence and impartiality referred to in paragraph 2 (b) above.
5. In no case may a solution, upon which there has already been a unanimous recommendation of the Council accepted by one of the parties concerned, be again called in question.
6. The signatory States undertake that they will carry out in full good faith any judicial sentence or arbitral award that may be rendered and that they will comply, as provided in paragraph 3 above, with the solutions recommended by the Council. In the event of a State failing to carry out the above undertakings, the Council shall exert all its influence to secure compliance therewith. If it fails therein, it shall propose what steps should be taken to give effect thereto, in accordance with the provision contained at the end of Article 13 of the Covenant. Should a State in disregard of the above undertakings resort to war, the sanctions provided for by Article 16 of the Covenant, interpreted in the manner indicated in the present Protocol, shall immediately become applicable to it.
7. The provisions of the present article do not apply to the settlement of disputes which arise as the result of measures of war taken by one or more signatory States in agreement with the Council or the Assembly.

Article 5.

The provisions of paragraph 8 of Article 15 of the Covenant shall continue to apply in proceedings before the Council.

If in the course of an arbitration, such as is contemplated by Article 4 above, one of the parties claims that the dispute, or part thereof, arises out of a matter which by international law is solely within the domestic jurisdiction of that party, the arbitrators shall on this point take the advice of the Permanent Court of International Justice through the medium of the Council. The opinion of the Court shall be binding upon the arbitrators, who, if the opinion is affirmative, shall confine themselves to so declaring in their award.

If the question is held by the Court or by the Council to be a matter solely within the domestic jurisdiction of the State, this decision shall not prevent consideration of the situation by the Council or by the Assembly under Article 11 of the Covenant.

Article 6.

If in accordance with paragraph 9 of Article 15 of the Covenant a dispute is referred to the Assembly, that body shall have for the settlement of the dispute all the powers conferred upon the Council as to endeavouring to reconcile the parties in the manner laid down in paragraphs 1, 2 and 3 of Article 15 of the Covenant and in paragraph 1 of Article 4 above.

Should the Assembly fail to achieve an amicable settlement:

If one of the parties asks for arbitration, the Council shall proceed to constitute the Committee of Arbitrators in the manner provided in sub-paragraphs (a), (b) and (c) of paragraph 2 of Article 4 above.

If no party asks for arbitration, the Assembly shall again take the dispute under consideration and shall have in this connection the same powers as the Council. Recommendations embodied in a report of the Assembly, provided that it secures the measure of support stipulated at the end of paragraph 10 of Article 15 of the Covenant, shall have the same value and effect, as regards all matters dealt with in the present Protocol, as recommendations embodied in a report of the Council adopted as provided in paragraph 3 of Article 4 above.

If the necessary majority cannot be obtained, the dispute shall be submitted to arbitration and the Council shall determine the composition, the powers and the procedure of the Committee of Arbitrators as laid down in paragraph 4 of Article 4.

Article 7.

In the event of a dispute arising between two or more signatory States, these States agree that they will not, either before the dispute is submitted to proceedings for pacific settlement or during such proceedings, make any increase of their armaments or effectives which might modify the position established by the Conference for the Reduction of Armaments provided for by Article 17 of the present Protocol, nor will they take any measure of military, naval, air, industrial or economic mobilisation, nor, in general, any action of a nature likely to extend the dispute or render it more acute.

It shall be the duty of the Council, in accordance with the provisions of Article 11 of the Covenant, to take under consideration any complaint as to infraction of the above undertakings which is made to it by one or more of the States parties to the dispute. Should the Council be of opinion that the complaint requires investigation, it shall, if it deems it expedient, arrange

intéressés. Ces enquêtes et ces investigations doivent être faites dans les délais les plus brefs, et les Etats signataires s'engagent à donner toutes facilités pour leur exécution.

Les mesures ainsi prises par le Conseil sont destinées uniquement à faciliter le règlement pacifique des différends et ne doivent préjuger en rien du règlement lui-même.

Si, à la suite de ces enquêtes et investigations, une infraction quelconque aux dispositions du premier alinéa du présent article est établie, il est du devoir du Conseil de sommer l'Etat ou les Etats coupables de l'infraction de la faire disparaître. Si l'Etat ou les Etats en question ne se conforment pas à cette sommation, le Conseil déclare lesdits Etats coupables d'une violation du Pacte ou du présent Protocole et doit décider les mesures à prendre en vue de faire cesser au plus tôt une situation de nature à menacer la paix du monde.

Pour l'application du présent article, le Conseil prendra sa décision à la majorité des deux tiers.

Article 8.

Les Etats signataires s'engagent à s'abstenir de toute action qui pourrait constituer une menace d'agression contre un autre Etat.

Dans le cas où un des Etats signataires estime qu'un autre Etat procède à des préparatifs de guerre, il a le droit d'en saisir le Conseil.

Celui-ci, après avoir vérifié les faits, opère comme il est dit à l'article 7, alinéas 2, 4 et 5.

Article 9.

L'existence de zones démilitarisées étant de nature à prévenir les agressions et à en faciliter la détermination sans équivoque conformément à l'article 10 ci-dessous, l'établissement de pareilles zones est recommandé entre les Etats qui y seraient également consentants, comme un moyen d'éviter une violation du présent Protocole.

Les zones démilitarisées déjà existantes en vertu de certains Traités ou Conventions, ou qui seraient établies à l'avenir entre Etats également consentants, pourront faire l'objet d'un contrôle temporaire ou permanent, organisé par le Conseil, à la demande et aux frais d'un ou de plusieurs Etats limitrophes.

Article 10.

Est agresseur tout Etat qui recourt à la guerre en violation des engagements prévus au Pacte ou au présent Protocole. Est assimilée au recours à la guerre la violation du statut d'une zone démilitarisée.

Dans le cas d'hostilités engagées, est présumé agresseur, sauf décision contraire du Conseil prise à l'unanimité:

1^o Tout Etat qui aura refusé de soumettre le différend à la procédure pour règlement pacifique prévue aux articles 13 et 15 du Pacte, complétés par le présent Protocole — ou qui aura refusé de se conformer, soit à une décision judiciaire ou arbitrale, soit à une recommandation unanime du Conseil — ou qui aura passé outre à un rapport unanime du Conseil, à une décision judiciaire ou arbitrale reconnaissant que le différend qui s'est élevé entre lui et l'autre Etat belligérant porte sur une question que le Droit international laisse à la compétence exclusive de cet Etat; toutefois, dans ce dernier cas, l'Etat ne sera présumé agresseur que s'il n'a pas soumis auparavant la question au Conseil ou à l'Assemblée, conformément à l'article 11 du Pacte.

2^o Tout Etat qui aura violé une des mesures provisoires prescrites par le Conseil pendant la période de procédure, visées à l'article 7 du présent Protocole.

Hors les hypothèses visées aux numéros 1 et 2 du présent article, si le Conseil n'a pu déterminer dans le plus bref délai l'agresseur, il aura l'obligation de prescrire aux belligérants un armistice dont il fixera les conditions à la majorité des deux tiers et dont il surveillera l'observation.

Tout belligérant ayant refusé l'armistice ou en ayant violé les conditions, sera réputé agresseur.

Le Conseil enjoindra aux Etats signataires d'appliquer sans retard contre l'agresseur les sanctions visées à l'article 11 du présent Protocole, et tout Etat signataire, ainsi requis, sera dès lors fondé à exercer les droits d'un belligérant.

Article 11.

Dès que le Conseil a fait aux Etats signataires l'injonction prévue au dernier alinéa de l'article 10 du présent Protocole, les obligations desdits Etats en ce qui concerne les sanctions de toute nature visées aux alinéas 1 et 2 de l'article 16 du Pacte, deviennent immédiatement opérantes afin que ces sanctions puissent porter leurs effets contre l'agresseur sans aucun retard.

Ces obligations doivent être interprétées en ce sens que chacun des Etats signataires est tenu de collaborer loyalement et effectivement pour faire respecter le Pacte de la Société des Nations et pour s'opposer à tout acte d'agression dans la mesure que lui permettent sa situation géographique et les conditions spéciales de ses armements.

for enquiries and investigations in one or more of the countries concerned. Such enquiries and investigations shall be carried out with the utmost possible despatch and the signatory States undertake to afford every facility for carrying them out.

The sole object of measures taken by the Council as above provided is to facilitate the pacific settlement of disputes and they shall in no way prejudice the actual settlement.

If the result of such enquiries and investigations is to establish an infraction of the provisions of the first paragraph of the present Article, it shall be the duty of the Council to summon the State or States guilty of the infraction to put an end thereto. Should the State or States in question fail to comply with such summons, the Council shall declare them to be guilty of a violation of the Covenant or of the present Protocol, and shall decide upon the measures to be taken with a view to end as soon as possible a situation of a nature to threaten the peace of the world.

For the purposes of the present Article decisions of the Council may be taken by a two-thirds majority.

Article 8.

The signatory States undertake to abstain from any act which might constitute a threat of aggression against another State.

If one of the signatory States is of opinion that another State is making preparations for war, it shall have the right to bring the matter to the notice of the Council.

The Council, if it ascertains that the facts are as alleged, shall proceed as provided in paragraphs 2, 4, and 5 of Article 7.

Article 9.

The existence of demilitarised zones being calculated to prevent aggression and to facilitate a definite finding of the nature provided for in Article 10 below, the establishment of such zones between States mutually consenting thereto is recommended as a means of avoiding violations of the present Protocol.

The demilitarised zones already existing under the terms of certain treaties or conventions, or which may be established in future between States mutually consenting thereto, may at the request and at the expense of one or more of the contiguous States, be placed under a temporary or permanent system of supervision to be organised by the Council.

Article 10.

Every State which resorts to war in violation of the undertakings contained in the Covenant or in the present Protocol is an aggressor. Violation of the rules laid down for a demilitarised zone shall be held equivalent to resort to war.

In the event of hostilities having broken out, any State shall be presumed to be an aggressor, unless a decision of the Council, which must be taken unanimously, shall otherwise declare:

1. If it has refused to submit the dispute to the procedure of pacific settlement provided by Articles 13 and 15 of the Covenant as amplified by the present Protocol, or to comply with a judicial sentence or arbitral award or with a unanimous recommendation of the Council, or has disregarded a unanimous report of the Council, a judicial sentence or an arbitral award recognising that the dispute between it and the other belligerent State arises out of a matter which by international law is solely within the domestic jurisdiction of the latter State; nevertheless, in the last case the State shall only be presumed to be an aggressor if it has not previously submitted the question to the Council or the Assembly, in accordance with Article 11 of the Covenant.
2. If it has violated provisional measures enjoined by the Council for the period while the proceedings are in progress as contemplated by Article 7 of the present Protocol.

