

Geneva, July, 1928.

LEAGUE OF NATIONS.

20894

DOCUMENTS

of the

**PREPARATORY COMMISSION
FOR THE DISARMAMENT CONFERENCE**

entrusted with the

**PREPARATION OF THE CONFERENCE
FOR THE RÉDUCTION
AND LIMITATION OF ARMAMENTS.**

SERIES VII.

MINUTES

of the

**THIRD SESSION OF THE COMMITTEE
ON ARBITRATION AND SECURITY.**

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LIST OF MEMBERS OF THE COMMITTEE ON ARBITRATION AND SECURITY

Chairman : His Excellency Dr. BENEŠ (Czechoslovakia).

<i>Argentina</i>	His Excellency M. José Maria CANTILO.
<i>Belgium</i>	His Excellency Baron ROLIN JAEQUEMYS.
<i>British Empire</i>	The Right Honourable Lord CUSHENDUN.
<i>Bulgaria</i>	His Excellency M. Bogdan MORFOFF.
<i>Canada</i>	Dr. W. A. RIDDELL, M.A., Ph.D.
<i>Chile</i>	His Excellency M. J. VALDÉS-MENDEVILLE.
<i>China</i>	M. CHUAN CHAO.
<i>Colombia</i>	Dr. Efrain GAITÁN-HURTADO.
<i>Cuba</i>	His Excellency M. G. DE BLANCK.
<i>Czechoslovakia</i>	His Excellency Dr. F. VEVERKA.
<i>Finland</i>	His Excellency M. R. HOLSTI.
<i>France</i>	His Excellency M. PAUL-BONCOUR.
<i>Germany</i>	Dr. Ernst VON SIMSON.
<i>Greece.</i>	His Excellency M. Nicolas POLITIS.
<i>Italy</i>	His Excellency General A. DE MARINIS STENDARDO DI RICIGLIANO.
<i>Japan.</i>	His Excellency M. N. SATO.
<i>Netherlands</i>	Dr. V. H. RUTGERS.
<i>Poland</i>	His Excellency M. François SOKAL.
<i>Roumania</i>	His Excellency M. Constantin ANTONIADE.
<i>Kingdom of the Serbs, Croats and Slovenes</i>	His Excellency M. C. FOTITCH.
<i>Spain</i>	
<i>Sweden</i>	His Excellency M. B. Östen UNDÉN.
<i>Turkey</i>	His Excellency Mehmed MUNIR Bey.
<i>Uruguay</i>	
 <i>Union of Socialist Soviet Republics.</i>	 M. Boris STEIN (Observer).

AGENDA.

1. Second reading of the model treaties drawn up at the second session (document C.P.D. 108).
 2. Study of the suggestions of the German delegation for the Prevention of War, on the basis of the memorandum prepared by M. Rolin Jaequemyns, Rapporteur (document C.A.S. 40).
 3. Study of draft model bilateral treaties.
 4. Continuation of the examination of the Articles of the Covenant in accordance with the resolution of the Assembly of 1927 :
 Report of the Joint Committee responsible for examining the scheme of financial assistance to States victims of aggression.
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FIRST MEETING.

Held on Wednesday, June 27th, 1928, at 11 a.m.

Chairman : M. BENEŠ (Czechoslovakia).

1. Proposal by the Chairman regarding the Programme and Procedure of the Committee.

The CHAIRMAN : Gentlemen, — In opening the first meeting of the third session of the Committee on Arbitration and Security, I would first of all bid you all welcome, and in particular the Turkish delegate, who is here with us for the first time.

I shall not dwell at length upon the importance of the work which we have already accomplished and that which remains to be done ; I shall immediately pass on to our third session's programme, which is somewhat heavy. I shall therefore only touch briefly upon the various points in our programme and explain at the same time the methods of work which I consider to be best in order to achieve rapid and satisfactory results. I beg my honourable colleagues to be so good as to inform me of any suggestions they might consider better than those which I am about to submit to them.

The work accomplished in our second session has been warmly commended by the Preparatory Commission for the Disarmament Conference, as well as by the Council of the League of Nations. The Preparatory Commission, indeed, adopted on March 19th last the following resolution dealing with the work of our second session :

“ The Commission takes note of the progress made by the Committee on Arbitration and Security and of that Committee's decisions concerning its next session and the programme of work therefor.

“ The Commission expresses its satisfaction with the results achieved and its approbation of the general spirit in which the Committee carried out the work.

“ According to precedent, the report of the Committee on Arbitration and Security on the work of its second session, together with the Minutes of that session, will be communicated to all Governments. The Commission seconds the recommendation adopted by the Committee that these documents should be transmitted in sufficient time to allow of their discussion at the next session of the Assembly.”

Moreover, the Council of the League of Nations, taking note of the recommendation we had put forward — which, as you have just heard, was supported by the Preparatory Commission — decided, on the motion of the Roumanian representative, to place the proposals of the Commission on Arbitration and Security upon the agenda of the Assembly (Annex 1).

This decision should be for us a valuable stimulus. We should also be greatly encouraged in our work by the fact that two countries have already — even before its final adoption — made use of one of our model conventions. Greece and Roumania signed, on March 21st, a Treaty of Non-Aggression and for the Pacific Settlement of Disputes modelled on the one we have proposed.

The agenda of our present session includes :

- (1) Examination on second reading of the model conventions which we framed at the last session ;
- (2) Preparation of bilateral treaties ;
- (3) Examination of the German suggestions ;
- (4) Examination of the question of financial assistance ;
- (5) Examination of any proposals the Turkish delegation might care to submit.

As regards the second reading of the model conventions, I thought it best, in order to expedite our work, to ask the Secretariat to submit to you a preliminary study which has been circulated.

The Finnish delegation has also sent us observations which have been communicated to you (Annex 2).

I think it might be well — and this is the first proposal I have to submit to the Committee — that any other delegations which might desire to submit observations on the model conventions framed at the last session should communicate them to us to-day in writing, so that the Drafting Committee — the appointment of which I am going to propose — should be able to proceed to-morrow to the revision of the text of the Conventions.

It is of course understood that delegations which are unable to submit their observations in writing to-day, for examination by the Drafting Committee, will be able to submit any observations they desire to make either in the Drafting Committee or subsequently at the

plenary meeting. In making this proposal, I am merely actuated by the desire to facilitate and expedite our work as much as possible. I may add that this was the procedure we adopted at our last session.

As regards bilateral treaties, I believe that the best method would be to wait until the model multilateral conventions have been approved on second reading. It will then be easy to make the necessary corrections in order to transform them into bilateral treaties.

The German suggestions have been dealt with by M. Rolin Jaequemyns in a remarkable Memorandum (Annex 8, V, *d*), and I think you will all agree with me in commending the impartiality as well as the acumen and wisdom of our Rapporteur. Presently, I shall have the honour of inviting him to speak in order to explain to us at this first meeting the principles by which he was guided in this work.

For the examination of the German suggestions, I would propose that the same procedure should be adopted as for the other questions. Any delegations which desire to submit written observations will perhaps be so good as to hand them in before to-morrow afternoon. They would be examined at a plenary meeting if necessary, and then referred to the Drafting Committee. On Friday the Committee, at a plenary meeting, might proceed to a discussion of M. Rolin Jaequemyns' Memorandum, and of any proposals which may have been submitted. The great importance of the German suggestions calls for a thorough examination, in which I hope a large number of the delegations here represented will take part.

The fourth question on our agenda, that is, financial assistance, has been discussed by a Joint Committee composed of delegates of the Financial Committee and of our own Committee. The Chairman of the Joint Committee, M. Veverka, will explain to you the results of those discussions at our next meeting. After M. Veverka's statement has been heard, I propose to ask the various delegations which have considered this question to be so good as to send to the Bureau in writing any observations they may desire to submit. The question may then have to be examined again by the Drafting Committee, and would be referred back to the plenary meeting for final decision.

At the last meeting of the Preparatory Commission, the Turkish delegation made certain suggestions which you will find on page 237 of the Minutes of the Preparatory Commission, Series VI.

To sum up, the methods of work I would propose are the following :

Plenary meetings will be held for general discussions and the final adoption of texts which have already been prepared. The Drafting Committee will be appointed to examine the general observations submitted, either at plenary meetings or in writing, by the various delegations. This Committee will draw up a report on each question and will submit it to the Committee, which, at a plenary meeting, will examine it and take a final decision.

The Drafting Committee, as was the case at the last session, will then appoint a Committee of Three which will have to examine the legal aspect of the various proposals.

Plenary meetings may be held as soon as the Drafting Committee has prepared reports to submit to the Committee.

This procedure, which is the one which was adopted at the preceding session, seemed the most appropriate in order to facilitate and expedite our work. I beg you to give me your opinion on this point.

The procedure was adopted without observation.

2. Appointment of the Drafting Committee.

The CHAIRMAN. — I venture to propose that a Drafting Committee be appointed composed as at the preceding session. As you may remember, this Drafting Committee included the following delegations : Argentine and Belgium, Finland, France, Germany, Great Britain, Greece, Italy, Japan, Netherlands, Poland. The Chairman and the Vice-Chairman of the Committee on Arbitration and Security were also members of the Drafting Committee.

This proposal was adopted.

3. Statement of the Turkish Representative.

MUNIR Bey (Turkey). — Mr. Chairman : I thank you for the courtesy you have shown to my country's delegation on this Committee. The presence of this delegation is due to a kind invitation addressed to the Turkish delegation at the session of the Preparatory Commission for the Disarmament Conference — an invitation which Turkey accepted with pleasure. The participation of Turkey in the Committee on Arbitration and Security is due to the same circumstances and considerations which led Turkey to take part in the Preparatory Commission.

I can assure you of my country's ardent desire to see the work of this assembly crowned with success.

As the discussion proceeds, the Turkish delegation will venture to offer certain observations, particularly in regard to the points already mentioned at the meeting of the Preparatory Commission on March 19th.

CHAPTER I. — NON-AGGRESSION.

Article 1.

Each of the High Contracting Parties undertakes, in regard to each of the other Parties, not to attack or invade the territory of another Contracting Party, and in no case to resort to war against another Contracting Party.

This stipulation shall not, however, apply in the case of:

- (1) The exercise of the right of legitimate defence — that is to say, resistance to a violation of the undertaking contained in the first paragraph;
- (2) Action in pursuance of Article 16 of the Covenant of the League of Nations;
- (3) Action as the result of a decision taken by the Assembly or by the Council of the League of Nations or in pursuance of Article 15, paragraph 7, of the Covenant of the League of Nations, provided that in this last event the action is directed against a State which was the first to attack.

Article 2.

Each of the High Contracting Parties undertakes, in regard to each of the others, to submit to a procedure of pacific settlement, in the manner provided for in the present Treaty, all questions whatsoever on which they may differ and which it has not been possible to settle by the normal methods of diplomacy.

Article 3.

Should any one of the High Contracting Parties consider that a violation of Article 1 of the present Treaty has taken place or is taking place, it shall immediately bring the question before the Council of the League of Nations.

CHAPTER II. — PACIFIC SETTLEMENT OF DISPUTES.

Article 4.

1. The following provisions shall apply to the settlement of disputes between the parties, subject to any wider undertakings which may result from other agreements between them.

2. The said provisions do not apply to disputes arising out of facts prior to the present Treaty and belonging to the past.

Article 5.

1. Disputes for the settlement of which a special procedure is laid down in other conventions in force between the parties to the dispute shall be settled in conformity with the provisions of those conventions.

2. Nevertheless, if these conventions only provide for a procedure of conciliation, after this procedure has been employed without result, the provisions of the present Treaty concerning judicial or arbitral settlement shall be applied in so far as the disputes are of a legal nature.