Apart from the cases dealt with in paragraphs 1 and 2 of the present Article, if the Council does not at once succeed in determining the aggressor, it shall be bound to enjoin upon the belligerents an armistice, and shall fix the terms, acting, if need be, by a two-thirds majority and shall supervise its execution.

Any belligerent which has refused to accept the armistice or has violated its terms shall be deemed an aggressor.

The Council shall call upon the signatory States to apply forthwith against the aggressor the sanctions provided by Article 11 of the present Protocol, and any signatory State thus called upon shall thereupon be entitled to exercise the rights of a belligerent.

Article 11.

As soon as the Council has called upon the signatory States to apply sanctions, as provided in the last paragraph of Article 10 of the present Protocol, the obligations of the said States, in regard to the sanctions of all kinds mentioned in paragraphs 1 and 2 of Article 16 of the Covenant, will immediately become operative in order that such sanctions may forthwith be employed against the aggressor.

Those obligations shall be interpreted as obliging each of the signatory States to co-operate loyally and effectively in support of the Covenant of the League of Nations, and in resistance to any act of aggression, in the degree which its geographical position and its particular situation as regards armaments allow.

Conformément à l'alinéa 3 de l'article 16 du Pacte, les Etats signataires prennent l'engagement, individuel et collectif, de venir à l'aide de l'Etat attaqué ou menacé, et de se prêter un mutuel appui, grâce à des facilités et à des échanges réciproques en ce qui concerne le ravitaillement en matières premières et denrées de toute nature, les ouvertures de crédit, les transports et le transit et, à cet effet, de prendre toutes mesures en leur pouvoir pour maintenir la sécurité des communications terrestres et maritimes de l'Etat attaqué ou menacé.

Si les deux Parties au différend sont agresseurs au sens de l'article 10, les sanctions économiques et financières s'appliquent à l'une et à l'autre.

Article 12.

En raison de la complexité des conditions dans lesquelles le Conseil pourrait être appelé à remplir les fonctions visées à l'article 11 ci-dessus concernant les sanctions économiques et financières et pour préciser les garanties qui sont offertes par le présent Protocole aux Etats signataires, le Conseil invitera immédiatement les organisations économiques et financières de la Société des Nations à procéder à une étude et à soumettre un rapport sur la nature des dispositions à prendre pour mettre en vigueur les sanctions et mesures de coopération économique et financière, visées à l'article 16 du Pacte et à l'article 11 du présent Protocole.

En possession de ces informations, le Conseil établira par ses organismes compétents :

1^o les plans d'action destinés à faire jouer les sanctions économiques et financières contre un Etat agresseur;

2^o les plans de coopération économique et financière entre un Etat attaqué et les divers Etats lui portant assistance,

et il communiquera ces plans aux Membres de la Société et aux autres Etats signataires.

Article 13.

Eu égard aux sanctions militaires, navales et aériennes dont l'application éventuelle est prévue à l'article 16 du Pacte et à l'article 11 du présent Protocole, le Conseil aura qualité pour recevoir les engagements d'Etats déterminant par avance les forces militaires, navales et aériennes que ces Etats pourraient faire intervenir immédiatement afin d'assurer l'exécution des obligations dérivant à ce sujet du Pacte et du présent Protocole.

Dès que le Conseil a fait aux Etats signataires l'injonction prévue au dernier alinéa de l'article 10 ci-dessus, ces Etats peuvent en outre faire entrer en ligne, suivant les accords antérieurement faits, leurs forces militaires, navales et aériennes au secours d'un Etat particulier, victime de l'agression.

Les accords visés au précédent alinéa sont enregistrés et publiés par le Secrétariat de la Société des Nations; ils restent ouverts à tout Etat Membre de la Société, qui voudrait y accéder.

Article 14.

Le Conseil a seul qualité pour déclarer qu'il y a lieu de faire cesser l'application des sanctions et de rétablir les conditions normales.

Article 15.

Pour répondre à l'esprit du présent Protocole, les Etats signataires conviennent que la totalité des frais de toute opération d'ordre militaire, naval ou aérien, entreprise pour la répression d'une agression, conformément aux termes de ce Protocole, ainsi que la réparation de tous dommages subis par les personnes civiles ou militaires, et de tous dommages matériels occasionnés par les opérations de part et d'autre, seront supportés par l'Etat agresseur jusqu'à l'extrême limite de sa capacité.

Toutefois, vu l'article 10 du Pacte, il ne pourra, comme suite à l'application des sanctions visées au présent Protocole, être porté atteinte en aucun cas à l'intégrité territoriale ou à l'indépendance politique de l'Etat agresseur.

Article 16.

Les Etats signataires conviennent qu'en cas de différend entre un ou plusieurs parmi eux et un ou plusieurs Etats non signataires du présent Protocole étrangers à la Société des Nations, ces Etats étrangers seront invités, aux conditions prévues à l'article 17 du Pacte, à se soumettre aux obligations acceptées par les signataires du présent Protocole aux fins de règlement pacifique.

Si l'Etat invité, refusant d'accepter les dites conditions et obligations, recourt à la guerre contre un Etat signataire, les dispositions de l'article 16 du Pacte, telles qu'elles sont précisées par le présent Protocole, lui sont applicables.

Article 17.

Les Etats signataires s'engagent à prendre part à une Conférence internationale pour la réduction des armements qui devra être convoquée par le Conseil et qui se réunira à Genève le lundi 15 juin 1925. Tous autres Etats, Membres ou non de la Société, seront invités à cette Conférence.

In accordance with paragraph 3 of Article 16 of the Covenant the signatory States give a joint and several undertaking to come to the assistance of the State attacked or threatened, and to give each other mutual support by means of facilities and reciprocal exchanges as regards the provision of raw materials and supplies of every kind, openings of credits, transport and transit, and for this purpose to take all measures in their power to preserve the safety of communications by land and by sea of the attacked or threatened State.

If both parties to the dispute are aggressors within the meaning of Article 10, the economic and financial sanctions shall be applied to both of them.

Article 12.

In view of the complexity of the conditions in which the Council may be called upon to exercise the functions mentioned in Article 11 of the present Protocol concerning economic and financial sanctions, and in order to determine more exactly the guarantees afforded by the present Protocol to the signatory States, the Council shall forthwith invite the economic and financial organisations of the League of Nations to consider and report as to the nature of the steps to be taken to give effect to the financial and economic sanctions and measures of co-operation contemplated in Article 16 of the Covenant and in Article 11 of this Protocol.

When in possession of this information, the Council shall draw up through its competent organs:

1. Plans of action for the application of the economic and financial sanctions against an aggressor State;
2. Plans of economic and financial co-operation between a State attacked and the different States assisting it;

and shall communicate these plans to the Members of the League and to the other signatory States.

Article 13.

In view of the contingent military, naval and air sanctions provided for by Article 16 of the Covenant and by Article 11 of the present Protocol, the Council shall be entitled to receive undertakings from States determining in advance the military, naval and air forces which they would be able to bring into action immediately to ensure the fulfilment of the obligations in regard to sanctions which result from the Covenant and the present Protocol.

Furthermore, as soon as the Council has called upon the signatory States to apply sanctions, as provided in the last paragraph of Article 10 above, the said States may, in accordance with any agreements which they may previously have concluded, bring to the assistance of a particular State, which is the victim of aggression, their military, naval and air forces.

The agreements mentioned in the preceding paragraph shall be registered and published by the Secretariat of the League of Nations. They shall remain open to all States Members of the League which may desire to accede thereto.

Article 14.

The Council shall alone be competent to declare that the application of sanctions shall cease and normal conditions be re-established.

Article 15.

In conformity with the spirit of the present Protocol, the signatory States agree that the whole cost of any military, naval or air operations undertaken for the repression of an aggression under the terms of the Protocol, and reparation for all losses suffered by individuals, whether civilians or combatants, and for all material damage caused by the operations of both sides, shall be borne by the aggressor State up to the extreme limit of its capacity.

Nevertheless, in view of Article 10 of the Covenant, neither the territorial integrity nor the political independence of the aggressor State shall in any case be affected as the result of the application of the sanctions mentioned in the present Protocol.

Article 16.

The signatory States agree that in the event of a dispute between one or more of them and one or more States which have not signed the present Protocol and are not Members of the League of Nations, such non-Member States shall be invited, on the conditions contemplated in Article 17 of the Covenant, to submit, for the purpose of a pacific settlement, to the obligations accepted by the States signatories of the present Protocol.

If the State so invited, having refused to accept the said conditions and obligations, resorts to war against a signatory State, the provisions of Article 16 of the Covenant, as defined by the present Protocol, shall be applicable against it.

Article 17.

The signatory States undertake to participate in an International Conference for the Reduction of Armaments which shall be convened by the Council and shall meet at Geneva on Monday, June 15th, 1925. All other States, whether Members of the League or not, shall be invited to this Conference.

In preparation for the convening of the Conference, the Council shall draw up with due regard to the undertakings contained in Articles 11 and 13 of the present Protocol a general programme for the reduction and limitation of armaments, which shall be laid before the Conference and which shall be communicated to the Governments at the earliest possible date, and at the latest three months before the Conference meets.

If by May 1st, 1925, ratifications have not been deposited by at least a majority of the permanent Members of the Council and ten other Members of the League, the Secretary-General of the League shall immediately consult the Council as to whether he shall cancel the invitations or merely adjourn the Conference until a sufficient number of ratifications have been deposited.

Article 18.

Wherever mention is made in Article 10, or in any other provision of the present Protocol, of a decision of the Council, this shall be understood in the sense of Article 15 of the Covenant, namely that the votes of the representatives of the parties to the dispute shall not be counted when reckoning unanimity or the necessary majority.

Article 19.

Except as expressly provided by its terms, the present Protocol shall not affect in any way the rights and obligations of Members of the League as determined by the Covenant.

Article 20.

Any dispute as to the interpretation of the present Protocol shall be submitted to the Permanent Court of International Justice.

Article 21.

The present Protocol, of which the French and English texts are both authentic, shall be ratified.

The deposit of ratifications shall be made at the Secretariat of the League of Nations as soon as possible.

States of which the seat of government is outside Europe will be entitled merely to inform the Secretariat of the League of Nations that their ratification has been given; in that case, they must transmit the instrument of ratification as soon as possible.

So soon as the majority of the permanent Members of the Council and ten other Members of the League have deposited or have effected their ratifications, a *procès-verbal* to that effect shall be drawn up by the Secretariat.

After the said *procès-verbal* has been drawn up, the Protocol shall come into force as soon as the plan for the reduction of armaments has been adopted by the Conference provided for in Article 17.

If within such period after the adoption of the plan for the reduction of armaments as shall be fixed by the said Conference, the plan has not been carried out, the Council shall make a declaration to that effect; this declaration shall render the present Protocol null and void.

The grounds on which the Council may declare that the plan drawn up by the International Conference for the Reduction of Armaments has not been carried out, and that in consequence the present Protocol has been rendered null and void, shall be laid down by the Conference itself.