Section I. — Judicial or Arbitral Settlement.

Article 6.

All disputes with regard to which the parties are in conflict as to their respective rights shall be submitted for decision to the Permanent Court of International Justice, unless the parties agree, in the manner hereinafter provided, to have resort to an arbitral tribunal.

Article 7.

If the parties agree to submit their dispute to an arbitral tribunal, they shall draw up a special agreement in which they shall specify the subject of the dispute, the arbitrator selected, the procedure to be followed and, if necessary, the rules in regard to the substance of the dispute to be applied by the arbitrators. In the absence of sufficient particulars in the special agreement, the provisions of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes, shall apply automatically.

Article 8.

If the parties fail to agree concerning the special agreement referred to in the preceding article or fail to appoint arbitrators, either party shall be at liberty, after giving three months' notice, to bring the dispute by an application direct before the Permanent Court of International Justice.

Article 9.

If, in a judicial sentence or arbitral award, it is stated that a judgment, or a measure enjoined by a court of law or other authority of one of the parties to the dispute, is wholly or in part contrary to international law, and if the constitutional law of that party does not permit or only partially

permits the consequences of the judgment or measure in question to be annulled, the parties agree that the judicial or arbitral award shall grant the injured party equitable satisfaction.

Article 10.

1. Before any resort is made to arbitral procedure or to proceedings before the Permanent Court of International Justice, the dispute may, by agreement between the parties, be submitted to the conciliation procedure laid down in the present Treaty.

2. In the case of the attempt at conciliation failing, and after the expiration of the period of one month from the termination of the proceedings of the Conciliation Commission, the dispute shall be submitted to the Permanent Court of International Justice, or to the arbitral tribunal as the case may be.

Section II. — Conciliation.

Article 11.

All disputes the settlement of which cannot, under the terms of the present Treaty, be attained by means of a judicial or arbitral award shall be submitted to a procedure of conciliation.

Article 12.

The disputes referred to in the preceding article shall be submitted to a permanent or special Conciliation Commission constituted by the parties.

Article 13.

On a request being sent by one of the contracting parties to another party, a permanent Conciliation Commission shall be constituted within a period of six months.

Article 14.

Unless the parties concerned agree otherwise, the Conciliation Commission shall be constituted as follows:

(1.) The Commission shall be composed of five members. The parties shall each nominate one commissioner, who may be chosen from among their respective nationals. The three other commissioners shall be appointed by agreement from among the nationals of third Powers. These three commissioners must be of different nationalities and must not be habitually resident in the territory nor be in the service of the parties concerned. The parties shall appoint the President of the Commission from among them.

(2.) The commissioners shall be appointed for three years. They shall be re-eligible. The commissioners appointed jointly may be replaced during the course of their mandate by agreement between the parties. Either party may, however, at any time replace a commissioner whom it has appointed. Even if replaced, the commissioners shall continue to exercise their functions until the termination of the work in hand.

(3.) Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

Article 15.

If, when a dispute arises, no permanent Conciliation Commission appointed by the parties to the dispute is in existence, a special commission, appointed in the manner laid down in the preceding article, shall, unless the parties decide otherwise, be constituted for the examination of the dispute.

Article 16.

1. If the appointment of the commissioners to be designated jointly is not made within the period of six months provided for in Article 13, or within a period of three months from the date on which one of the parties requested the other party to constitute a special commission, or to fill the vacancies of a permanent Conciliation Commission, a third Power, chosen by agreement between the parties, shall be requested to make the necessary appointment.

2. If no agreement is reached on this point, each party shall designate a different Power, and the appointment shall be made in concert by the Powers thus chosen.

3. If within a period of three months these two Powers have been unable to reach an agreement, each of them shall submit a number of candidates equal to the number of members to be appointed. It shall then be decided by lot which of the candidates thus designated shall be appointed.

Article 17.

1. Disputes shall be brought before the Conciliation Commission by means of an application addressed to the President by the two parties acting in agreement, or in the absence of such agreement by one or other of the parties.

2. The application, after having given a summary account of the subject of the dispute, shall contain the invitation to the Commission to take any necessary measures with a view to arriving at an amicable settlement.

3. If the application emanates from only one of the parties, notification thereof shall be made by such party without delay to the other party.

Article 18.

1. Within fifteen days from the date on which a dispute has been brought by one of the parties before a permanent Conciliation Commission, either party may replace its own

commissioner, for the examination of the particular dispute, by a person possessing special competence in the matter.

2. The party making use of this right shall immediately inform the other party; the latter shall in that case be entitled to take similar action within fifteen days from the date on which the notification reaches it.

Article 19.

1. In the absence of agreement to the contrary between the parties, the Conciliation Commission shall meet at the seat of the League of Nations or at some other place selected by the President.

2. The Commission may in all circumstances request the Secretary-General of the League of Nations to afford it his assistance.

Article 20.

The work of the Conciliation Commission shall not be conducted in public unless a decision to that effect is taken by the Commission with the consent of the parties.

Article 21.

1. Failing any provision to the contrary, the Conciliation Commission shall lay down its own procedure, which in any case must provide for both parties being heard. In regard to enquiries, the Commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Chapter III of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

2. The parties shall be represented before the Conciliation Commission by agents whose duty shall be to act as intermediaries between them and the Commission; they may, moreover, be assisted by counsel and experts appointed by them for that purpose and may request that all persons whose evidence appears to them desirable should be heard.

3. The Commission, for its part, shall be entitled to request oral explanations from the agents, counsel and experts of the two parties, as well as from all persons it may think desirable to summon with the consent of their Governments.

Article 22.

Unless otherwise agreed by the parties, the decisions of the Conciliation Commission shall be taken by a majority vote, and the Commission may only take decisions on the substance of the dispute if all its members are present.

Article 23.

The parties undertake to facilitate the work of the Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information as well as to use the means at their disposal to allow it to proceed in their territory and, in accordance with their law, to the summoning and hearing of witnesses or experts and to visit the localities in question.

Article 24.

1. During the proceedings of the Commission, each of the commissioners shall receive emoluments, the amount of which shall be fixed by agreement between the parties, each of which shall contribute an equal share.

2. The general expenses arising out of the working of the Commission shall be divided in the same way.

Article 25.

1. The task of the Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the parties to an agreement. It may, after the case has been examined, inform the parties of the terms of settlement which seem suitable to it, and lay down the period within which they are to make their decision.

2. At the close of its proceedings, the Commission shall draw up a procès-verbal stating, as the case may be, either that the parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement. No mention shall be made in the procès-verbal of whether the Commission's decisions were taken by a majority vote.

3. The proceedings of the Commission must, unless the parties otherwise agree, be terminated within six months from the date on which the Commission shall have been notified of the dispute.

Article 26.

The Commission's procès-verbal shall be communicated without delay to the parties. The parties shall decide whether it shall be published.

Article 27.

If the parties have not reached an agreement within a month from the termination of the proceedings of the Conciliation Commission, the dispute remains subject to be dealt with in accordance with Articles 15 or 17 of the Covenant of the League of Nations as the case may be. This present provision shall not apply in the case provided for in Article 10.

CHAPTER III. — GENERAL PROVISIONS.

Article 28.

1. In all cases, and particularly if the question on which the parties differ arises out of acts already committed or on the point of being committed, the Permanent Court of International

Justice, acting in accordance with Article 41 of its Statute, or the arbitral tribunal, shall lay down, within the shortest possible time, the provisional measures to be adopted. It shall in like manner be for the Council of the League of Nations, if the question is brought before it, to ensure that suitable provisional measures are taken. The parties to the dispute shall be bound to accept such measures.

2. If the dispute is brought before a Conciliation Commission, the latter may recommend to the parties the adoption of such provisional measures as it considers suitable.

3. The parties undertake to abstain from all measures likely to react prejudicially upon the execution of the judicial or arbitral decision or upon the arrangements proposed by the Conciliation Commission or the Council of the League of Nations, and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

Article 29.

Should a dispute arise between more than two States parties to the present Treaty, the following rules shall be observed for the application of the forms of procedure laid down in the foregoing provisions:

(a) In the case of conciliation procedure, a special Commission shall invariably be constituted. The composition of such Commission shall differ according as the parties have all separate interests or as two or more of their number act together.

In the former case, the parties shall each appoint one commissioner and shall jointly appoint commissioners, nationals of third Powers, whose number shall always exceed by one the number of commissioners appointed separately by the parties.

In the second case, the parties who act together shall appoint their commissioner jointly by agreement between themselves and shall combine with the other party or parties in appointing third commissioners.

In either event, the parties shall, unless they agree otherwise, be guided by Article 15 and the following articles of the present Treaty.

(b) In the case of judicial procedure, the Statute of the Permanent Court of International Justice shall apply.

(c) In the case of arbitral procedure, if agreement is not secured as to the composition of the tribunal, each party shall have the right to submit the dispute to the Permanent Court of International Justice directly by means of an application.

Article 30.

1. The present Treaty shall be applicable as between the High Contracting Parties, even though a third Power, whether a party to the Treaty or not, has an interest in the dispute.

2. In conciliation procedure, the parties may agree to invite such third Power to intervene.

3. In judicial or arbitral procedure any third Power having an interest on legal grounds in the dispute shall be requested to take part in the procedure. The request shall be made to it by either party, or by both parties jointly. Such third Power, even if not invited, shall be entitled to intervene either if it is a party to the present Treaty or if the question concerns the interpretation of a treaty in which it has participated with the parties to the dispute.

4. The judgment or award pronounced shall have binding force on the third Power which has intervened, and the latter shall also be bound by the interpretation of the treaty in which it has participated with the parties to the dispute.

Article 31.

Disputes relating to the interpretation or application of the present Treaty, including those concerning the classification of disputes, shall be submitted to the Permanent Court of International Justice.

Article 32.

The present Treaty, which is intended to ensure the maintenance of peace and is in conformity with the Covenant of the League of Nations, shall not be interpreted as restricting the duty of the League to take at any time, and notwithstanding any procedure of conciliation or arbitration, whatever action may be deemed wise and effectual to safeguard the peace of the world.

Article 33.

1. The present Treaty, done in a single copy, shall be deposited in the archives of the League of Nations. The Secretary-General shall be requested to transmit certified true copies to each of the High Contracting Parties.

2. The present Treaty shall be ratified and the ratification shall be deposited at Geneva in the archives of the League of Nations as soon as possible.

3. It shall come into force as soon as all the ratifications have been deposited.

4. It shall be registered at the League of Nations by the Secretary-General, who shall be requested to notify the fact to all States Members and non-members of the League.

Article 34 (Duration of Treaty).

The present Treaty shall be concluded for a period of years as from its entry into force. Notwithstanding that the Treaty ceases to be in force, all proceedings which at that moment have been commenced shall be pursued until they reach their normal conclusion.

(As regards the duration of the Treaty, the Committee did not consider it its duty to decide between the various possible systems. It recommends three principal systems:

(The first, on the model of the Locarno-Rhine Pact, not specifying any period, but providing for expiry in virtue of a decision taken by the Council;

(The second, providing for a limited period of ten or twenty years, with the possibility of denunciation on the expiry of that period, subject to one year's notice, or, failing denunciation, the renewal of the Treaty by tacit agreement for the same period;

(The third system would be a mixed system providing for a short trial period, on the expiry of which the parties might withdraw, subject to one year's notice; failing denunciation, the Treaty would be for an indefinite period, with the possibility of termination in virtue of a decision taken by the Council.)

Article 35.

As from the present Treaty may be acceded to in the name of any Member of the League of Nations or of any non-Member State adjacent to or in the neighbourhood of the signatory or acceding States.

The instruments of accession shall be forwarded to the Secretary-General of the League of Nations, who shall notify receipt thereof to all the Members of the League of Nations, and to the High Contracting Parties non-members of the League.

BILATERAL TREATY OF NON-AGGRESSION.

(Treaty F.)

(List of Heads of States.)

.
Noting that respect for rights established by treaty or resulting from international law is obligatory upon international tribunals;

Recognising that the rights of the several States cannot be modified except with their own consent;

Considering that the faithful observance, under the auspices of the League of Nations, of forms of peaceful procedure allows of the settlement of all international disputes;

Desirous of establishing on a firm basis relations of frank co-operation between their respective countries, and of securing additional guarantees of peace within the framework of the Covenant of the League of Nations:

Have resolved to conclude a Treaty for these purposes and have appointed as their plenipotentiaries;

.
who, having exchanged their full powers, found in good and due form, have agreed on the following provisions:

CHAPTER I. — NON-AGGRESSION.

Article 1.

The High Contracting Parties mutually undertake that they will in no case attack or invade each other or resort to war against each other.

This stipulation shall not, however, apply in the case of:

- (1) The exercise of the right of legitimate defence, that is to say, resistance to a violation of the undertaking contained in the previous paragraph;
- (2) Action in pursuance of Article 16 of the Covenant of the League of Nations;
- (3) Action as the result of a decision taken by the Assembly or by the Council of the League of Nations, or in pursuance of Article 15, paragraph 7, of the Covenant of the League of Nations, provided that in this last event the action is directed against a State which was the first to attack.

Article 2.

The High Contracting Parties undertake to settle by peaceful means and in the manner laid down in the present Treaty all questions of every kind which may arise between them and which it may not be possible to settle by the normal methods of diplomacy.

Article 3.

If one of the High Contracting Parties considers that a violation of Article 1 of the present Treaty has been or is being committed, it shall bring the question at once before the Council of the League of Nations.

CHAPTER II. — PACIFIC SETTLEMENT OF DISPUTES.

Article 4.

1. The following provisions shall apply to the settlement of disputes between the parties subject to any wider undertakings which may result from other agreements between them.
2. The said provisions do not apply to disputes arising out of facts prior to the present Treaty and belonging to the past.

Article 5.

1. Disputes for the settlement of which a special procedure is laid down in other conventions in force between the parties to the dispute shall be settled in conformity with the provisions of those conventions.
2. Nevertheless, if these conventions only provide for a procedure of conciliation, after this procedure has been employed without result, the provisions of the present Treaty concerning judicial or arbitral settlement shall be applied in so far as the disputes are of a legal nature.

Section I. — Judicial or Arbitral Settlement.

Article 6.

All disputes with regard to which the parties are in conflict as to their respective rights shall be submitted for decision to the Permanent Court of International Justice, unless the parties agree, in the manner hereinafter provided, to have resort to an arbitral tribunal.

Article 7.

If the parties agree to submit their dispute to an arbitral tribunal, they shall draw up a special agreement in which they shall specify the subject of the dispute, the arbitrators selected, the procedure to be followed, and, if necessary, the rules in regard to the substance of the dispute to be applied by the arbitrators. In the absence of sufficient particulars in the special agreement, the provisions of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes, shall apply automatically.

Article 8.

If the parties fail to agree concerning the special agreement referred to in the preceding article or fail to appoint arbitrators, either party shall be at liberty, after giving three months' notice to bring the dispute by an application direct before the Permanent Court of International Justice.

Article 9.

If, in a judicial sentence or arbitral award, it is stated that a judgment or a measure enjoined by a court of law or other authority of one of the parties to the dispute is wholly or in part contrary to international law, and if the constitutional law of that party does not permit or only partially permits the consequences of the judgment or measure in question to be annulled, the parties agree that the judicial or arbitral award shall grant the injured party equitable satisfaction.

Article 10.

1. Before any resort is made to arbitral procedure or to proceedings before the Permanent Court of International Justice, the dispute may, by agreement between the parties, be submitted to the conciliation procedure laid down in the present Treaty.
2. In the case of the attempt at conciliation failing, and after the expiration of the period of one month from the termination of the proceedings of the Conciliation Commission, the dispute shall be submitted to the Permanent Court of International Justice, or to the arbitral tribunal as the case may be.

Section II. — Conciliation.

Article 11.

All disputes the settlement of which cannot, under the terms of the present Treaty, be attained by means of a judicial or arbitral award shall be submitted to a procedure of conciliation.

Article 12.

The disputes referred to in the preceding article shall be submitted to a permanent or special Conciliation Commission constituted by the parties.

Article 13.

On a request being sent by one of the contracting parties to another party, a permanent Conciliation Commission shall be constituted within a period of six months.

Article 14.

Unless the parties concerned agree otherwise, the Conciliation Commission shall be constituted as follows:

(1). The Commission shall be composed of five members. The parties shall each nominate one commissioner, who may be chosen from among their respective nationals. The three other commissioners shall be appointed by agreement from among the nationals of third Powers. These three commissioners must be of different nationalities and must not be habitually resident in the territory nor be in the service of the parties concerned. The parties shall appoint the President of the Commission from among them.

(2). The commissioners shall be appointed for three years. They shall be re-eligible. The commissioners appointed jointly may be replaced during the course of their mandate by agreement between the parties. Either party may, however, at any time replace the commissioner whom it has appointed. Even if replaced, the commissioners shall continue to exercise their functions until the termination of the work in hand.

(3). Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

Article 15.

If, when a dispute arises, no permanent Conciliation Commission appointed by the parties to the dispute is in existence, a special commission, appointed in the manner laid down in the preceding articles, shall, unless the parties decide otherwise, be constituted for the examination of the dispute.

Article 16.

1. If the appointment of the commissioners to be designated jointly is not made within the period of six months provided for in Article 13 or within a period of three months from the date on which one of the parties requested the other party to constitute a special commission or to fill the vacancies of a permanent Conciliation Commission, a third Power, chosen by agreement between the parties, shall be requested to make the necessary appointment.

2. If no agreement is reached on this point, each party shall designate a different Power, and the appointment shall be made in concert by the Powers thus chosen.

3. If, within a period of three months, these two Powers have been unable to reach an agreement, each of them shall submit a number of candidates equal to the number of members to be appointed. It shall then be decided by lot which of the candidates thus designated shall be appointed.

Article 17.

1. Disputes shall be brought before the Conciliation Commission by means of an application addressed to the President by the two parties acting in agreement or, in the absence of such agreement, by one or other of the parties.

2. The application, after having given a summary account of the subject of the dispute, shall contain the invitation to the Commission to take any necessary measures with a view to arriving at an amicable settlement.

3. If the application emanates from only one of the parties, notification thereof shall be made by such party without delay to the other party.

Article 18.

1. Within fifteen days from the date on which a dispute has been brought by one of the parties before a permanent Conciliation Commission, either party may replace its own commissioner, for the examination of the particular dispute, by a person possessing special competence in the matter.

2. The party making use of this right shall immediately inform the other party; the latter shall in that case be entitled to take similar action within fifteen days from the date on which the notification reaches it.

Article 19.

1. In the absence of agreement to the contrary between the parties, the Conciliation Commission shall meet at the seat of the League of Nations or at some other place selected by the President.

2. The Commission may in all circumstances request the Secretary-General of the League of Nations to afford it his assistance.

Article 20.

The work of the Conciliation Commission shall not be conducted in public unless a decision to that effect is taken by the Commission with the consent of the parties.

Article 21.

1. Failing any provision to the contrary, the Conciliation Commission shall lay down its own procedure, which in any case must provide for both parties being heard. In regard to enquiries, the Commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Chapter III of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

2. The parties shall be represented before the Conciliation Commission by agents whose duty shall be to act as intermediaries between them and the Commission; they may, moreover,

be assisted by counsel and experts appointed by them for that purpose and may request that all persons whose evidence appears to them desirable should be heard.

3. The Commission for its part shall be entitled to request oral explanations from the agents, counsel and experts of the two parties, as well as from all persons it may think desirable to summon with the consent of their Governments.

Article 22.

Unless otherwise agreed by the parties, the decisions of the Conciliation Commission shall be taken by a majority vote and the Commission may only take decisions on the substance of the dispute if all its members are present.

Article 23.

The parties undertake to facilitate the work of the Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory, and in accordance with their law, to the summoning and hearing of witnesses or experts, and to visit the localities in question.

Article 24.

1. During the proceedings of the Commission, each of the commissioners shall receive emoluments, the amount of which shall be fixed by agreement between the parties, each of which shall contribute an equal share.

2. The general expenses arising out of the working of the Commission shall be divided in the same way.

Article 25.

1. The task of the Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the parties to an agreement. It may, after the case has been examined, inform the parties of the terms of settlement which seem suitable to it, and lay down the period within which they are to make their decision.

2. At the close of its proceedings, the Commission shall draw up a procès-verbal stating, as the case may be, either that the parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement. No mention shall be made in the procès-verbal of whether the Commission's decisions were taken by a majority vote.

3. The proceedings of the Commission must, unless the parties otherwise agree, be terminated within six months from the date on which the Commission shall have been notified of the dispute.

Article 26.

The Commission's procès-verbal shall be communicated without delay to the parties. The parties shall decide whether it shall be published.

Article 27.

If the parties have not reached an agreement within a month from the termination of the proceedings of the Conciliation Commission, the dispute remains subject to be dealt with in accordance with Articles 15 or 17 of the Covenant of the League of Nations as the case may be. This present provision shall not apply in the case provided for in Article 10.

CHAPTER III. — GENERAL PROVISIONS.

Article 28.

1. In all cases, and particularly if the question on which the parties differ arises out of acts already committed or on the point of being committed, the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, or the Arbitral Tribunal, shall lay down, within the shortest possible time, the provisional measures to be adopted. It shall in like manner be for the Council of the League of Nations, if the question is brought before it, to ensure that suitable provisional measures are taken. The parties to the dispute shall be bound to accept such measures.

2. If the dispute is brought before a Conciliation Commission, the latter may recommend to the parties the adoption of such provisional measures as it considers suitable.

3. The parties undertake to abstain from all measures likely to react prejudicially upon the execution of the judicial or arbitral decision or upon the arrangements proposed by the Conciliation Commission or the Council of the League of Nations, and in general to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

Article 29.

1. The present Treaty shall be applicable as between the High Contracting Parties, even though a third Power, whether a party to the Treaty or not, has an interest in the dispute.

2. In conciliation procedure, the parties may agree to invite such third Power to intervene.

3. In judicial or arbitral procedure, any third Power having an interest on legal grounds in the dispute shall be requested to take part in the procedure. Request shall be made to it by either party or by both parties jointly. Such third Power, even if not invited, shall be entitled to intervene, either if it is a party to the present Treaty, or if the question concerns the interpretation of a treaty in which it has participated with the parties to the dispute.

4. The judgment or award pronounced shall have binding force on the third Power which has intervened, and the latter shall also be bound by the interpretation of the treaty in which it has participated with the parties to the dispute.

Article 30.

Disputes relating to the interpretation or application of the present Treaty, including those concerning the classification of disputes, shall be submitted to the Permanent Court of International Justice.

Article 31.

The present Treaty, which is intended to ensure the maintenance of peace and is in conformity with the Covenant of the League of Nations, shall not be interpreted as restricting the duty of the League to take at any time, and notwithstanding any procedure of conciliation and arbitration, whatever action may be deemed wise and effectual to safeguard the peace of the world.

Article 32.

The present Treaty shall be ratified and the exchange of ratifications shall take place at
It shall be registered at the Secretariat of the League of Nations.