A signatory State which, after the expiration of the period fixed by the Conference, fails to comply with the plan adopted by the Conference, shall not be admitted to benefit by the provisions of the present Protocol.

In faith whereof the Undersigned, duly authorised for this purpose, have signed the present Protocol.

DONE at Geneva, on the _____ day of October, nineteen hundred and twenty-four, in a single copy, which will be kept in the archives of the Secretariat of the League and registered by it on the date of its coming into force.

LEAGUE OF NATIONS.

**COUNCIL DEBATE ON THE PROTOCOL FOR THE PACIFIC
SETTLEMENT OF INTERNATIONAL DISPUTES**

THIRTY-THIRD SESSION OF THE COUNCIL.

Council /33rd Session /P.V. 6 (I).

SIXTH MEETING (PUBLIC)

Held at Geneva on Thursday, March 12th, 1925, at 11 a.m.

Present: All the representatives of the Members of the Council, and the Secretary-General.

1451. Arbitration, Security and Reduction of Armaments: Protocol for the Pacific Settlement of International Disputes.

M. BENES (Czechoslovakia) reminded the Council that the Assembly of the League of Nations had, in September 1924, during its discussions on the problem of disarmament, drafted and then recommended for the adoption of States the Protocol for the Pacific Settlement of International Disputes. The Council, during its session held at the same time as that of the Assembly, had also taken certain decisions concerning the application of some of the provisions of the Protocol. These decisions had concerned a Conference which might be summoned to discuss the question of disarmament. It had not been possible to make preparations for this Conference, since the British Government had asked for an adjournment in order that the Council might be able at its December session to take decisions concerning what action should be pursued. The question had come before the Council at its December session, which had been held in Rome. The Council had begun to discuss it, but the Government of His Britannic Majesty had asked for the discussion on the question of substance to be adjourned. The reasons given by that Government had obviously been well founded, because the British Government had only come into power a few weeks before the opening of the Council session and had consequently not had the time to examine as fully as was necessary so important a document as the Protocol. The desire of the British Government to be allowed the necessary time to undertake that examination had therefore been entirely legitimate.

The British Government was now ready to give its views on the question. The Council could therefore continue the discussion of the Protocol for the Pacific Settlement of International Disputes. At the end of this discussion, M. Benes, as rapporteur, would submit to the Council a resolution which would sum up the debate and give effect to such decisions as the Council might take.

Mr. Austen CHAMBERLAIN (British Empire) (President) spoke as follows:

His Majesty's Government have given the most anxious consideration to the Protocol which was provisionally accepted last October by the Assembly of the League of Nations and submitted by the Council to the various States Members of the League. It is unnecessary to lay stress upon the sympathy felt throughout the British Empire with any effort to improve the international machinery for maintaining the peace of the world. Arbitration, disarmament and security are the main themes of the Protocol, and on all these great subjects the British Empire has shown, by deeds as well as words, that it is in the fullest accord with the ideals which have animated the Fifth Assembly of the League. Successive administrations in Great Britain, with the full approval of the self-governing Dominions, have not only favoured arbitration in theory; they have largely availed themselves of it in practice. They have not contented themselves with preaching disarmament; they have disarmed to the limits of national safety. They have taken their full share in creating and supporting the League of Nations and the Court of International Justice; while the immense sacrifices they have been content to make in the cause of general security are matters of recent history.

If, therefore, His Majesty's present advisers, after discussing the subject with the self-governing Dominions and India, see insuperable objections to signing and ratifying the Protocol in its present shape, this is not because they feel themselves out of harmony with the purpose which it was intended to serve, or are opposed in principle to schemes for clarifying the meaning of the Covenant or strengthening its provisions. Amendment and interpretation may in themselves be desirable; but His Majesty's Government cannot believe that the Protocol as it stands provides the most suitable method of attempting that task.

II.

The declared object of the Protocol is to facilitate disarmament, and it proposes to attain this most desirable end: (1) by closing certain gaps in the scheme originally laid down in the Covenant for peaceably settling international disputes, and (2) by sharpening the "sanctions", especially the economic sanctions, by which, under the existing system, aggression is to be discouraged and aggressors coerced. These two portions of the scheme are intimately connected, and it may be desirable on the present occasion to consider them together.

It was, of course, well known to the framers of the Covenant that international differences might conceivably take a form for which their peace-preserving machinery provided no specific remedy; nor could they have doubted that this defect, if defect it was, could in theory be cured by insisting that every dispute should, at some stage or other, be submitted to arbitration. If, therefore, they rejected this simple method of obtaining systematic completeness, it was presumably because they felt, as so many States Members of the League have felt since, that the objections to universal and compulsory arbitration might easily outweigh its theoretical advantages. So far as the Court of International Justice is concerned, this view was taken in 1920 by the British Delegation, while the British Delegation of 1924 made a reservation in the same connection which, so far as Great Britain is concerned, greatly limits the universal application of the compulsory principle.

Into this branch of the controversy, however, His Majesty's Government do not now propose to enter. It suffices to say that, so far from their objections to compulsory arbitration being diminished by the provisions of the Protocol, they have rather been increased, owing to the weakening of those reservations in clause 15 of the Covenant, which were designed to prevent any interference by the League in matters of domestic jurisdiction.

His Majesty's Government are now more immediately concerned to enquire how far the change in the Covenant effected by the Protocol is likely to increase the responsibilities already undertaken by the States Members of the League. On this there may conceivably be two opinions. Some have held that, although in the language of the First Committee (p. 7) "there are numerous fissures in the wall of protection erected by the Covenant round the peace of the world", there is in fact but little danger that through these "fissures" any serious assaults will be attempted. The changes made by the Protocol are, in their judgment, formal rather than substantial; they aim at theoretical completeness rather than practical effect. On this view no material addition is made to responsibilities already incurred under the Covenant, nor (it must be added) is anything of importance accomplished in the cause of Peace and Disarmament.

But this (it need hardly be said) is not the view of the framers of the Protocol. They regard themselves as the authors of a "new system" (p. 6) through which alone can be realised "the great ideal to which humanity aspires" (p. 7). The last thing they contemplate is the possibility that their proposals will leave things very much as they stand under the Covenant. And in this His Majesty's Government are entirely of their opinion. How, indeed, can it be otherwise? Fresh classes of disputes are to be decided by the League; fresh possibilities of defying its decisions are thereby created; fresh occasions for the application of coercive measures follow as a matter of course; and it is therefore not surprising that, quite apart from the problem of disarmament, the question of "sanctions" should be treated at length in the clauses of the Protocol.

III.

It seems necessary to preface the comments called for by this part of the new scheme by recalling certain historic facts which, though very relevant to the subject, are never referred to in the documents by which the Protocol is justified and explained.

As all the world is aware, the League of Nations, in its present shape, is not the League designed by the framers of the Covenant. They no doubt contemplated, and, as far as they could, provided against, the difficulties that might arise from the non-inclusion of a certain number of States within the circle of League membership. But they never supposed that, among these States, would be found so many of the most powerful nations in the world; least of all did they foresee that one of them would be the United States of America.

It is no doubt true that there are many points of view from which these unfortunate facts have not proved to be of vital importance. The work of the League goes on, beneficent and full of promise. Though the United States remains in friendly aloofness, individual Americans have freely helped both by sympathy and service, while the generosity of the American public has greatly aided some causes in which the League is deeply interested. Could, therefore, attention be confined to the present and the past, it might be said with truth that the problems which even a weakened League has had to face have never overstrained its machinery.

The hope may be justified that this good fortune will continue. But surely it is most unwise to add to the liabilities already incurred without taking stock of the degree to which the machinery of the Covenant has been already weakened by the non-membership of certain great States. For in truth the change, especially as regards the "economic sanctions", amounts to a transformation.

The "economic sanction", if simultaneously directed by all the world against a State which is not itself economically self-sufficing, would be a weapon of incalculable power. This, or something not very different from this, was the weapon originally devised by the authors of the Covenant. To them it appeared to be not only bloodless, but cheap, effective and easy to use, in the most improbable event of its use being necessary. But all this is changed by the mere existence of powerful economic communities outside the limits of the League. It might force trade into unaccustomed channels, but it could hardly stop it; and, though the offending State would no doubt suffer, there is no presumption that it would be crushed or even that it would suffer most.

Were this the occasion for entering into a detailed discussion of the subsidiary provisions of the Protocol, it would be necessary to dwell at length on all those which, in the opinion of His Majesty's Government, are open to serious objection. But for the purposes of the present communication the following observations may suffice.

Articles 7 and 8 of the Protocol are designed for the purpose of preventing a State which has a difference with a neighbour from making any preparations for war between the moment when a dispute arises and the moment when proceedings for a pacific settlement have been concluded. The intentions of these provisions are most laudable. But the framers of the Protocol have not perhaps sufficiently considered that it may embarrass the victim of aggression even more than the aggressor. The aggressor is at liberty to select his own date for picking a quarrel. Until that date arrives he may distribute his armies as he pleases — provided only that he neither mobilises them nor adds to them. When the distribution is as favourable to his designs as he can hope to make them, he starts the dispute. Immediately, the military position becomes temporarily unalterable. His troops, which are more or less in the right position for attack, may (indeed must) be kept there till he wants to use them. The troops, on the other hand, of his prospective victim are (by supposition) in the wrong position for defence. But there they must be kept, or the victim may find himself charged with a breach of the Protocol. Is this a tolerable situation? Is it one that could possibly survive the day of trial?

It may be replied that, if the aggressor attempts to concentrate troops for attack before the dispute arises, means may be found to stop him. Grant that such means exist, which is extremely doubtful, how does the Protocol deal with the case where the peace distribution of the troops belonging to the aggressor is normally more suitable for attack than the peace distribution of the troops belonging to its opponents is suitable for defence? If a dispute were to arise, would the defender be counted as an aggressor solely because he endeavoured to redress this accidental inequality?

These are some of the difficulties suggested by Articles 7 and 8 of the Protocol as these affect forces on land. But these articles raise even more embarrassing problems when applied to the case of forces at sea. The whole value of a fleet depends on its mobility. Its distribution is in all probability quite different in time of peace from what it would be under threat of war. To suggest that, directly a dispute arises which in any way concerns a maritime Power, its ships are to remain immovably fixed on the stations where the chance conveniences of peace may happen to have placed them, is asking the threatened State to make a surrender of its inalienable right of self-defence, to which it is never likely to submit.

It may be desirable to add that, besides the obvious objections to those clauses already indicated, their great obscurity, and the inherent impossibility of distinguishing, in any paper definition, military movements genuinely intended for defence, and only for defence, from movements with some ulterior aggressive purpose, must always make them a danger to the unwary rather than a protection to the innocent. They could never be accepted as they stand.

There is one other article in the Protocol which cannot be passed over in complete silence, namely, Article 15.