Article 33 (Duration of Treaty).

The present Treaty shall be concluded for a period of years dating from the exchange of ratifications.

Notwithstanding that the Treaty ceases to be in force, all proceedings which at that moment have been commenced shall be pursued until they reach their normal conclusion.

(As regards the duration of the Treaty, the Committee did not consider it its duty to decide between the various possible systems. It recommends three principal systems:

“ (The first, on the model of the Locarno-Rhine Pact, not specifying any period, but providing for expiry in virtue of a decision taken by the Council;

“ (The second, providing for a limited period of ten or twenty years, with the possibility of denunciation on the expiry of that period, subject to one year’s notice or, failing denunciation, the renewal of the Treaty by tacit agreement for the same period;

“ (The third system would be a mixed system, providing for a short trial period, on the expiry of which the parties might withdraw, subject to one year’s notice; failing denunciation, the Treaty would be for an indefinite period, with the possibility of termination in virtue of a decision taken by the Council).

DONE at on

• (c) RESOLUTION ON THE SUBMISSION AND RECOMMENDATION OF MODEL TREATIES OF NON-AGGRESSION AND MUTUAL ASSISTANCE.

The Committee on Arbitration and Security recommends that the following draft resolution be submitted for the approval of the Assembly:

“ The Assembly;

“ Having noted the model treaties of non-aggression and mutual assistance prepared by the Committee on Arbitration and Security;

“ Appreciating the value of these model treaties;

“ And convinced that their adoption by the States concerned would contribute towards strengthening the guarantees of security;

“ Recommends them for consideration by States Members or non-members of the League of Nations; and

“ Hopes that they may serve as a basis for States desiring to conclude treaties of this sort.”

(d) RESOLUTION CONCERNING THE GOOD OFFICES OF THE COUNCIL.

The Committee on Arbitration and Security recommends that the following draft resolution be submitted for approval to the next Assembly:

“ In view of the resolution adopted by the Assembly on September 26th, 1926, requesting the Council to offer its good offices to States Members of the League for the conclusion of suitable agreements likely to establish confidence and security,

“ The Assembly,

“ Convinced that the conclusion between States in the same geographical area of security pacts providing for conciliation, arbitration and mutual guarantees against aggression by any one of them constitutes one of the most practical means that can now be recommended to States anxious to secure more effective guarantees of security;

“ Being of opinion that the good offices of the Council if freely accepted by all the parties concerned might facilitate the conclusion of such security pacts;

“ Invites the Council:

“ To inform all the States Members of the League of Nations that should States feel the need of reinforcing the general security conferred by the Covenant and of concluding a security pact for this purpose, and should the negotiations relating thereto meet with difficulties, the Council would, if requested — after it has examined the political situation and taken account of the general interests of peace — be prepared to place at the disposal of the States concerned its good offices which, being voluntarily accepted, would be calculated to bring the negotiations to a happy issue.”

IV. Articles of the Covenant.

(a) RESOLUTION CONCERNING M. RUTGERS'
MEMORANDUM ON ARTICLES 10, 11 AND 16 OF THE COVENANT

(Document C.A.S. 10).

The Committee on Arbitration and Security,

Having taken note of the memorandum on Articles 10, 11 and 16 of the Covenant,

Appreciates the great importance of the work accomplished in regard to the application of these provisions;

Considers that the data regarding the criteria of aggression collected in this memorandum constitute a useful summary of the Assembly's and the Council's work in regard to this matter and of the provisions of certain treaties;

Draws particular attention to the fact that the action which the Council, under Article 11 and the other articles of the Covenant, is called upon to take in case of conflict will provide it with valuable indications to enable it to form an opinion and to make it easier to decide who is the aggressor if war breaks out in spite of all endeavours to prevent it;

Considers that the examination of Article 11 of the Covenant, which lays down that the League “ shall take any action that may be deemed wise and effectual to safeguard the peace of nations ”, forms a useful corollary to the enquiry undertaken by the Committee of the Council and approved by the Council on December 6th, 1927, on the recommendation of the Assembly, and at the same time clearly demonstrates — without in any way detracting from the force of the other articles of the Covenant — that the League must in the first place endeavour to prevent war, and that in all cases of armed conflict or threat of armed conflict of any kind the League should take action to prevent hostilities or to bring hostilities to a standstill if they have already begun;

Notes the suggestions contained in the memorandum with regard to Article 16;

Recommends these studies to the Assembly as a valuable contribution in that they do not propose any rigid and detailed procedure to be followed in times of crisis, and do not add to or subtract from the rights and duties of the Members of the League, but constitute highly instructive indications of the possibilities inherent in the various articles of the Covenant and the manner in which those articles can be applied without prejudice to the methods of application which an infinite variety of circumstances may demand in practice.

4. Examination of the German Delegation's Suggestions. Statement by the Rapporteur.

The CHAIRMAN. — We shall not begin the general discussion immediately because, according to the procedure we have just adopted, we must consider these suggestions at one of the next plenary meetings. The Rapporteur, however, M. Rolin Jaequemyns, will give us a summary of his report.

M. ROLIN JAEQUEMYNS (Rapporteur). — On rising to address the assembly at the Chairman's kind invitation, I have a first duty to perform. I must thank the Chairman for the extremely indulgent terms in which he expressed to you his opinion on the memorandum which I have had the honour to submit to the Committee.

I have another duty to fulfil: namely, to thank the Committee for its confidence in entrusting me with the preparation of this memorandum. I was unable to fulfil this duty at the end of the last session, since it terminated very rapidly — as is the way with all our sessions — and I was under the impression that, if I had addressed the assembly then, even to thank it, I should have been more indiscreet than grateful. The Chairman has said that I am going to give you a summary of my report. As the document is not a very long one, any summary which I could give would be little more than a repetition of the wording of the document itself. I shall therefore merely explain to you the general lines on which I prepared it and what my intentions were.

In the first place, I was mindful of the method adopted by M. Holsti, M. Politis and M. Rutgers, and I endeavoured to follow, as best I could, these valuable examples which had already been set before I had the honour to be appointed by my Government as a delegate to this Committee.

In these circumstances, I felt I was not called upon to make a report. Therefore, although appointed Rapporteur, I felt I was not called upon to prepare a report in the strict sense of the word, but a memorandum, which is a very different matter. The report may come later. In this memorandum, I have endeavoured faithfully to reproduce the ideas expressed, beginning with the statements of M. von Simson himself: I have then set out the arguments advanced in support of the German delegation's suggestions and have also summarised the objections raised thereto, the doubts and fears which were expressed. Reading between the lines of this memorandum, you may possibly gather my own opinion, though it was not my intention to express an opinion at all. The object of a veritable report should be to state, in support of a proposal, the reasons for which the proposal may be approved and also to explain the reasons for which certain things have been done because they were held to be possible, and certain other things have been left undone because they were held to be too difficult. In the present case, for instance, I would not for a moment suggest that, if suggestion No. I is approved, suggestion No. III must also be approved forthwith. There is a very great difference between suggestion No. I, which only refers to disputes or disagreements; suggestion No. II, which concerns the danger of war; and suggestion No. III, which provides for cases in which hostilities have already broken out. In this connection, I would refer to the question of supervision which applies mainly to suggestions II and III. I am of opinion that, if no control is organised, no appreciable result will be obtained, but I admit that the organisation of supervision adds one more difficulty to those already existing. Moreover, I do not think it necessary to draw the Committee's attention to the seriousness of this problem.

My conclusion is very briefly this. After studying the German suggestions, I am firmly convinced — and I hope you will share my conviction — that something useful can be accomplished in this direction.

The action to be taken on these lines cannot for the present be complete, but I think it would be very unfortunate if nothing at all were accomplished. For my part, I intend to do everything I can in the meetings of the Drafting Committee and at the plenary meetings to make sure that the inherent difficulties of the case shall not prevent us from adopting forthwith certain resolutions which might then be submitted to a higher competent organ of the League.

The CHAIRMAN. — I should like to thank M. Rolin Jaequemyns for the explanations he has just given us. I shall go even further and say that he is right and I was wrong, in that the document he has signed is not a report but a memorandum. It is, in fact, our Committee's practice to prepare the way for discussion by means of a memorandum and to embody its conclusions in a report.

M. VON SIMSON (Germany). — You will doubtless not think it strange that I should wish to say a few words at this juncture.

I should like first of all to join with the Chairman in thanking the Rapporteur for the admirable work he has accomplished. This memorandum has been prepared with the clear-mindedness of a lawyer and the breadth of view of a statesman, for M. Rolin Jaequemyns is both. It contains a very detailed analysis of all questions connected with the German suggestions. I am also glad to note that the Rapporteur has arrived at the conclusion that our suggestions are entirely in keeping with the Covenant of the League. M. Rolin Jaequemyns and I differ on certain points as regards the possibility of putting these suggestions into effect. I am rather more optimistic than he is, and hope to convince him — as I hope to convince the other members of the Committee — that the difficulties must not be exaggerated and that they can be overcome. M. Rolin Jaequemyns, moreover, has himself indicated in his memorandum the methods by which certain difficulties may be eliminated.

(b) RESOLUTION CONCERNING COMMUNICATIONS OF THE LEAGUE
IN CASE OF EMERGENCY.

The Committee on Arbitration and Security,

Considering that, in case of emergency, rapidity and security in the matter of communications between the Secretary-General, the Members of the Council, the States concerned or the special missions of the Council are of particular importance with a view to ensuring efficacious action by the League;

Noting that the importance of this was recognised by the last Assembly in Resolution No. III, adopted on September 26th, 1927, on the proposal of the Third Committee;

While gratified at the results of the initial efforts of the Committee for Communications and Transit to make the best possible use of existing means of communication;

Directs attention to the following passage in the Report of the Committee for Communications and Transit, dated March 1927, which was submitted to the Council and the Assembly:

“ . . . that at a time of general emergency — for example, immediately before mobilisation and, above all, during the actual period of mobilisation — the total or partial taking over by the State of the means of communication must inevitably mean that, in many cases, communications of importance to the League might be rendered less rapid or less certain despite the successful application of the measures laid down in the report approved by the Council at its December session, unless some special means, independent of the general system of national communications, . . . ”;

Considers that the systematic study of the means to be employed by the organs of the League to enable Members to carry out the obligations devolving upon them in virtue of the different articles of the Covenant requires that communications for the purposes of League action in case of emergency should have every guarantee of independence and should be as little affected as possible by the disturbance which a state of emergency will necessarily produce in the regular working of the communications controlled by the different Governments;

Trusts that the supplementary technical studies undertaken by the Transit Committee, at the request of the Council and in conjunction with all the authorities concerned, with a view to providing the League of Nations with independent air communications and a radio-telegraphic station enabling it to communicate direct with as many Members of the League as possible, may be rapidly completed;

And emphasises the desirability of enabling the next Assembly to take steps to put these schemes into effect, more particularly as regards the establishment of a radio-telegraphic station.

(c) RESOLUTION REGARDING FINANCIAL ASSISTANCE TO STATES
VICTIMS OF AGGRESSION.

The Committee on Arbitration and Security,

Having taken note of the report by the Joint Committee on questions relating to financial assistance;

Thanks the Joint Committee for its valuable collaboration;

Adopts the attached report submitted by its Rapporteur (document C.A.S.69);

Invites the Financial Committee to continue its technical enquiries on the basis of the results obtained after the meeting of the Assembly;

Recommends that the Assembly should give its opinion upon the questions raised;

For this purpose, requests the Secretary-General to forward the report and the Minutes of the Joint Committee to Governments in order that they may give instructions to their delegates at the Assembly.

(d) REPORT ON FINANCIAL ASSISTANCE TO STATES VICTIMS OF AGGRESSION.

In pursuance of a Council resolution dated September 4th, 1926, the Financial Committee proceeded to study the question of financial assistance to States victims of aggression, limiting its enquiry to the purely financial aspects of the problem.

In the report in which it published the result of its work (document C.336.M.110.1927.II), it pointed out that, should the Governments decide to work out a scheme of financial assistance,

they would have to reply to certain special questions; among other things, they would have to agree upon a "definition of the victim of aggression, the method of determination (such as by unanimous or majority vote of the Council), the States entitled to participate in the scheme (*e.g.*, whether they may include non-members of the League), and also the maximum amount to be covered by the scheme."

* * *

The Council first communicated the Financial Committee's report to Governments and later submitted it to the Assembly at its eighth ordinary session.

The latter emphasised the importance of a system of financial aid for contributing to the organisation of security, which is an indispensable preliminary to general disarmament. It requested the Council to continue its examination of the plan and to prepare and complete it with a view to its final adoption either by a Disarmament Conference or by a special Conference to be convened for the purpose. It recommended that the plan and the documents relating to it should be submitted to the Committee on Arbitration and Security.

When transmitting the Assembly resolution, through the Preparatory Commission, to the Committee on Arbitration and Security, the Council authorised the latter to consult the Financial Committee whenever it thought fit and to request it to pursue any necessary technical enquiries into the question.

* * *

The Committee on Arbitration and Security first decided to request the Rapporteur appointed for the purpose to undertake a preliminary study of the scheme. In particular, he was to take account of the preliminary points raised by the Financial Committee regarding the criteria which would allow aggression to be presumed, and relating to the Council's procedure in this matter, as well as to the right of participation by States (the question of non-Members of the League).

In the memorandum submitted by the Rapporteur, the opinion was expressed that, unless the Council were from the outset entrusted with the free disposal of the necessary funds to guarantee a loan to the State attacked, it would be necessary to harmonise the system of financial assistance with the provisions of Article 16 of the Covenant. Every Member of the League should have the right to participate in the scheme, provided that it acceded to the proposed convention within a given period. Non-member States might be permitted to participate in the scheme in virtue of a special decision taken by a unanimous or majority vote of the signatory States.

Furthermore, the memorandum drew attention to the question whether the scheme could be brought into operation even before there had been a breach of the Covenant. It pointed out that, among the means of pressure which the Council could employ in the course of its efforts to prevent war under various articles of the Covenant, and especially Article 11, one of the most effective was the possibility of guaranteeing a loan on behalf of the party which might be the victim of aggression. To hold out prospects of this possibility, and perhaps even make promises to this effect, would affirm the ties uniting members of the League with States that might be attacked, and would be a pledge of their determination to take action to uphold the principles of the Covenant.

The memorandum concluded by stating that the question of financial assistance should continue to be studied from both the technical and political points of view.

Having taken note of the memorandum, the Committee on Arbitration and Security, in agreement with the Financial Committee, thought it advisable to set up a Joint Committee made up of members of the two Committees.

After a general discussion, the Joint Committee asked the Financial Committee what solutions it recommended to the preliminary questions raised in its report.

On receipt of the Financial Committee's reply, the Joint Committee pursued its work, and later submitted a report (see Appendix) to the Committee on Arbitration and Security, in which it set forth the formulæ proposed by the Financial Committee and the observations to which they had given rise in the Joint Committee.

Among the solutions referred to the Committee on Arbitration and Security for examination, those concerning the field of application of the scheme and the decisions which the Council will have to take are of a definitely political nature.

The *Financial Committee* considers that, not only must financial assistance be given in the case provided for in Article 16, but that it should also be given even in the case of a threat of war, if such action should be deemed wise and effectual to safeguard or re-establish the peace of nations. It should be brought into operation by a unanimous vote of the Council, minus the votes of the parties to the dispute.

On this subject very varied opinions were expressed in the Joint Committee, in particular on the question of the guarantors as regards the application of Article 4, paragraph 5, of the Covenant and the character of the decisions the Council would be called upon to give.

* * *

The time has now come when an answer must be given — from the political point of view — to the preliminary questions raised by the Financial Committee. The Committee on Arbitration and Security was not able to enter into a thorough examination of the substance of the question, since Governments had not yet had an opportunity of taking cognisance of the Joint Committee's

report, and the time available for discussion by the Committee on Arbitration and Security at its third Session was too short.

In these circumstances, the Committee decided to transmit the Joint Committee's report to the Assembly and to communicate it to the Governments beforehand, so that they should be able to give the necessary instructions to their delegates to the Assembly.

It recommends that the Assembly should give its opinion upon the questions raised and instructions for the continuation of the work.

The Committee on Arbitration and Security, being desirous that the scheme of financial assistance should be successfully prepared as soon as possible, considers that the Financial Committee should continue its technical work on the basis of the results obtained after the meeting of the Assembly.

The Committee on Arbitration and Security once more desires to emphasise the importance which it attaches to financial assistance, and the value of such a measure for security and disarmament.

(e) Appendix. — REPORT OF THE JOINT COMMITTEE.

Following a suggestion made by the Chairman of the Committee on Arbitration and Security at its second session, a Joint Committee consisting of members of the Financial Committee and of members of the Committee on Arbitration and Security was appointed for the joint study of the questions which required to be solved to enable the Financial Committee to work out the technical details of the Scheme of Financial Assistance to States Victims of Aggression.

The following were appointed to the Joint Committee:

(a) For the Committee on Arbitration and Security: M. VALDÉS-MENDEVILLE (Chile), M. ERICH (Finland), M. RUTGERS (Netherlands) and M. VEVERKA (Czechoslovakia);

(b) For the Financial Committee: Count DE CHALENDAR (France), Dr. MELCHIOR (Germany) and Sir Henry STRAKOSCH (South Africa).

The Committee held two meetings, on March 2nd and on June 5th, 1928, under the chairmanship of M. Veverka.

Count de Chalendar, Dr. Melchior and Sir Henry Strakosch consulted the Financial Committee on the points raised at the first meeting of the Joint Committee; at the second meeting of the Joint Committee, they explained that the Financial Committee recommended that the technical details of the scheme of financial assistance should be worked out on the following lines:

(1) The financial scheme should be embodied in a special Convention.
(2) The Convention should be open to all Members of the League.
(3) States not members of the League might be allowed to participate by a decision of the Council.

(4) The machinery of the Convention should be so elastic that it would be possible for a State not signing the Convention to participate in the guarantees in general or in the guarantee of a specific loan.

(5) Instead of fixing the maximum for the rate of interest and amortisation of any loans, the maximum annual liability in respect of the service of loans would be fixed for each guarantor State.

As regards the terms of the loans, these could be approved before the issue — *e.g.*, by the Chairman for the time being and the two preceding Chairmen of the Financial Committee, acting by a majority vote if unanimity could not be secured.

(6) The issue of loans could take place on the strength of the undertakings subscribed to in the Convention, and represented by the general bonds, without waiting for the specific guarantee bonds to be deposited.

(7) The Convention would provide that financial assistance could be given in the case of war or threat of war, if such action were deemed wise and effectual to safeguard or re-establish the peace of nations.

(8) Financial assistance would be brought into operation by a unanimous vote of the Council (minus the parties to the dispute).

* * *

The first seven points were unanimously approved by the Joint Committee. During the discussion of these points the members of the Financial Committee explained that it appeared difficult to lay down in advance a definite rate for the service of the loans. It was impossible to determine there and then in what manner the loans would be issued, as the circumstances in which the issue would take place could in no way be foreseen. Moreover, to lay down in advance maximum terms, which would necessarily be high, might prejudice the negotiation of the loans.

The Financial Committee had intentionally defined the circumstances in which the Convention might be carried into effect in general terms in order to cover both the cases contemplated in Article 16 of the Covenant and those arising out of paragraph 1 of Article 11. The Financial Committee held that the Convention must be in complete harmony with the spirit of the Covenant generally and with Article 15 and paragraph 1 of Article 11 in particular. If the Council were called upon for a decision in regard to the enforcement of the Covenant, it would be entirely free to graduate the measures provided for in the scheme. In the event of a threat of war, it might confine itself to issuing a warning or to measures in the nature of a demonstration; for instance, it might intimate

to one of the parties involved that, if it took certain steps of an aggressive character, the Council would unhesitatingly enforce the scheme of financial assistance for the benefit of the other party.

* * *

As regards point No. 8, the question arose whether the decision of the Council should be binding upon the signatories of the Convention, and whether signatories which were Members of the League but not Members of the Council should sit on the Council for the purpose of such a decision. The Joint Committee was unable to reach a unanimous conclusion on this subject.

The Financial Committee was of opinion that the rule of unanimity in the Council was necessary, and considered that this provided a sufficient guarantee for the signatories of the Convention; M. Rutgers, however, pointed out that this guarantee would be much more substantial for signatories which were permanent Members of the Council. These would be sure that the scheme of financial assistance would never be enforced against their will, whereas the other signatories would not enjoy a similar advantage. This point appeared to M. Rutgers to be of particular importance, inasmuch as the contemplated scope of the Convention is very wide and covers, not only the cases of Article 16, but also those of paragraph 1 of Article 11.

M. Rutgers doubted whether the exchange of the general bonds against specific bonds could take place automatically, and thought that the States signatories must be allowed to decide for themselves, even after the Council had taken a decision. He was afraid that more than one State would refuse to subscribe to a convention whose signatories would be required to agree in advance to place themselves entirely in the hands of the Council. The disadvantages which might follow from allowing the signatories to determine their own obligations, and those which might arise out of the possible default of a signatory could be offset by the super-guarantee contemplated by the Financial Committee.

M. Valdés-Mendeville admitted that there might be great practical difficulties in the way of inviting all the States signatory to the Convention to send a representative to sit on the Council, but he wondered whether, in such a case, an exception might be made to the general provision contained in paragraph 5 of Article 4 of the Covenant. In any case, he considered that a fundamental question of principle was involved in this discussion, *i.e.*, the nature of the Council's decisions. Referring to M. Rutgers' Memorandum on the Articles of the Covenant, he considered that, even in the most serious cases (Article 16), the Council's decisions could not be absolutely binding: the Council made *recommendations*, but did not *impose* its decisions upon States.

M. Erich was of opinion that the Council's decision should be binding upon all signatories. Should this be impossible, it should in any case be binding upon those signatories which had voted on the decision. The refusal of one of the signatories to accept the decision should not affect the undertaking given by the others. If each State were left free to decide whether financial assistance should be given to the victim of aggression, the machinery of assistance would in practice become ineffective.

M. Erich had no objection to the proviso that the Council decision should be unanimous, but he pointed out that this rule should not preclude the possibility of defining certain cases in which aggression might be presumed, either because one of the parties at issue displayed intentions which were incompatible with the Covenant, or because the attitude of the other was proof positive of its friendly and pacific intentions.

M. Erich was of opinion that the decision of the Council should be made binding upon all signatories of the Convention without there being any need for them all to have a share in the taking of the decision.

The members of the Financial Committee, on their side, emphasised the necessity for making the Council decision, which would bring the plan into operation, binding upon all signatories of the Convention. If a war were on the point of breaking out, it would be of the highest importance to the threatened State that the loan should be floated with the least possible delay, and that the amount available should be determined forthwith. If States signatories were allowed to question their liability and to defer the exchange of the bonds, this, in itself, would ruin the whole of the credit of the scheme. It would be better to have a limited number of signatories which were prepared to give their guarantee automatically as soon as the Council had taken a decision than a large number of signatories in whom no absolute reliance could be placed.