This contains two provisions. By the first, the aggressor State is required to pay all the costs of the war for which it is responsible, and full reparation for all damages, public or private, which the war has caused. By the second, it is protected from any alteration of its frontiers and all interference with its internal affairs.

With the sentiments which have dictated these two provisions there will be general sympathy. His Majesty's Government, at all events, have no desire to relieve the aggressor of the duty of repairing to the utmost of his ability the damages for which he is responsible; they hold strongly to the view that frontiers are neither to be lightly made nor lightly violated; and they, of course, accept the broad principle that sovereign States should be left to manage their own affairs. But they cannot think it wise to embody these generalities in dogmas of inflexible rigidity, designed to control the actions of the League in all circumstances and for all time. In the sternest codes of law, mitigating circumstances are allowed to modify the judgments of the courts; and His Majesty's Government fail to see why the League of Nations should deliberately deprive itself of a discretion which all other tribunals are free to exercise.

Moreover, there is a certain want of harmony between the two provisions of the Article, which in rare and extreme cases (and it is for rare and extreme cases, among others, that we are asked to legislate) might well shock the conscience of the world. These cases cannot, indeed, be foreseen, but they may be imagined. Is it impossible (for example) that, in a war arising out of some very complicated situation involving perhaps a State not a member of the League, the guilt of the combatants might be fairly matched though only one of them was technically

the aggressor? In such circumstances, would the League feel no misgivings when they found themselves compelled to throw all the cost of the war upon one party and none at all upon the other? Would not the universal verdict be that, under the first half of Clause 15, the aggressor had in this case been hardly treated?

But now consider the second half of Article 15. This protects the aggressor, whatever his misdeeds, from losing anything under any circumstances but money or the equivalent of money. Is this quite satisfactory? The aggression may have been utterly unprovoked; it may have been barbarously conducted; it may be the work of a corrupt and tyrannical administration; and it may be the inevitable result of cruel mis-government on the aggressor's side of an ill-drawn frontier. Are we to lay it down for all time that, in such a case, the League shall do nothing to prevent a repetition of the offence but ask for money? This may, indeed, be all that is possible; but would it not be wise to let the League itself resolve this problem, if unhappily the occasion should ever arise?

There is one general reflection which His Majesty's Government venture to add to the specific criticisms they have made in the preceding paragraphs. The Protocol purports to be little more than a completion of the work begun but not perfected by the authors of the Covenant. But surely this is a very inadequate description of its effects. The additions which it makes to the original document do something quite different from merely clarifying obscurities and filling in omissions. They destroy its balance and alter its spirit. The fresh emphasis laid upon sanctions, the new occasions discovered for their employment, the elaboration of military procedure, insensibly suggest the idea that the vital business of the League is not so much to promote friendly co-operation and reasoned harmony in the management of international affairs as to preserve peace by organising war, and (it may be) war on the largest scale. Now, it is unhappily true that circumstances may be easily imagined in which war, conducted by Members of the League, and with its collective assistance and approval, will become a tragic necessity. But such catastrophes belong to the pathology of international life, not to its normal condition. It is not wholesome for the ordinary man to be always brooding over the possibility of some severe surgical operation; nor is it wise for societies to pursue a similar course. It is more likely to hasten the dreaded consummation than to hinder it. And it certainly seems to His Majesty's Government that anything which fosters the idea that the main business of the League is with war rather than with peace is likely to weaken it in its fundamental task of diminishing the causes of war without making it in every respect a satisfactory instrument for organising great military operations should the necessity for them be forced upon the world.

IV.

It may perhaps be urged that these objections to the Protocol, whatever be their value, are far outweighed by the blessings of the disarmament which would immediately follow its acceptance. But why should disarmament immediately follow its acceptance? Why should the new scheme succeed when the old scheme has so lamentably failed? It no doubt claims to have closed some "fissures in the wall of protection erected by the Covenant round the peace of the world." But it is not the possibility of an attack through these (alleged) weak places in the Covenant which haunts the imagination of those who hesitate to disarm. They do not doubt that the Covenant, if kept, would be sufficient to protect them, at least from attack by those who have signed it. What they doubt is whether, when it comes to the point, the Covenant *will* be kept. Either some faithless Member of the League will break its pledges or some predatory nation outside the League will brush Covenant and Protocol ruthlessly aside, defying all the sanction by which they are protected. Brute force is what they fear, and only brute force enlisted in their defence can (as they believe) give them the security of which they feel the need.

His Majesty's Government fail altogether to see how this situation is bettered by the Protocol. Is it to be supposed that the "security" promised by the new system will be so complete that no armaments capable of being used or improvised for offensive purposes will remain in being? If not, is the balance of power between the States which desire peace and those which are plotting war to be adjusted in favour of the former? If so, on what principle? If not, then how are we advanced? How will the unscrupulous aggressors be relatively weakened? How will their potential victims be rendered more capable of defence?

And if the particular case of aggressors who are outside the League be considered, is not the weakness of the Protocol even more manifest? The aggressors within the League are traitors in the sight of all mankind. Their moral position in the face of any opposition within their own borders will be immensely weakened, while in neutral countries they will find none to plead their cause. However low the practical importance of moral considerations such as these may be rated, the eagerness of competing propaganda in times of international crisis may convince the most cynical that a good cause counts at least for something. If so, aggressors outside the League will have a smaller load of infamy to carry than aggressors within it, and will be by so much the more formidable. How does the Protocol deal with them? It requires them to treat the situation as if they were members of the League, to accept its methods and conform to its decisions. If they

refuse they are counted as aggressors, they become the common enemy, and every signatory State is bound to go to war with them. They may be in the right and have nothing to fear from impartial judges. Yet national pride, in some cases perhaps the sense of power, dislike of compulsory arbitration, distrust of the League (to which presumably they have already refused to belong) — all these motives, or any of them, may harden their objections to outside interference. If so, the Protocol, designed to ensure universal peace, may only extend the area of war — a possibility which, if realised, will not improve the chances of general disarmament.

V.

It may perhaps be replied that, while every scheme of sanctions is open to criticism, some scheme of sanctions is certainly necessary. Without it a League of Nations would be as insecure as a civilised society without magistrates and police. International engagements which cannot be internationally enforced are little better than a sham. Those, therefore, who object to the plan proposed in the Protocol are bound to suggest a better.

To this challenge His Majesty's Government might be content to reply that, as between the Covenant unamended and the Covenant amended by the Protocol, they have already given reasons for preferring the former. But they are unwilling to conclude their argument on a purely critical note and, though they cannot believe that "security" can be reached by the route so carefully explored by the First and Third Committees of the League in 1924, they are willing to consider whether some approach to it may not be made from the side unsuccessfully attempted in 1923.

They do not agree, indeed, that without "sanctions" the League is powerless and treaties no better than waste paper. Doctrines like these seem to them not only mischievous but self-contradictory. Every "sanction" referred to either in the Covenant or the Protocol depends on treaties; and if no treaties are of value, all sanctions must be worthless. Do what we will, we have no choice but, in the last resort, to depend upon the plighted word.

But this, it must be admitted, does not settle the question whether the sanctions contemplated by the Covenant cannot in certain cases and for certain purposes be supplemented with advantage to the general scheme of the Covenant itself. That scheme may no doubt be trusted in ordinary cases to work smoothly and effectively. The mere threat to employ sanctions will commonly suffice. And if, unfortunately, it does not, their effect, when put into operation, will doubtless be speedy and conclusive. But it is easy to imagine extreme cases, about which we dare not speak with the same assurance; and it is precisely the possibility of these extreme cases, remote though that possibility may be, which fosters international suspicion, makes Governments hesitate to disarm and keeps the world on edge.

His Majesty's Government do not share these alarms, but they recognise their serious effect, and believe them to be the main obstacles to the complete recovery of our shaken civilisation from the disasters of war. How are they to be allayed?

The first expedient that naturally suggests itself is to strengthen the provisions of the Covenant. If the Covenant, as it stands, does not supply an adequate machinery for preserving peace in all conceivable cases, why not alter it till it does?

The futility of this plan is, in the opinion of His Majesty's Government, abundantly proved by the Protocol. For whatever else its proposals give us, they do not give us security. They multiply offences, but do nothing to strengthen remedies. They increase the responsibilities undertaken by individual Members of the League, but do nothing to readjust their burden.

What expedient remains? How is security and, above, all, the feeling of security, to be attained? In answering this question it is necessary to keep in mind the characteristics of the "extreme cases," to which reference has already been made. The brooding fears that keep huge armaments in being have little relation to the ordinary misunderstandings inseparable from international (as from social) life — misunderstandings with which the League is so admirably fitted to deal. They spring from deep-lying causes of hostility which, for historic or other reasons, divide great and powerful States. These fears may be groundless; but if they exist they cannot be effectually laid by even the most perfect method of dealing with particular disputes by the machinery of enquiry and arbitration. For what is feared in such cases is not injustice but war — war deliberately undertaken for purposes of conquest or revenge. And, if so, can there be a better way of allaying fears like these than by adopting some scheme which should prove to all the world that such a war would fail?

Since the general provisions of the Covenant cannot be stiffened with advantage, and since the "extreme cases" with which the League may have to deal will probably affect certain nations or groups of nations more nearly than others, His Majesty's Government conclude that the best way of dealing with the situation is, with the co-operation of the League, to supplement the Covenant

by making special arrangements in order to meet special needs. That these arrangements should be purely defensive in character, that they should be framed in the spirit of the Covenant, working in close harmony with the League and under its guidance, is manifest. And, in the opinion of His Majesty's Government, these objects can best be attained by knitting together the nations most immediately concerned, and whose differences might lead to a renewal of strife, by means of treaties framed with the sole object of maintaining, as between themselves, an unbroken peace. Within its limits no quicker remedy for our present ills can easily be found or any surer safeguard against future calamities.

That, gentlemen, is the declaration which His Majesty's Government have instructed me to make.

His Majesty's Government have found it impossible, in the time at their disposal, to confer personally with the representatives of the Dominions and of India, who are also Members of the League, but we have been in telegraphic communication with them, from which it appears that the Governments of the Dominion of Canada, of the Commonwealth of Australia, of New Zealand, of the Union of South Africa and of India are also unable to accept the Protocol. Their views will be made known in such a manner as they may think fit either by a communication to the Secretariat, or to the Assembly, or otherwise.

I am not yet in possession of the views of the Irish Free State.

SEVENTH MEETING (PUBLIC)

Held on Thursday, March 12th, 1925, at 3.30 p.m.

Present: All the representatives of the Members of the Council, and the Secretary-General.

1452. Arbitration, Security and Reduction of Armaments: Protocol for the Pacific Settlement of International Disputes.

M. BRIAND (France) made the following statement:

Gentlemen, you cannot have failed to realise that the statement which our President read to us this morning on behalf of the British Government is of exceptional importance and will produce a profound impression in every country.

We are passing through a time of crisis. The events in which we are taking part are of vital importance for history, and after the catastrophe which burst upon us some years ago we may be sure that when matters of peace and war are under discussion the peoples of the world are stirred to the depths.

I only became familiar with the contents of the British statement when I heard it read this morning. It is a lengthy, weighty and well-considered document, and you may perhaps think me over-bold in venturing to discuss it, if I may say so, at first sight. I ask you to excuse me for my rashness, convinced as I am that you will grant me all the indulgence that I need. I must speak now, however, because I must fulfil my mission; I must speak, the more so because — whether it is a matter for congratulation or not — I am one of its authors. I was publicly honoured by being the first to sign the Protocol, without reservation, in the name of my Government, and for that reason I bear, at any rate, a moral responsibility, and I can hardly ignore the criticisms which we have heard without attempting to produce at least some kind of reply.

The document which has been read to us is instinct with a serene aloofness and a gentle philosophy which I hesitate to affront in the discussion which I am about to initiate. I too, like yourselves, feel and appreciate the nobility and the gentleness of the spirit of this philosophy, and I ask myself whether my own philosophy, which is necessarily somewhat more of this earth, is worthy to place beside it. The general objections raised against the Protocol this morning are indeed inspired with the noblest spirit. The objection to the Protocol is, above all, that it speaks much of war. In the document which we have just heard read, it is considered that the League spirit turns rather towards peace, and it is desired that that watchword should contain an ideal strong enough to impose itself upon mankind without any need to make provision for future contingencies. Perhaps so, but, in my view, peace is for all practical purposes no more than the absence of war, and when we are trying to ensure peace we cannot but remember that at certain times there have been wars and that it is just conceivable that there may arise in future other wars and, after all, an institution which aims at peace must, if it is determined to maintain peace, explore every avenue and every means best calculated to prevent war. It was in view of this unfortunate and somewhat humdrum necessity that the authors of the Protocol felt obliged to speak of war much more often than they would have wished.

When we are well it is very unpleasant to have to think of illness; but when someone says that

war is a case of international pathology, and if it is admitted that the disease is not absolutely incurable, we must also agree that proper physicians and remedies must be found.

That is the secret of the work which the fifth Assembly accomplished. If war is to be averted, the Protocol must find the means. Has it succeeded? That is one of the questions which is raised in the British Government's declaration. At any rate it was earnest and sincere in its attempt to succeed. We must not forget that the fifth Assembly met in an atmosphere of exceptional solemnity. The attention of the whole world was focussed on its work. A peaceful settlement had just been found for certain material questions, all minds were in harmony, all hearts cherished high hopes. It was said: "Now that certain material anxieties are removed and can no longer give rise to war, we can turn our weapons against war itself; we can declare war on war; we will organise ourselves for that purpose".

Remember, gentlemen, that forty-seven nations met at the fifth Assembly at Geneva in order to study the Protocol with the aid of the most distinguished jurists—and I use the word "distinguished" without irony, though of course the word "jurist" is usually attached to the word "distinguished", because in this case the jurists really were distinguished. They worked hard for days and weeks; each of the articles of the Covenant was examined by two Committees, for the Protocol, we must remember, is simply a development of all the ideas contained in the Covenant: conciliation, mediation, arbitration, precautionary measures against war, methods of warfare, economic, financial and military — the germ of all these exists in the Covenant.

The fifth Assembly had constantly to take care not to injure the foundations of the Covenant; it merely attempted to fill up the gaps, to repair the omissions. But, I repeat, it adhered throughout strictly to the spirit and letter of the Covenant.

We are told: "Yes, you did all that. Your intentions were quite sincere and nobly inspired. All your work was laid down for you by two Governments who drew up your programme: the Governments of Great Britain and France; for these were the two countries which placed the scheme of work before the fifth Assembly. When the work was completed, almost indescribable enthusiasm, it is true, prevailed among the forty-seven nations represented at the Assembly and resulted in unanimity for recommending the Protocol to the various Governments. These manifestations certainly had a certain importance and were nobly inspired. We appreciate them, but, after all, what is the final result? Do you think you have found anything new? And, if so, is what you have found worth finding? Surely the fact that you speak of war so often in almost every article of the Protocol may perhaps itself provoke war".

Putting a lightning conductor on a house does not produce lightning. I have always regarded a lightning conductor as simply a desirable precaution.

What we attempted to do in the Protocol was to provide lightning conductors on all the danger-spots of the building — such conductors as we human beings are capable of putting up to avert the terrible thunderbolt of war. But to say that we have not succeeded is, I think, going too far. Far be it from me to say that what we have created is perfect or that it protects the nations against all possibility of war. If we had been able to do so at one stroke the League's future would indeed be black. The League has a very long career in front of it, and I am sure that it will find many future occasions on which to employ its activities in preventing possible wars. But to say that what has been done is negligible is, I submit, hardly true.

What we are attempting to do is to reach the aggressor, to attempt to define him. But, if this is so, are we not according him an undue advantage? He will take every step to hide his misdeed while the victim will shelter behind the security of the Protocol, and when the aggressor carries his threats into effect the unfortunate victim will be unprepared. That, I submit, is a small error which might well be amended.

The Protocol deals with the question of legitimate defence. It recognises that an unsuspecting victim should not be left to his fate and that he should employ every possible means of resistance, so that a State with aggressive designs will be faced by another State which will be able to utilise all its normal resources of strength. The Protocol even adds all the combined resources and the mutual aid which the League of Nations can bring — a fact which might well give pause to any State which intended to commit an act of aggression.

The British document says: "Have you reflected that the League, owing to its very constitution, has not at its disposal all the forcible means which it might desire? Remember that the absence of a great nation like the United States constitutes a weakening of its authority".

Who among us does not deplore the absence of the United States? Who among us does not ardently and wholeheartedly desire to see the United States enter the League of Nations?

This absence seriously hampers the work of the League. Must it be regarded as a permanent factor? The League possesses an authority and a force which have been very frequently and most happily proved. This authority has increased. If the League of Nations desires to expand, it must first of all have confidence in itself as it stands to-day. This confidence must spur it on to persistent and determined activity, and it is through the extension of this determined and unrelaxed activity that it will exercise the power of growth and attraction that will eventually draw all nations within its orbit. It is certain that the absence from the League of great nations, one of which I have just mentioned — I do not wish to name the others, will always constitute a source of weakness to the League itself. But the greater the confidence it shows in itself the more will it exercise that pressure upon peoples and Governments which, little by little, will

force them to join those who are already Members. Accordingly, while associating myself with the regret expressed in the British document at the absence of the Government of the United States from our midst, I do not cease to hope that, under the influence of a high ideal, that Government will join us. No country responds more quickly to the call of an ideal than the United States. Moreover, in entering the League of Nations, the United States will be acting on a logical interpretation of their own interests. To-day, gentlemen, the continents are not far removed one from the other, and the peoples too must come closer together, drawn by an interdependence of interests. The truth of what I say — the British document has done well to recall this — is proved by the fact that the United States, although not belonging to the League, has often participated unofficially in some of its work — a cause of rejoicing to us all.

There is therefore in this statement no criticism which I will call "destructive". Nothing must check our progress. Nothing must be allowed to make us hesitate or to paralyse us; on the contrary, we must get on with our work.

It is said, however, that this work is prejudicial to the enforcement of certain sanctions. Economic sanctions, for example, are difficult to apply. They are certainly liable to arouse resistance. On every occasion, in the event of any conflict, the application of these sanctions has entailed difficulties and aroused resistance. Finally, however, rules have been drawn up and even applied, and the desired result has thus been obtained. Why should it not be the same in the future? Here, too, I see nothing absolutely discouraging in the situation, the importance of which I do not, however, overlook, but it must not be allowed to arrest our progress towards peace.

One of the greatest features in the Protocol is, in the first place, that it does not discriminate between large, small or middle-sized nations. It regards them all as having the same right to security. It seeks to give them that security, irrespective of their size or importance, in order that they may be able to work for peace completely independent and completely united. It was this feature in the Protocol which was the determining cause of my country's adherence.

Well, gentlemen, we must not in the future, on the pretext that war is a matter of international pathology, regard ourselves as reduced to such a point of impotence that we have to renounce all possibility of obtaining guarantees among the nations against war.

Another important aspect of the Protocol is that it makes war a crime and the party attempting war a criminal. The Protocol denounces and pursues both and aims by every means in its power to prevent the recurrence of such crimes.

Is this an impossibility? No; the League of Nations, in view of the nature of the tasks which it has undertaken, and of the time when it has been called upon to undertake them, and in view of the terrible events which brought it into existence, must not be allowed to say to the nations of the world: "War is an abomination and a crime. In society, criminals are prosecuted, the courts try them, the police arrest them and they are cast into prison. These are even means of destroying them, but in the case of war criminals, we are forced to put up with them." Such a thing is not possible. Such an undertaking by the League of Nations must not end in failure; it must not conclude such a series of attempts with a confession of powerlessness. It owes it to itself to continue to encourage the peoples to hope, and only then will war become no longer possible.

That is the simple and plain belief of my Government. The Protocol prepared by the League of Nations includes a number of precautionary measures which are calculated to prevent aggression. The nation which attempted aggression would be faced with so many threats and so many provisions that it would be made to see the danger of such an undertaking. I could recall in the past — I do not wish to take the most recent case — occasions on which, if certain nations had known that a combination of other peoples would rise against them, they might have hesitated. The Protocol embodies this combination of provisions and threats, which will induce a country nurturing evil designs to renounce them, and in the statement of our British friends I do not think that there is anything absolutely final and decisive against the Protocol.

As I am not by nature a pessimist and as I, too, have a little philosophy suited to my means and my nature, and am, in fact, something of an optimist — I have often been called a blind optimist — I listened to this document intently. I have read it and re-read it. I may say that the first pages gave me a rather uncomfortable feeling, qualified, however, by my pleasure in reading them, for they are good to read. But when all is said and done, I should be wrong if I did not confess that the substance was somewhat distasteful. I had the impression of being in the dark, in a sort of tunnel, and of a feeling that I should never see the light again. As I went on, however, I seemed to see a little light far away. I moved slowly towards it and I found a kind of timid appeal to hope. We are told that, perhaps, all the same, the Covenant is not sufficient in itself, that it might have to be amended in certain respects, and that, even in 1923, a movement in this direction would perhaps have achieved results — might, indeed, still do so if it were resumed.

I seem to recognise this reassuring light as coming from a proposal that had been prepared by two nations — the same two which prepared the Protocol: France and Great Britain. It constituted a kind of appeal to a procedure of mutual assistance, which in any case is not the same as absolute powerlessness and absolute negation. My Government, gentlemen — and I make this statement in its name — remains definitely attached to the Protocol, but it does not refuse to enter into any discussion for improving it.