The super-guarantee advocated by the Financial Committee was not designed to provide for the contingency of one of the signatory States withdrawing its guarantee. It was intended solely to facilitate loan subscriptions by affording the subscribers the guarantee of a few financially strong States for the full amount of the loan.

In the opinion of the members of the Financial Committee, the participation of all signatories in the vote on the Council decision would not seem to be practicable at the time of the conflict. It would be desirable, in order to make the Convention effective, to obtain the greatest possible number of accessions to it. But the greater the number of acceding States the more difficult it would be, in the event of a dispute, to bring them together to participate in the decision of the Council, and the more difficult it would be to secure a unanimous decision.

They therefore considered it essential that a clause should be embodied in the Convention, provided that the guarantors would waive their right to sit on the Council, under paragraph 5 of Article 4, should the Council have to take a decision on the enforcement of the Convention.

* * *

The members of the Joint Committee hereby refer the results of their discussions to the Committee on Arbitration and Security for such action as it may see fit to take, and, in particular, in order to enable it to give its opinion on point No. 8.

(f) MINUTES OF THE FIRST AND SECOND SESSIONS OF THE JOINT COMMITTEE APPOINTED TO EXAMINE THE QUESTION OF FINANCIAL ASSISTANCE TO STATES VICTIMS OF AGGRESSION.

FIRST SESSION.

Held at Geneva on March 2nd, 1928, at 11 a.m.

Present:

H.E. M. J. VALDÉS-MENDEVILLE.	}	Members of the Committee on Arbitration and Security.
H.E. M. R. W. ERICH		
Dr. V. H. RUTGERS		
H.E. Dr. F. VEVERKA		
Count DE CHALENDAR	}	Members of the Financial Committee.
Dr. MELCHIOR		
Sir Henry STRAKOSCH		

On the proposal of M. RUTGERS, H.E. Dr. F. VEVERKA was elected Chairman.

Sir Arthur SALTER, Director of the Economic and Financial Section of the Secretariat, requested by the Chairman to give some account of the questions to be discussed by the Joint Committee, said that, before continuing its work in connection with financial assistance, the Financial Committee wished to have information with regard to questions of a political nature. An exchange of views between certain members of the Financial Committee and of the Committee on Arbitration and Security accordingly seemed necessary.

There were three groups of political questions:

- (1) In what circumstances should the scheme of financial assistance be brought into operation? Was it necessary first of all to define the aggressor?
- (2) Were the conditions for the application of the scheme to be related to Article 11 or would they be limited to the application of Article 16? Should the Council's decision be taken by a majority vote or unanimously and, in the latter case, would the parties to the dispute be excluded?
- (3) Under what conditions should non-Member States be allowed to participate in the scheme of financial assistance?
- (4) Would not the exchange of the general bonds for specific bonds give rise to technical difficulties? Further, certain questions had been raised by the Belgian delegation to the Committee on Arbitration and Security. Neither the liability of the guarantors, the general conditions of the loan, nor the rate of issue had been fixed.

After some general observations, M. RUTGERS asked whether financial assistance was to be confined to States victims of aggression, or also extended to States threatened with aggression? In the former case, it would involve the application of Article 16 and, in the latter, of Article 11 as well. There were, however, certain disadvantages in applying the scheme of financial assistance at the provisional stage of threatened aggression. In this connection, the Polish Government had already referred to the possibility of a State recognised as threatened with aggression, obtaining a loan and, should the aggression not take place, being liable for the service of a loan which it did not need. M. Rutgers was under the impression that the Financial Committee had contemplated the possibility of financial assistance only when aggression had actually occurred. In his opinion, the definition of the aggressor should be the same in the case of financial assistance as in the case of the sanctions provided for in Article 16.

He thought that it was also necessary to determine whether the decision in regard to the exchange of general bonds for specific bonds should rest with the Council or with the various Governments.

If the scheme were to be applied in virtue of Article 11, a unanimous decision would require the votes of the parties, since no mention was made in Article 11 of the parties to the dispute.

M. ERICH reminded the members that the Finnish Government had already mentioned Article 11 in connection with financial assistance and quoted the relevant passages in the Finnish memorandum. He was, however, grateful to M. Rutgers, who, as Rapporteur, had stressed the value of this memorandum. In his opinion, the fact that financial assistance had been co-ordinated with two Articles of the Covenant—11 and 16—was of great importance, since financial assistance would be much more effective if it were granted to a State threatened with aggression. In his conclusions, M. Rutgers had pointed out that, in the event of a conflict, the attitude of the two countries in regard to the Council's recommendations would afford a valuable indication of their respective intentions. Nevertheless, if financial assistance were wrongly granted, the matter would be less serious than an error in applying the sanctions contemplated in Article 16. It was very improbable, however, that such a case would arise, and it was more likely that the difficulty of determining the aggressor would cause a certain amount of delay, which would be prejudicial to the efficacy of the scheme.

He would recall the fact that the Rhine Pact provided for the case of violent aggression, in which event military assistance would be given to a State before it had been recognised to be the victim of aggression (Article 4, paragraph 3, of the Rhine Pact), and he thought that, as regards the putting into practice of the scheme of financial assistance, difficulties of principle should not be exaggerated.

The Finnish Government was of opinion that work in connection with the definition of the aggressor should be continued, but that financial assistance might be provided for, independently of that point. Although it was not possible to draw up a definite scheme until the aggressor had been determined, a preliminary scheme could, he thought, be worked out, in view of the Rapporteur's proposals to co-ordinate Articles 11 and 16.

M. VALDÉS-MENDEVILLE noted with satisfaction that a relation had been established between financial assistance and Article 11. This would enable the work to go forward, and the framing of preventive measures against attack would be of the greatest assistance for the maintenance of peace.

The CHAIRMAN asked, as a first question, whether, in the Committee's opinion, financial assistance should be guaranteed only after aggression had taken place or whether it would also be granted in the case of a threat of aggression.

Sir Henry STRAKOSCH explained the Financial Committee's intentions in regard to the preparation of the scheme of financial assistance. It was necessary to decide, in the first place, in what circumstances the scheme should be applied. The political aspects of this question had not been dealt with. The memorandum which had served as a basis for the discussions of the Financial Committee referred to Articles 11 and 16. He was of opinion that financial assistance should be given in such a way as to prevent an attack and did not think there was any need for the direct co-ordination of the scheme of financial assistance with one of the Articles of the Covenant. If the Council's decision were taken unanimously, the parties to the dispute being excluded, it would be much easier to carry out the loan operations than if this decision were taken by a majority vote. Two decisions would therefore be imperative: one, to be taken immediately, concerned the granting of financial assistance; the other, regarding the amount of the loan, need not be taken until aggression had actually occurred. As regards the exchange of general bonds for specific bonds, the Financial Committee had endeavoured to make this operation as automatic as possible, in order to avoid loss of time.

Dr. MELCHIOR was of opinion that the question submitted to the Financial Committee was that of financial assistance to States victims of aggression, that was to say, States which had actually been attacked. If so, assistance would be given in virtue of Article 16. He had always considered the question from that point of view, and the idea of co-ordinating financial assistance with Article 11 was new to him and he had not yet had time to examine the proposal.

COUNT DE CHALENDAR also thought that the proposal to co-ordinate the scheme of financial assistance with Article 11 might be a new one for certain members of the Financial Committee. He thought, therefore, a further discussion of the matter by the Financial Committee advisable.

Sir Arthur SALTER explained how financial assistance might usefully be co-ordinated with Article 11. Experience had shown that the intermediate period prior to the application of Article 16 might be used to bring the scheme of financial assistance into operation — thereby possibly preventing aggression and also the far-reaching sanctions contemplated in Article 16.

Sir Henry STRAKOSCH pointed out that he had merely expressed his personal views on the matter, but, since no objection had been raised to them by the Financial Committee, he presumed that the latter had accepted these views.

M. RUTGERS was unable to agree with Sir Arthur Salter in regard to the intermediate stage between Article 11 and Article 16, and was doubtful whether it was really necessary to co-ordinate financial assistance with any special article of the Covenant.

Sir Arthur SALTER said that experience had shown that, in certain cases, it appeared to be inexpedient to stipulate that Article 16 should be brought into operation, and he was therefore of the opinion that financial assistance should be granted, not after aggression had taken place, but before the Council or States Members had decided that the sanctions provided for in Article 16 should be applied.

M. RUTGERS pointed out that he had expressed this same opinion in his report (paragraph 211). He thought that the question of the co-ordination of Articles 11 and 16 with the scheme of financial assistance should first be studied by the Financial Committee before the work of the Joint Committee was pursued any further.

As several other speakers also took this view, *it was decided*, on the proposal of the CHAIRMAN, to allow the Financial Committee sufficient time to make a further study of the question.

Discussion was then opened on the exchange of specific and general bonds.

Sir Henry STRAKOSCH pointed out how advantageous it was that general bonds should specify the maximum amount of the payments to be made by each country. When depositing the general bonds with the trustee, each country would specify a suitable place — a European legation for instance — where they would be exchanged, if necessary, for specific bonds.

M. RUTGERS asked whether a notification by the Council would not be sufficient for the trustee without the need of a general bond.

Sir Henry STRAKOSCH replied that, assuming that the Banque Nationale Suisse were the trustee, it could act immediately, whereas, in the absence of general bonds, there would only be the Convention, and the bank would not have this in its possession.

Dr. MELCHIOR agreed with Sir Henry Strakosch. If the Secretary-General were appointed trustee and the bonds deposited at Berne, where they could be countersigned by the Ministers Plenipotentiary, the whole procedure could be carried out in about ten hours.

Sir Henry STRAKOSCH thought that, after the Convention concerning financial assistance had been signed, it would be advisable that it should, when required, be brought into operation in virtue of a unanimous decision by the members of the Council other than the parties to the dispute. The signatory Governments would then be under the obligation immediately to exchange the general bonds for specific bonds by telegraphing to their Ministers, requesting them to effect this exchange.

M. RUTGERS pointed out that the Council would first have to inform the Governments of its decision.

Sir Henry STRAKOSCH replied that the procedure for the exchange of bonds would be carried out by each Government. In the case of Austria, there were no general bonds because the exact amount was known.

Dr. MELCHIOR adverted to the situation of States not represented on the Council. Financial assistance would be brought into operation by the unanimous decision of the Council, but each country would be the sole judge of whether the provisions of Article 16 should or should not be applied.

M. VALDÉS-MENDEVILLE thought that this question should be settled by the Convention and not only by Article 16.

M. ERICH was of opinion that, in order to render the Convention more effective, special rules should be drawn up, such as those contained in the Convention relating to the Aland Islands (mentioned on page 27 of M. Rutgers' report) and in the Finnish observations on the Geneva Protocol of 1924. The Convention in question provided that, if unanimity could not be obtained, a two-thirds majority would suffice.

On the CHAIRMAN's proposal, it was decided that the next meeting of the Joint Committee should be held before the forthcoming session of the Committee on Arbitration and Security. This would enable the Financial Committee to take into consideration any new view that might be put forward. Members of the Financial Committee who were also members of the Joint Committee would thus be able to communicate to the latter the observations made by the Financial Committee on the matter.

SECOND SESSION.

Held at Geneva on Tuesday, June 5th, 1928, at 10 a.m.

Chairman: H.E. Dr. F. VEVERKA.

Present: The same persons as at the first session.

The CHAIRMAN observed that the question had been left unsettled, as the Committee had thought it necessary to consult the Financial Committee once more before drawing up its report.