The system of covenants and alliances is, moreover, provided for in the Protocol. If it is the best method of ensuring peace, well and good, provided it does not victimise or, by its egoism, push on one side certain nations which have also the right to protection against war, provided

that the fresh study of the question — if any such study is made — results in a solution applicable to all and able to give peace to all. This gives a possibility of retaining our hope.

I hope that no gesture of discouragement will be made, for such a gesture would have a powerful effect on the nations. I should be glad if they were still allowed to believe in the League of Nations. The nations have confidence in the League; they see that when it acts as an arbitrator the results are often fortunate. It may be said that since it has been in existence certain questions and disputes which it has settled would possibly have grown and assumed a much more serious character if it had not been there.

The League of Nations must retain and increase its strength. The nations not only regard it as an institution capable of settling the petty current disputes of international life; they have gone further: they have responded to the appeal of those who have realised peace after the great war; they have responded to this appeal in the idea that they were attaining to higher levels. Were they wrong to regard the League of Nations as the germ of definite peace, the possibility of organising definite peace? They place their hopes in the League of Nations.

We must not destroy this hope. It must be kept alive; we must not abandon the work which the fifth Assembly has set on foot, however much we revise it, whatever new and different methods we may propose. Now that this work has been begun, it is inadmissible that the League of Nations should come to the world and say: "We can do nothing." There are certain theoretical considerations upon which we can work and which we can unceasingly proclaim in the hope that the strength of the ideal that is in them will be sufficient eventually to become a reality.

But must we therefore abandon any precautionary measure to prevent war? I think not, and in saying this I am speaking for my Government.

Here is the declaration which, on behalf of my Government, I am instructed to read:

After having given her adherence to the Treaty of Mutual Assistance which branded a war of aggression as an international crime, France, at the Assembly of the League of Nations in September 1924, co-operated with all her heart in drawing up the Protocol to afford peaceful solutions for all international disputes.

France thought and still thinks that this work, which was eagerly awaited by the nations, is merely a development of the ideas contained in the Covenant and that it is the essential object of the work of the League of Nations. Faithful to the spirit of the Covenant, Article 8 of which closely combines the ideas of security and disarmament, and convinced that the nations cannot be brought to disarm until their security is guaranteed. France feels that, in doing this work, she was seeking the only really practical and effective solution of the problems raised by international disputes. She also believes that she is thereby helping to realise the great ideal which, during the late war, united all the Allies and was the basis of their most solemn engagements. One of the objects of the Protocol was to introduce as the very centre of international law the idea of compulsory arbitration to lead to a secured peace. In this way international solidarity would become an accomplished fact and would be at the service of all nations, both great and small. It would make no distinction between nation and nation but would open to all an area of peaceful work in the midst of security, independence and dignity.

As a result of long endeavour, the fruits of which must at all costs be preserved for humanity, on the Franco-British proposal and with the hearty co-operation of all the peoples, a document has been drawn up.

This document is itself only the application of the system provided in the Covenant of the League of Nations. It claims to protect the rights of all peoples who will accept it. It therefore has this immense historic importance, namely that for the first time it gives practical effect to the conception of international solidarity and to the high principle of arbitration, upon the application of which the fate of peace among the nations undoubtedly depends. By extending for the first time the doctrines of private law to public law, it converts a war of aggression into a crime which is the equivalent of murder. On behalf of all nations, it organises a permanent system of international justice, thereby achieving further progress. But it does not confine itself to these assertions of principle, great as they are. As regards arbitration, which is in future to provide a solution of conflicts, the Protocol organises it, fixes its procedure, takes the necessary measures to ensure that it shall not be a snare for nations of good faith. It defines the aggressor and, above all this, it organises preventive action against war.

If, in spite of the precautions which it has taken, there is reason to resort to sanctions, either economic, financial or military, the Protocol only applies obligations already imposed upon Members of the League of Nations by Article 16 of the Covenant, which received the solemn adherence of all the signatory Powers of the Treaty of Versailles. The Protocol therefore imposes no fresh obligations on the States which signed the Covenant: it has simply fixed the conditions for their application.

France, in order to conclude the work undertaken by the different Assemblies of the League of Nations, and in order to establish peace on the three associated principles of arbitration, security and disarmament, has at all times been, and still remains, ready to welcome all suggestions which may improve such work. Moreover, she admits that the Protocol is capable of varied applications according to circumstances and geographical considerations. She does not scout the idea of regional agreements provided for by the Covenant and the Protocol. Nevertheless, France, convinced that only the adherence of the nations to a common protocol can induce them to renounce the competition in armaments, and convinced that, if the principles on which the Protocol rests are abandoned, the nations will gradually revert to their old habits and to solutions by force, remains faithful to the signature which she was the first to give with the object of henceforth sparing herself and other nations the horrors of war from which she suffered so terribly.

M. SCIALOJA (Italy) said:

After the superb speech of M. Briand, anything I may say will lack eloquence. I will, therefore, without further introduction, make the following statement.

The great ideals which inspired the Assembly that adopted this Protocol will not be effaced, either in our memory or in the memory of the other Members of the League which took part in it, even by the criticisms which the British Government has presented to-day in regard to several important points of the Protocol. A certain number of these criticisms are concerned with a fundamental question which I pointed out myself when the Protocol was submitted to the Assembly. This Protocol was intended to effect a technical improvement in those parts of the Covenant which seemed indefinite, and it perhaps endeavoured to hasten too much the historical process by which ideals attain their full development as a result of laborious tests and experience. To-day we see one of the States which promoted the Protocol pointing out after mature reflection the defects in something which had been regarded as an improvement. The too-rigid legal structure of the judicial procedure for the definition of disputes between States is certainly a defect, for these disputes are not always essentially legal disputes. Other grave defects are the provisions relating to the executions of judgments; for their execution can be easily designed and organised when the disputes arise between States which are subject to a superior authority possessing forces of its own, but it is much more difficult to organise the execution in the case of associated States situated in different economic, political and geographical circumstances. The difficulties are enormously increased, as has been correctly pointed out, by the fact that the League does not yet include certain Powers which are among the greatest in the world.

The remedies against the danger of war, if they are conceived in too legal a sense, can hardly afford a radical cure for the evils which may be the greatest causes of the greatest wars. Up to now, no effective remedy has been found for this serious defect in the system defined in the Protocol, all the more as the points which appeared to certain States to be defects in the Protocol appeared to other States to be defects in an exactly contrary sense.

I am therefore prepared to admit the force of much, if not of all, of the criticisms made by the representative of Great Britain. These criticisms, however, relate only to the technical structure of the Protocol and partly to what may be premature in it. I nevertheless retain my faith in the principles on which it is founded.

The progress of history, I repeat, should continue gradually within the bounds of reality.

With this in his mind, the representative of Great Britain to-day states that, in his view, the best possible solution in the present circumstances is, with the co-operation of the League, to supplement the Covenant by making special arrangements in order to meet special needs; that these arrangements should be purely defensive in character; that they should be framed in the spirit of the Covenant, working in close harmony with the League and under its guidance; that they should knit together *the nations most immediately concerned*, and whose differences might lead to renewal of strife, by means of treaties framed with the sole object of maintaining as between themselves an unbroken peace.

I desire to state that I fully adhere to these ideas, which were upheld by the Italian delegates to the League of Nations when they stated in 1923 that they could not accept such alliances between groups of nations as might result in causing internal schism within the League and in perpetuating the old system of rival alliances which in the past created an atmosphere of distrust and of suspicion injurious to the maintenance of peace.

Obviously, the idea put before the Council to-day must, if it is to be realised in the domain of politics, be taken up and examined by the various Governments in order to give it practical form corresponding with the necessities of the situation.

The problem of security is a peace problem and any effort made to ensure the maintenance of peace will always meet with the most active support from Italy.

Viscount ISHII (Japan) spoke as follows:

Having listened to the observations of my colleagues, I am not going to enter into the merits or the force of the Protocol of Geneva. I shall confine myself to advising my colleagues of the attitude of my Government on the question that is now before us.

The Japanese Government has not yet completed its study and examination of this all-important question of the pacific solution of international conflicts. It is therefore not yet in a position to define its attitude one way or another.

On the one hand, the more important an international accord, the more thorough and exhaustive must be its examination before a definite conclusion can be reached. The Protocol of Geneva, constituting, as it does, an international accord of perhaps highest importance, cannot be too thoroughly examined and does not admit of a hasty decision.

On the other hand, the Japanese Government is next to none in appreciating the noble and lofty idea which prompted the remarkable achievement of the fifth Assembly of the League of Nations.

It is therefore with the spirit of cordial sympathy and sincere co-operation that the Japanese Government will continue its study and examination of the question now under consideration.

M. HYMANS (Belgium) spoke as follows:

On behalf of Belgium, I voted for and signed the Protocol, which up to the present, however, the Belgian Chambers have not been called upon to ratify.

After the London Agreements had given a practical solution to the reparation problem that had been weighing on Europe, and had thus cleared the atmosphere, Mr. MacDonald and M. Herriot solemnly appealed to the Assembly of the League of Nations to make a great effort to solve the problem of security. After three weeks' unremitting labour by the most eminent jurists and

statesmen, the Assembly unanimously adopted a Protocol for the Peaceful Settlement of International Disputes, which establishes compulsory arbitration supported by collective sanctions.

It was hoped that this system would be instrumental in re-establishing a spirit of confidence and peace and in preventing and checking offensive wars. The Protocol contains a remarkable innovation, *i.e.*, the definition of the aggressor, and provides for regional agreements. It represents a great political and juridical progress: a considerable advance in the technical organisation of peace.

But, from the outset, I have never deceived myself by thinking that so complex and delicate a piece of work, completed in a few weeks, however conscientiously it may have been prepared, could possibly be perfect. I venture to recall the observation which I made in this connection at the last Assembly. I said it would be a mistake wrongly to give public opinion the impression that the problem of security had been definitely solved. I shall not discuss the arguments carefully considered and set forth in detail in the British Government's Note. It would unduly prolong the discussion and would require careful preparation. But whatever the ultimate fate of the Protocol may be, I feel convinced that the principles it laid down will remain in the conscience of the world, and that a day will come when the political situation and a changed mentality will make their full application possible.

The world cannot continue to live in anxiety and in a fever of doubt and uncertainty.

Security is the dominant factor in Belgian public opinion and inspires the foreign policy of my country, which has no desire but to live honourably and in peace.

The Covenant, however, remains untouched and, as was pointed out last September, its guarantees must not be under-estimated. But the British Government recognises that in certain extreme cases they are not sufficient, especially where certain nations are concerned whose geographical and political position undoubtedly exposes them to great perils. It recommends "the making of special agreements to meet special needs", such agreements to be of a defensive character in the spirit and within the framework of the League of Nations.

I would point out that this is an idea which, ever since the Armistice, the Belgian Government has constantly advocated. The idea of special agreements was contained in the mutual assistance scheme drawn up by the Assembly in 1923 and it is found again in the shape of regional agreements in the Protocol adopted in 1924.