Sir Henry STRAKOSCH stated the views of the Financial Committee. Four questions had been raised at its last session:

1. In what circumstances was the scheme for financial assistance to be put in force?
2. What would be the position of States not Members of the League? Would they be authorised to participate in the scheme of assistance?
3. A question raised by the Belgian Member of the Committee on Arbitration and Security: Would it not be desirable to fix a maximum limit in advance for the rate of interest and amortisation?
4. Would there not be a danger of the exchange of general bonds against specific bonds involving a considerable delay in the application of the scheme, and must this exchange be regarded as a prerequisite condition for the issue of the loan?

These four points were discussed by the Financial Committee. Its conclusions are summed up as follows:

1. It was thought desirable that the question of financial assistance should be regulated by a special Convention. The obligations under the Convention should become effective when the Council of the League, in the case of war or threat of war, decides by unanimous vote (minus the parties to the dispute) that, in order to safeguard or restore the peace of nations, it is desirable to afford financial assistance, in the manner and under the conditions defined in the Convention, to one or more signatory States.

2. The Financial Committee was of opinion that the scheme should be in the first place for Members of the League. Any Member of the League which desired to participate would be free to do so. States not Members of the League might be allowed to participate by a decision of the Council. The machinery should be so elastic that it would be possible for a State not signing the Convention to participate in the guarantees in general or in the guarantee of a specific loan. In such an event, the percentage of the guarantees of the individual States would need to be changed.

3. It was not thought feasible to fix a maximum for the rate of interest and amortisation of the loan to be raised under the scheme. It was suggested that the conditions of all loans to be issued should be approved, *e.g.*, by the Chairman and the two preceding Chairmen of the Financial Committee, acting if necessary by a majority vote. But it would be possible to fix the maximum annual liability of each guarantor State.

4. It was agreed that the issue of a loan could take place before specific guarantee bonds were deposited, and need not be delayed until these deposits had been effected.

Sir Henry Strakosch read paragraph 1 of that document and observed that, in the Financial Committee's view, it would be desirable to regulate the question of financial assistance by a separate Convention, the obligation to become effective after the Council of the League, in case of war or threat of war, had decided by a unanimous vote, that it was important for the maintenance of peace that the scheme of financial assistance should come into operation. This first paragraph had intentionally been drawn up in very general terms, so that it might be in conformity with the terms of both Articles 11 and 16. The Financial Committee considered it essential that the decision to put this scheme of assistance in operation should be taken by a unanimous vote of the Council, minus the parties to the dispute, and he believed that such a unanimous vote would constitute a sufficient guarantee to enable the Parliaments of the different States to subscribe to this very extensive obligation.

Sir Henry Strakosch, passing to paragraph 2, pointed out that the Financial Committee, though recognising that the scheme was intended primarily for States Members of the League, had nevertheless agreed, at the request of the American representative, that individual countries not Members of the League might be allowed to participate in the Convention, in circumstances specified in regard to each particular case.

As regards the third point, the Financial Committee considered that it was not feasible to fix a maximum forthwith for the rate of interest and amortisation of the loan to be raised under the scheme, seeing that the decisions to be taken on this subject must depend entirely on the conditions of the money market at the time of the issue of the loan.

The Financial Committee was, however, of opinion that it would be possible to fix the maximum annual liability of each guarantor State.

As regards point 4, the Financial Committee had been of opinion that the issue of a loan could take place before the general bonds had been exchanged for specific guarantee bonds, on the ground that a State's signature to the Convention might be regarded as constituting a sufficient guarantee, on its part, to enable the loan to be issued. He pointed out that this view had already been expressed by the Financial Committee in its first report, and read the passage of the report relating to that point. He added that the most practical plan would be to request the Financial Committee to draw up the scheme in full detail, as only an outline was given in its report. There were still a great number of points to be settled, as the Financial Committee had so far only discussed the question from a general and technical standpoint.

The CHAIRMAN thanked Sir Henry Strakosch for his statement. He thought the Joint Committee might take the Financial Committee's conclusions as a basis for discussion.

Dr. MELCHIOR pointed out that the first of the Financial Committee's replies did not exactly answer the question which had been stated. The Committee had been asked whether it was possible to draw up a scheme of financial measures to assist a State victim of aggression, but the Financial Committee had raised the question whether this assistance should be confined to cases in which aggression had already taken place, *i.e.*, whether the scheme was to be kept within the terms of Article 16 or whether, on the contrary, it was to be extended to cases coming under Article 11, *i.e.*, when there was still only a threat of war. This extension appeared to the Financial Committee to involve important political issues, for it has recognised that, when peace was in danger, it was not always the country which first threatened aggression whose attitude during the subsequent negotiations was the most menacing to the maintenance of peace. Dr. Melchior took an imaginary case of a country A whose troops had crossed the frontier of a country B. The Council fixed a line of demarcation which might not be passed by the troops of either State. Now, if B failed to comply with the instructions of the Council, the threat of war would then be attributable to B, whereas the first act of hostility had been committed by A. The Financial Committee had therefore intentionally drafted paragraph 1 in very general terms, considering that the Convention must be primarily based on the fundamental ideas of the Covenant, and must offer an additional means of safeguarding the world's peace. It had therefore sought to make the Convention cover the cases provided for both in Article 11 and in Article 16. It was not, however, easy for the Financial Committee to do so, as a political issue was involved and it felt that it should confine itself to working out the technical and financial side of the Convention, leaving the regulation of the political issues to other Committees.

M. RUTGERS observed that Sir Henry Strakosch had argued that the requirements of unanimity, when the Council was deciding to put the scheme for financial assistance into operation, would offer a safeguard for the signatory States. In his view, this safeguard was not of equal value for all the countries acceding to the Convention. It was of much greater value for those that had permanent seats on the Council. They could, indeed, rest assured that the scheme for assistance would never be employed against their will. The other countries could not feel nearly so sure. It would be out of the question for all the States parties to the Convention to sit on the Council when the decision was adopted, though it might be possible to arrange that, when certain States were called upon to discharge their guarantees, they should be given seats on the Council. The clause in virtue of which the scheme was to be put into operation had been drawn in very wide terms. As a consequence, the situation of countries not represented on the Council became all the more dangerous, for their obligation was thereby extended. Of course, it was difficult to imagine a State not represented on the Council refusing to conform to a decision of the Council; but it must be recognised that the right of signatory States to determine their own course of action, in the last resort, after the Council had rendered its decision, was a factor of great moral weight, even if of no great practical importance. For these reasons, M. Rutgers considered that the signatory States should retain their right to decide for themselves after the Council had declared its decision, and he did not see any danger in allowing them this latitude.

Coming next to the question of the exchange of general bonds against specific bonds, M. Rutgers observed that the Financial Committee had proposed that this exchange should take place automatically. He doubted whether such an automatic arrangement was really possible. The authorities who would have to take steps for the exchange of the bonds — in the first place the Ministers of Finance and Foreign Affairs — were in no sense automatons. Suppose that some of the States entertained grave doubts regarding the justice of the Council's decision, could they expect that these States would automatically grant the financial assistance they had undertaken to provide in spite of their firm conviction that the Council had decided amiss? An automatic arrangement of this sort would be very difficult to apply. M. Rutgers believed that it was necessary to allow the States a certain degree of latitude and that they must be left free to take the final decision. It might, however, perhaps, be arranged that the Convention should emphasise the immense importance of the Council's decision and make it binding on the signatory States unless they could show serious reasons for considering that a *casus fœderis* had not arisen.

M. ERICH wished to be assured as to the extent of the obligation which the Council's decision would involve for individual States. Sir Henry Strakosch had spoken of decisions by a unanimous vote of the Council. But would such a decision be equally binding on States not represented? M. Rutgers had already raised that question in paragraph 202 of his report, and had argued that a State not so represented would not necessarily be bound by the Council's decision. In its first report the Financial Committee had not expressed a definite opinion on that point. It had said: "Nevertheless the Committee is of opinion that as soon as the Council has solemnly declared a country to be an innocent party in the crisis, thus authorising the application of the international guarantees for its benefit and committing the States represented on the Council to its support, the moral effect, etc."

The Financial Committee had, therefore, been concerned solely with the scope of the Council's decision but not with the effects of this extended decision on all the signatory States. Moreover, it appeared that the Financial Committee's report recommended a system under which the decision of the Council would automatically extend to the signatory States. The report further added that a large number of States would wish to assist in guaranteeing the scheme of assistance and, finally, that the signatory States would bind themselves, not indeed to pay down a capital sum, but to provide for the annual service of the loan. The Financial Committee had, therefore, without expressing a final opinion on the question, based its scheme on the view that the Council's decision would be binding on all the signatory States.

M. Erich considered that this point was of the highest importance. The requirement of unanimity in the Council was already a considerable obstacle to the working of this scheme; but if each individual State were also free to decide as to the necessity for affording assistance to a given country victim of aggression, then, as M. Rutgers had indicated in his memorandum, the machinery of assistance would become practically inoperative. They must therefore choose between two courses: either the Council's decision must be binding on all the signatory States, or the States must be free to afford financial assistance to a State victim of aggression without waiting until the Council had first given a decision. The results might be very grave. The first report of the Financial Committee and Sir Henry Strakosch's statement showed clearly that it was the Council's decision which would be the pivot of the whole mechanism. It was said that, if this decision were unanimous, it would be very effective. In its first report, the Financial Committee had thought it possible to limit the obligation to the members of the Council themselves. As the Council consisted of the great Powers, the fact of all the great Powers on the Council being under this obligation would greatly diminish the importance of the obligation of the other States. Such an arrangement might be acceptable, but only on condition that no State Member of the Council could declare that the refusal of one or more States not represented on the Council to comply with the decision of that body entitled it to regard itself as absolved from its pledges. It was essential that the obligation contracted by the States Members of the Council should remain binding in all circumstances. Such an obligation would considerably reduce the danger which might arise from the opposition of a State not represented on the Council. The withdrawal of a State Member of the Council from the Convention would entail most serious consequences. For these reasons M. Erich preferred the view which he believed the Financial Committee had espoused in its first report, and desired that the Council's decision should be binding on all the signatory

States. Such an arrangement appeared to him to be the most practical and the most in harmony with the principles of the Covenant. They had heard of the difficulties of defining aggression. It was recognised that the Council's declaration that aggression had taken place must be accepted by all signatory States if it was to be of any effect. The decision of the Council to grant financial assistance to a State would be of an even graver character. Returning to the point raised by M. Rutgers, as to the desirability of all signatory States being represented on the Council when the latter had to make a decision regarding financial assistance, M. Erich considered that, although such an arrangement might be in accordance with Article 4, paragraph 5, of the Covenant, it would not prove very workable. The great majority of States Members of the League were invited to accede to the Convention; a meeting of the Council, together with all the States parties to the Convention, would therefore assume the dimensions of a full Assembly of the League.

M. Erich said in conclusion that only two solutions appeared possible:

1. To agree that the Council's decision was binding on all the signatory States;
2. To limit the obligation to the States represented on the Council, irrespective of the attitude which might subsequently be assumed by signatory States not represented on the Council.

COUNT DE CHALENDAR desired to reply to the two questions raised by M. Rutgers: (1) the possibility of all the secondary States being represented on the Council, and (2) the possibility of the signatory States not being obliged to exchange the general bonds against specific bonds.

The idea of all the signatory States being represented on the Council was not realisable in practice. For the scheme of financial assistance to be really effective, it was necessary to obtain the accession of the largest possible number of States. The Convention would, it was assumed, be signed by all the States belonging to the League. It would be open not only to States Members of the League, but also to non-Members. Had they realised the time that would be needed to obtain the accession of all these States to a decision of the Council? There would not only be a serious loss of time, but there would be a grave risk of every one of these obligations being debated by the Governments; and, if so, how would it be possible for the scheme to be put into effect when a conflict broke out? The machinery of the financial assistance must operate rapidly and almost automatically — that is, in virtue of a simple unanimous decision by the Council.