Pending the time when the study of a general security pact can be taken up again, it should be possible on the lines thus laid down to seek concrete and positive solutions which will stabilise Europe and consolidate peace.

M. DE MELLO-FRANCO (Brazil) spoke as follows.

Sir, the statements you have made in the name of the Government of His Britannic Majesty, whatever effects they may have on the fate of the Geneva Protocol, should not dash the hopes which the world at large possesses in the active and powerful participation of the British Empire in the common work of organising a system of which the object is to guarantee universal peace.

As our distinguished colleague has reminded us, the successive Administrations in Great Britain, with the full approval of the self-governing Dominions, have not only favoured arbitration in theory; they have availed themselves of it in practice. During the session of the Council at Brussels, we received notable proof of this. Great Britain submitted to the arbitration of the Council the delicate question of Iraq.

I respectfully bow to the reasons which the British Government has given, with so much frankness, for its inability to accept, in the detailed and precise form in which it was first of all drafted, the Protocol for the Pacific settlement of International Disputes and the effective application of sanctions provided as a means for the coercion of States violating the principles proclaimed by it.

At the basis of all the motives brought forward by the British Government to support its point of view is to be found the present condition of the League of Nations — the fact that it is not universal. This position, and no one can deny it, makes it difficult to realise to the full the great objects of the Covenant.

The application of sanctions, in view of the present constitution of the League, might, in effect, suffer from the objections which the principle of universal and compulsory arbitration could not alone avoid.

Besides the precarious position resulting from the composition of the League of Nations, account must be taken also, when regarding the Protocol, of another problem: that of the sovereignty of States as defined by the public international law of our time in connection with the moral and actual authority of the League of Nations. Hence arise the restrictions imposed on the principle of compulsory arbitration or upon the principle of the extension of the jurisdiction of the Permanent Court of International Justice to cover all the legal or political disputes which might arise between States.

Brazil, which has always marched in the vanguard of those States which have not contented themselves with adopting mere platonic resolutions in regard to arbitration and which has inserted the principle of compulsory arbitration in its political constitution, a principle which it has very largely applied in practice, Brazil, I should remind you, Sir, has voted for the Protocol and has signed it. We were persuaded that in doing so, and in thus responding to the desires of the representatives of the great Powers in the Assembly of September last, we were giving our help to the establishment of a universal system of which the foundation had already been firmly laid in America.

I should like to remind the Council that sixteen American nations, among which is to be found the United States, signed in May 1923 a Continental Convention for the peaceful settlement of any disputes which might arise between American States. Assuredly the resolutions of the committees of investigation set up by the Convention will not have the value nor the force of judicial

sentences or arbitral awards. They will, however, prove useful in preventing the outbreak of hostilities and in giving an opportunity, thanks to the calming influence of time, for reflection to prevail, for peaceful feelings to re-awaken and for conciliatory measures to be taken by States with a view to maintaining peace.

In regard to the question of disarmament and security, I reaffirm the statement which I made in the Assembly in the name of my Government when the Protocol of Geneva was discussed:

"We are not forgetting what is most essential: the establishment, either with or without complementary regional treaties, of a treaty of mutual assistance and guarantee between all nations. This is a condition which is vital for disarmament. It is, in fact, not enough that this assistance and guarantee should be based entirely upon Continental assistance. They must be based on a worldwide organisation, for the right to security — to that real security which should now be the final object of our endeavour — is the sacred right of all the peoples of the earth."

Brazil, as a signatory of the Protocol, will never cease to help in the continuous progress of the idea of arbitration and in the ever-increasing consolidation of the authority of the Permanent Court of International Justice.

M. QUIÑONES DE LEÓN (Spain) spoke as follows:

I shall confine my remarks to reiterating the declarations which I was privileged to make to the September Assembly, on behalf of the Spanish delegation, respecting the delicate problems which arose at the time when the Protocol was to be discussed.

Although Spain had no immediate direct interest at stake, but was only impelled by considerations connected with the common interests of Europe and of the world, and by a great feeling of solidarity, she showed from the start her willingness to co-operate in any work representing a guarantee of peace, and she was happy to give effective help in solving some of the difficulties attaching to the definition of aggression by framing a legal formula which secured general agreement.

My country, which, as shown by its record in the history of political thought and in history itself, is a convinced advocate of arbitration, was happy that this should be accepted as one of the fundamental principles of the Protocol.

For all these reasons, and after a careful examination of the international instruments which the Assembly had unanimously approved, the Spanish Government signed the Protocol, reserving to itself the right to ratify it at the proper moment.

The difficulties which the plan drawn up by the Assembly has since, for various and complex reasons, encountered, which I shall not stop to examine, have not changed the views nor the underlying motives which guided Spain on this occasion. To-day, as before, we categorically declare that the League of Nations will always find us ready to co-operate resolutely and loyally in any attempt to secure a guarantee for world peace and to promote the welfare of mankind.

M. UNDEN (Sweden) spoke as follows:

The Swedish Government has submitted the Geneva Protocol to a thorough examination by a sub-committee appointed for this purpose. This committee, which was instructed to study the question both from the legal and political points of view, has not yet finished its work. My Government, which attaches the greatest importance to the work which was done at Geneva last autumn, and especially to the introduction of the principle of compulsory arbitration into the framework of the Covenant, cannot give a final opinion on the Protocol before the report of the committee has been delivered. My Government, in taking its decision, will, of course, be obliged to take into account, to a considerable extent, the attitude of the other Powers, and particularly of those whose adherence to the Protocol would be necessary in order to make it wholly effective.

In the event of a further discussion of the whole problem during the next Assembly, the Swedish Government reserves the right to submit such amendments to the Protocol as it may deem desirable.

M. GUANI (Uruguay) spoke as follows:

I do not think that the Council is being asked to express its views or to take a decision on the substance of the important statement made at the morning meeting by our distinguished President, the representative of Great Britain. It will be for the sixth Assembly to resume this difficult task. I shall accordingly confine myself to a short declaration.

The Government of Uruguay regards the question of the Protocol as one which affects the establishment of peace in the whole world. Incidentally, I would point out that, for my country, as for the majority of South American countries, the problem does not arise in its political aspects, as is the case upon the European Continent, but purely and simply in a moral aspect. It has been possible to realise a condition of peace among ourselves, thanks to our historical traditions and to the kinship of the South-American races. This harmony has enabled us to exclude any germ of hatred from our international relations, but the moral factor has doubtless contributed most effectively to the creation of the sentiment of peace which prevails among the States of South America. This sentiment has been further strengthened and consolidated to a very great extent by the organisation of an international legal system with a procedure of conciliation and arbitration, which render extremely remote the possibility of a resort to force in the settlement of any international conflict.

Latin America has co-operated, and will continue to co-operate, with loyalty and enthusiasm in the work of the League of Nations, in the firm hope of seeing the principles of solidarity and

international justice, to which I have just alluded, become universal. Such a hope explains our adherence to the Protocol which was approved by the fifth Assembly and which contains, as an essential basis for its various provisions, the principle of compulsory arbitration which no one in South America to-day would think of questioning.

Whatever may be the modifications of form or of application which the great European countries deem it desirable to introduce into the scheme of the fifth Assembly for various reasons, my Government cannot cease to believe that the idea of settling international conflicts by means of international justice will sooner or later prevail throughout the world as the only system calculated to eliminate for ever the wickedness of resorting to war, and, finally, to consolidate friendship among the nations.

The League of Nations must be the proper instrument to extend and apply these ideas. As has already been said, it is under the auspices of this great organisation that international life must develop along the lines of an effective and progressive respect for legal order.

My country was among the first to sign the Arbitration Conventions of The Hague. It also adhered to the Covenant of the League of Nations, especially in view of the creation of a new international order, founded on the peaceful co-operation of all nations. Finally, it has adhered to Article 36 of the Statute of the Permanent Court of International Justice, thereby accepting the compulsory jurisdiction of the Court. For these reasons, my Government desires to remain faithful to its traditions and to the sentiments now prevailing in the public opinion of the country. It desires to declare once more that the Protocol of Geneva, even though its articles are submitted to modification, represents in its essential principle the most complete international system of organised peace which will be at the disposal of the peoples in future to establish their security, effect their material and moral disarmament and thus bring in a new era of peace and happiness for mankind.

M. BENES said: As Rapporteur, I shall have to present a resolution. As I shall be obliged to obtain the agreement of my colleagues, I shall ask leave to adjourn my declaration until tomorrow.

EXTRACT FROM THE EIGHTH MEETING (PUBLIC),

Held Friday, on March 13th, 1925, at 11 a.m.

Present: All the representatives of the Members of the Council, and the Secretary-General.

1453. Arbitration, Security and Reduction of Armaments: Protocol for the Pacific Settlement of International Disputes. (*continued*)

M. BENES (Czechoslovakia) spoke as follows:

Mr. President: Allow me first of all to make a declaration on the subject of the Protocol for the Pacific Settlement of International Disputes, not as Rapporteur but as the representative of Czechoslovakia on the Council of the League.

I had the honour to take an active part in the framing of the Protocol last September. I did so with enthusiasm, for the foreign policy of my country, for which I have been responsible since the war, has always been inspired by the great principles incorporated by the fifth Assembly in the Protocol. It will continue to be so inspired in the future.

I therefore ask you to excuse me if I affirm once more that the policy of the Czechoslovak Government remains deeply attached to the ideas of the Protocol, and if I undertake to defend the Protocol in a few brief and hastily framed remarks.

Like many other delegates, I and the whole Czechoslovak delegation, as you may remember, and as I repeated before our Parliament at Prague when I gave a report on our work at Geneva, were in no way unconscious of the fact that there were some rather important imperfections and shortcomings in the work that had been performed so rapidly in a few short weeks of feverish labours.

It was quite clear to me that there would be criticism and that it would perhaps be necessary to discuss and rediscuss the various articles and probably that we should be obliged to re-examine all these questions and see how the solutions arrived at might be improved; to consider what could be done immediately and what could only be done by degrees. In short, we realised that time would be needed to complete the work we had undertaken and see it applied in practice.

From this point of view, I consider that the declaration and criticisms made by the British Government have rendered a very great service both to the League and to the idea of the Protocol. We indeed undertook a work of tremendous importance — certain critics even think that this work was beyond our powers — and this work must be considered from every point of view in order that it should not fail and thereby entail the failure of the League. But, at the same time, I have the impression that the more the Protocol and its principles are criticised, the more the ideas and principles it incorporates appear necessary to everyone and display their moral force, their vitality and their great significance for the political life of human society after the war. These

were my feelings both when listening to Mr. Chamberlain, to M. Briand, to M. Scialoja, and the other members of the Council.

His Excellency Mr. Chamberlain made some important criticisms of various ideas in the Protocol. He criticised — I think rightly — certain details of the Protocols on the one hand and certain general principles in the Protocol on the other. The second class of objections is evidently of considerable importance, since it is directed at the essentials of the Protocol.

As examples and criticisms of the first class, I shall quote a few:

The provisions of the Protocol requiring parties to a dispute not to take military or naval measures might react against the victim of aggression and give advantages to the aggressor.

Or another example: The only punishment of an aggressor admitted by the Protocol is the paying of financial damages for his act of aggression. This appears impossible, insufficient, disadvantageous and unjust.

We remember, no doubt, that these objections were raised at the last Assembly. There would certainly be no difficulty whatever in overcoming objections on points of detail of this sort. The objections of a general nature are infinitely more important, and I shall ask permission to say a few words on this subject too.

I understood from the President's declaration that he considered the rigid and universal application of compulsory arbitration to be impossible. This undoubtedly is a serious objection, since it rests on a very important circumstance, namely: the diversity of social, ethnic, geographical and other characteristics of the human groups that would be subject to the procedure of arbitration.

But I shall take the liberty of putting opposite these important facts certain other facts which are of no less importance and whose significance seems to me prophetic for the future: the war destroyed four great empires in Central and Eastern Europe, demolished ancient frontiers, established some ten new States, upset dynasties, unchained social revolutions, destroyed communications and financial systems, put down whole ruling classes and so forth, and produced a most incredible intermingling and incredible cross-currents in the interests of States, nations and classes. The war set nations against each other in this part of the world and created problems of hitherto unknown complexity. From Finland in the north through the Baltic Republics, Poland, Germany, Czechoslovakia and Austria, down the valley of the Danube to Constantinople and Southern Greece, you have regions where thousands of conflicts may break out, beginning to-day by the murder of a frontier-guard or the desecration of a flag and easily ending to-morrow in a terrible war.

To-day all these countries are tired of this state of affairs. They long to be at last delivered from this intolerable position. They know that they have many problems that are almost insoluble psychologically through direct negotiations and have wished to find methods other than violence and direct action to solve these problems. In general, they are small nations of whom M. Briand yesterday spoke so eloquently; they want nothing but peace and security, and that is why the Czechoslovak Government, as one of these nations, insisted so urgently upon the idea of arbitration and the policy of the Protocol. If you notice, gentlemen, it is a striking and extremely symptomatic fact that the majority of the signatories of the Protocol belong to the States inhabiting this danger zone of Europe — States which hitherto have been considered as politically unripe, intolerant and quarrelsome in comparison with Western Europe. It is these States which to-day ask for compulsory arbitration, put their signature to such arbitration and wish to make it general.

I repeat that there can be no more striking fact and no fact which can show better how rapidly nations may ripen and become ready to realise the highest aims and political ideals. Would anyone have dared to believe this ten years ago?

I agree that no principle — and *a fortiori* the principle of arbitration — should be applied too rigidly. But yesterday we heard the statements of M. Mello-Franco and M. Guani when they spoke of the way arbitration worked on the American Continent. It seems to me quite possible to apply it by degrees to the European Continent while taking into consideration all the special circumstances. I do not despair of the future. Furthermore, we were of the opinion that arbitration will always constitute a powerful guarantee for all who co-operate to give security to States that are particularly threatened, since arbitration will prevent their being drawn lightly into conflicts.

But here we meet one more serious general objection made in the President's statement: the Covenant is quite capable of settling a certain number of less serious cases, but it could not prevent the extreme case: that is the case of a deliberate and intentionally provoked war. For, in the last resort, there is no other guarantee but the plighted word which is either respected or not respected. With the Protocol and with arbitration we are in precisely the same position; they may settle a certain number of less serious conflicts for which incidentally the Covenant is sufficient, but they cannot prevent the extreme case of war.

Here, a misunderstanding, or rather an inaccurate interpretation, of the meaning of the authors of the Protocol has crept into the argument contained in the British statement. This statement, indeed, maintains:

(1) That the Protocol is in the same position as the Covenant because it cannot settle conflicts other than those provided for in the Covenant itself; and

(2) That what the authors of the Protocol were concerned with was not the incompleteness of the Covenant *but the fact that it would not be observed* — that is: the question of *whether the signatures affixed to it would be requested or not*. Now, if the Covenant is not lived up to, the Protocol will not be lived up to either. And, since in these circumstances the Protocol gives us nothing more than the Covenant, it is useless.

I should like to establish the fact — and it may be confirmed by consulting the minutes of the debates of the Assembly committees last September — that the one concern of the authors of the Protocol was precisely the *incompleteness of the Covenant* — that is: the fact that there are gaps in the Covenant creating special facilities for signatories to escape their obligations and not to fulfil their duties — gaps which could serve as pretexts for not giving the security and assistance which would otherwise have to be given.

It was solely for this reason and to make less easy the non-fulfilment of the Covenant that the latter was completed in the Protocol by technical procedure and special machinery calculated to remove all pretexts for non-observance and to force the signatories to carry out their obligation without fail, in order to increase the feeling of security and let it operate in the direction of pacification and general tranquillity.

Consequently, the Protocol constitutes a real step in advance in the minds of those who framed it. If, through the Covenant and the system based on it, it will be possible to settle, say, 50 out of 100 disputes, thought the authors of the Protocol, it will be possible to settle many more through the Protocol and the system of arbitration, and perhaps to settle just those conflicts which would otherwise degenerate into war.

That was our aim; we knew very well that we could not make the extreme cases (that is: wars) disappear, but we knew that we could improve the Covenant and, by means of the Protocol, settle a greater number of disputes; we knew that the idea could not be carried out at one blow, but we were convinced that we could at least move a step nearer our distant goal.

We at least made this attempt — an imperfect attempt certainly, for we did not wish to embark on a policy of all or nothing and merely note the necessity or the existence of war. For it is a truism that perfection is not of this world, and it is not possible to realise in three or four weeks what thousands of years have not been sufficient to accomplish. In short, we wished to take a step forward, and we were of opinion that, in spite of everything, this step would constitute a considerable progress and that some day it would be realised that it was worth the trouble of attempting. I do not lose my faith in this progress.

There is the third objection of principle in the declaration of the British Government.

In its statement, the British Government expresses the belief that in the Protocol the spirit and balance of the Covenant are destroyed; the Protocol is too much concerned with military sanctions and becomes a war machine instead of an instrument of peace.

It would be very difficult for me to share this opinion. It is true that in the Protocol we have added some details concerning the organisation of military sanctions, but on the other hand we have also added a whole machinery of arbitration and have thus balanced the two elements already completely contained in essence in the Covenant.

But I think this objection falls before another argument contained in the statement itself: at the end, the statement admits that the best methods of avoiding extreme cases — that is: war — would be to constitute special defensive agreements under the auspices of the League Covenant agreements whose logical corollary would eventually be military arrangements for the defence of peace. If and when a number of such agreements are formed under the auspices of the League, what would be the difference from this point of view between a system such as the Protocol, containing the minimum of military organisation, and the Covenant, completed by a whole system of more or less numerous regional agreements possessing a military side?

I do not see any difference. But the question of regional agreements raised in the British Government's statement, is undoubtedly extremely fruitful. I am very happy to find it again in this document, whose importance has surely escaped no one. For five years I have been championing this idea and particularly in the three last Assemblies. And the approval with which it has been met by M. Scialoja, M. Hymans and other colleagues further confirms my point of view.

But I have a doubt — or, if you will, I cherish a secret hope — which I will confess to you immediately: when the idea of a regional agreement placed under the guidance of the League and of the Covenant comes to be studied seriously, I am almost certain that if it is desired to build up something lasting, solid, and giving real security, it will inevitably become necessary to return to the idea of some kind of protocol, a restricted and partial protocol if you will, a protocol perhaps more elastic than ours and more immediately applicable, but all the same a system analagous to that of the present Protocol. From the moment the League Covenant is adopted as a guide, it becomes impossible to escape the inevitable logic of this admirable document, particularly as this would require the presence of all the Members of the League.

But what is extremely important and gratifying in spite of everything is the fact that the necessity of re-affirming and completing the Covenant in order really to establish peace and security is to-day recognised by everyone. I believe that this aim can finally be attained only by a system containing the principles we have incorporated in the Protocol; but I do not in any way exclude any other kind of consideration, and particularly not the considerations put forward in the British declaration, and I am convinced, as I have said, that criticisms such as those we have here render invaluable service to our labours and to the League.

We want peace and security, and, as I have already said, I think we shall get it sooner or later through some system applying in one form or another the leading ideas of the Protocol. Meanwhile it is perfectly possible to begin by other attempts, for in the end we shall reach the same result.

The only question that remains is how and when we shall reach it. Ways of attaining the end may be different, as we have seen in our discussions, and I hope that the debates in the next Assembly on arbitration will take us a further step forward towards our aim.

I am not pessimistic either as to the time when the aim will be realised; it is obvious that time is necessary for an undertaking of this sort. We must be patient, but at the same time work sincerely and devotedly without ceasing, without becoming weary or discouraged.

The Government of my country will continue, as before, to be guided by the ideas that I have presented here; it is moved by a profound desire to co-operate in and through the League with all other nations in order to realise the high ideals of the Protocol and thus bring its small and modest contribution to the welfare of humanity.

M. BENES, acting as Rapporteur, then presented the following resolution:

"The Council, having heard the statement of the representative of the British Empire on the Protocol for the Pacific Settlement of International Disputes, and also the declarations of the other Members of the Council;

"Considering that the fifth Assembly, by a resolution unanimously adopted on October 2nd, 1924, decided to recommend to the earnest attention of all the Members of the League the acceptance of the said draft Protocol, and that in the same resolution it invited the Council to undertake certain preparatory work provided for in various articles of the draft Protocol;

"And considering that the Council decided on October 28th, 1924, to undertake itself the work of preparing for the Conference on the Reduction of Armaments, which it had originally asked the Council Committee to undertake at a meeting to be held on November 17th, 1924:

"Decides:

"(a) To refer to the sixth Assembly the above-mentioned declarations of the representative of the British Empire and the other Members of the Council, together with any declarations on the same subject which may be communicated to it by the Governments of the Members of the League, and instructs the Secretary-General to place this question forthwith upon the agenda of the sixth Assembly;

"(b) To postpone the work of preparation which it had decided to undertake until the sixth Assembly has given a decision on the question submitted to it."

The resolution was adopted.

The PRESIDENT made the following declaration:

In expressing my concurrence in the resolution which has just been adopted, I desire only to summarise in a sentence what I said yesterday: that the British Government remains firmly attached to the principles of arbitration and disarmament and is anxious to do its share in giving peace and security to the world. If we find ourselves obliged to reject the Protocol it is because we think that in present circumstances the Covenant itself better serves those great objects to which all the countries represented at this Council have, in their discussions of yesterday and to-day, again pledged their support.