As regards the idea of allowing certain States which had signed the general bonds an opportunity for discussing their obligations and refusing to exchange the general bonds against specific bonds, he thought any such supposition must be rejected if the plan was to be workable; it would have the effect of depriving the scheme for financial assistance of all credit. The signature of the general bond must constitute a solemn obligation allowing no loophole for evasion. It was for that reason that the Financial Committee had considered that the signature of the Convention and of the general bonds constituted a sufficient guarantee to enable the loan to be issued, since, when these two signatures had been given by a State, the exchange of the general bonds against the specific bonds would become a binding obligation, thus rendering the general bonds really effective instruments.

M. VALDÉS-MENDEVILLE observed that the question they were now discussing affected the basic principles of the League. He saw no objection to the adoption of a special Convention, providing that a unanimous decision of the Council would suffice to put the machinery for assistance in operation. But they must not forget that Article 4, paragraph 5 was part of the Constitution of the League and could not easily be ignored.

The other question of principle was whether the Council could take a binding decision with regard to certain States without those States being represented at the meeting. That question was not without importance. The Convention possessed in itself a binding character, but the Council had to decide when the moment had come to grant financial assistance. It would therefore in reality be for the signatory States to declare that they were willing to give their guarantee. Accordingly the decision of the Council could only be in the nature of a recommendation, and its acceptance would not be compulsory. The signatory States would be bound to discharge the engagement undertaken in the Convention, but it seemed that they were in no way obliged to accept the decision of the Council as to the moment when the scheme for assistance was to come into operation.

Sir Henry STRAKOSCH wished to make it perfectly clear that the Financial Committee had never contemplated giving the engagement of the signatory States an optional character. The Financial Committee's idea had always been to leave the decision entirely in the hands of the Council, and to exclude the other Members of the League not represented on the Council from a share in that decision. In a word, the Financial Committee had sought to frame a workable scheme, and this scheme would only be workable if it came into operation was automatically and promptly as possible. It was necessary, therefore, to invest the Council with all the attributes of a Court, allowing it to decide whether it was, or was not, necessary to grant financial assistance, this decision having the binding force of a judgment and being mandatory for all the signatory States. The whole scheme would be rendered nugatory if its application were to be made conditional on the assent of a parliament of nations.

As regards the question whether the decision of the Council should be binding on the Members of the Council alone, Sir Henry Strakosch declared that this view had never been entertained by the Financial Committee. According to the Financial Committee's report, the Members of the Council would provide a super-guarantee for the loan, but the other States would provide the primary guarantee. The Financial Committee's idea had been that the Council's decision would bind all the States parties to the Convention.

As regards the obligation laid upon the Council by Article 4 of the Covenant to convene all the States Members who were concerned in a question submitted to it, he thought this obligation

I do not think I am wrong in saying that the memorandum is animated by a desire to arrive at a practical result, and the Rapporteur's last words have confirmed my view. I should also wish to state here and now that as in the past I attach great importance to our suggestions — to all of them. We still believe that they constitute a very practical method of forestalling war, and even preventing all danger of war. I do not propose to recapitulate the reasons for which my country particularly desires to see the work of the Committee on Arbitration and Security progress; I can only repeat that our standpoint remains unchanged. You are all aware of the great importance we attach to the possibility of forestalling war by means of international conventions.

The efforts of our Rapporteur have defined with even greater clearness the questions raised in our suggestions. I sincerely hope that this memorandum will serve as a basis for discussion and make it possible for our Committee at this session to obtain a practical result, which could be submitted for the approval of the Assembly, according to the procedure adopted in the case of decisions reached in other meetings.

The meeting rose at 12.10 p.m.

SECOND MEETING

Held on Friday, June 29th, 1928, at 6 p.m.

Chairman : M. BENEŠ (Czechoslovakia).

5. Financial Assistance to States Victims of Aggression. Statement by the Chairman of the Joint Committee.

M. VEVERKA (Chairman of the Joint Committee). — In submitting the report which has been distributed (Annex 8, IV, e) I think I ought first to remind you that the Assembly recommended the preparation of a scheme to be submitted with a view to its adoption either by a Disarmament Conference or by a special conference convened for the purpose.

When the Council placed the scheme of financial assistance upon our Committee's agenda, it authorised us to consult the Financial Committee and to request it if necessary to make technical enquiries on the matter.

At its last session, our Committee saw fit to leave it to the Financial Committee to continue its work and asked it to refer the question to the Committee on Arbitration and Security as soon as political questions arose.

The Financial Committee having reached the stage at which collaboration with our Committee appeared necessary, the latter approved the constitution of a Joint Committee consisting of members of the Financial Committee and of our own Committee. It is the report of that Joint Committee which is now before you.

As I had the honour to preside over the discussions in the Joint Committee, my colleagues will perhaps permit me to make a few general observations.

There were three main ideas which guided us in our work. The first was to render the scheme of financial assistance as effective as possible; the second, to facilitate its acceptance by as many States as possible; the third, to harmonise the scheme with the Covenant.

From the financial point of view, the situation is now clear enough. You will find in the Joint Committee's report the points which the Financial Committee unanimously recommends as a basis for the working-out of technical details.

It is now for the Committee on Arbitration and Security to pass judgment on the Financial Committee's proposals, from the political point of view. I may be allowed to draw your attention to a few points which seem to me particularly deserving of your attention.

At our last session, M. Rolin Jaequemyns submitted observations on the extent of the obligations incumbent upon signatory States. The Financial Committee has tried to take note of these remarks by recommending the fixing of a maximum up to the limits of which each of the signatories would guarantee the service of the loan.

As you have probably observed, the field of application of the scheme as contemplated would extend to all wars and all threats of war. Accordingly, in the view of the Financial Committee, financial assistance would also be employed as a method of preventing war.

The Council would be entirely free to graduate the measures provided for in the scheme. In the event of a threat of war, it might confine itself to issuing a warning or to measures in the nature of a demonstration; for instance, it might intimate to one of the parties involved that, if it took certain steps of an aggressive character, the Council would unhesitatingly enforce the scheme of financial assistance for the benefit of the other party.

According to the Financial Committee, financial assistance would be brought into operation by a unanimous vote of the Council (minus the parties to the dispute). The discussion of this point in the Joint Committee revealed different points of view on the following matters: (1) the value which it would be desirable to give to the Council's decisions; (2) the application of Article 4, paragraph 5, of the Covenant.

was not unavoidable, and that it should be possible in a Convention to rule out the application of the Article in question. The Financial Committee had certainly intended that the Council should constitute the tribunal, having power to decide, without appeal, that the scheme for assistance should come into operation in such-and-such circumstances, and that the secondary States must discharge their obligations. There could be no question of leaving the individual States free to decide their course after the Council had delivered its judgment.

M. RUTGERS said that the obstacle caused by Article 4 of the Covenant had only occurred to him during his statement, and after Sir Henry Strakosch had pointed out that the unanimity of the Council constituted a guarantee for the States not represented on the Council. He fully recognised that it would be impossible to convene representatives of all the signatory States, but, as the Convention would be signed by the majority of the States Members, he doubted whether it would be possible in the text of that Convention to rule out one of the fundamental clauses of the Covenant. It would be almost like admitting that private persons might sign a Convention binding themselves to submit to the arbitration of a certain tribunal, and might decide in advance that the number of judges of the Court must be, say, four instead of five. If parties appealed to a tribunal, they must take it as they found it. It was really a legal problem that they were considering, and he would not like to give an opinion without making a thorough study of it. He therefore proposed that this question, which he had himself raised, should be left on one side for the time being and not referred to in the report.

The question of the binding character of the Council's decision was perhaps capable of an intermediate solution. They might, for instance, devise a system under which the States would not be bound in any absolute fashion. He thought that if the signatory States were allowed a certain latitude in deciding after the Council had declared its view, they would be more willing to accede to the Convention than if they were to be bound in advance by the Council's decision.

M. Rutgers concluded, moreover, from the fourth paragraph of the document submitted by the Financial Committee, that the issue of the loan could take place before the general bonds had been exchanged against specific bonds. The Financial Committee had provided a supplementary guarantee; M. Rutgers supposed that this was probably in case some of the signatory States should default. There appeared little difference between the case of a signatory State refusing to exchange the general bonds against specific bonds and that of a State refusing to discharge the bond when it was presented after the exchange had taken place. The supplementary guarantee would, in a certain measure, offset the latitude allowed to the States to determine their course after the Council had announced its decision. There was no need for the engagement undertaken by the States to have an optional character; but, on the other hand, it did seem necessary to allow these States a certain freedom of decision. They might, for instance, make it an obligation for these States to furnish a clear statement of their objections in support of their refusal. M. Rutgers was still convinced that it would be dangerous to lay down in a Convention that the Council's decision would be binding upon the signatory States. Moreover, it would be an innovation on the Covenant, which did not confer such powers upon the Council, and it would deter some States from acceding to the Convention.

COUNT DE CHALENDAR, in reply to M. Rutgers, said that the Financial Committee had not sought to determine the legal character of Article 4, which was a constitutional article and must consequently take precedence of the terms of a Convention; but he was convinced that the application of Article 4 would render the scheme unworkable. He suggested that a special Convention, in which it was provided that Article 4 should not be applicable, would be binding upon the parties and would have a prior claim upon their obedience.

M. RUTGERS asked what would be the legal situation of the Council in case all the Members of the Council were not signatories of the Convention?

COUNT DE CHALENDAR said that it would be necessary to provide that the Convention could not come into operation until a certain number of States, designated by name, had signed it.

M. Rutgers' second objection, namely, that an obligation for the signatory States to consider themselves bound by the Council's decision would be too grave a condition for them to accept, did not appear to him very conclusive. The renunciation of sovereignty which would thus be required of the signatory States, the refusal of their freedom of action after the decision of the Council, would, M. Rutgers told them, be likely to deter certain States from acceding; nevertheless, he still thought it would be preferable to define the scope of the obligation with the utmost precision, even if they secured a smaller number of accessions, rather than to leave its character indefinite, and actually to state that it was not positively binding. The opinion of the Financial Committee was that, in the latter case, a scheme of financial assistance would be utterly ineffective. The obligation arising from the Convention must, in his opinion, be binding and categorical, so as to strengthen the credit of the scheme; if the door were left open to evasions, it would lose all its value. Nothing but an obligation, in virtue of which signatory States would be bound by a simple decision of the Council, would enable the scheme of assistance to be worked effectively.

Sir Henry STRAKOSCH desired that the members of the Committee should fully realise the difficulties which would arise if a State not a Member of the Council were left free to decide at the last moment whether it was prepared to participate in the scheme of financial assistance. Suppose, for instance, that the Council decided to grant a loan of ten million sterling, that is, one-fifth of the total provided for. If the Council had to wait before issuing this loan for the decision of every guarantor State, no State would be aware, until the very last moment, what was the extent of the guarantee for which it was individually responsible. It might even be found, at the end of the negotiations, that the ten million sterling were not forthcoming. The acceptance of such a proposal would really render the scheme unworkable, since no country would know the extent of its liability.

As regards Article 4, Sir Henry Strakosch thought it should be quite possible to draw up a contract which should contain no reference to the Covenant. Precedents were not wanting. Take, for instance, the case of a loan issued under the auspices of the League: it was always laid down that the conditions of issue had to be approved by the Chairman of the Financial Committee. It was therefore the Chairman of the Financial Committee who had the responsibility of deciding whether the conditions of the loan were acceptable, and, consequently, what responsibility was incurred by the League of Nations which had authorised the loan. There they had a precedent of a decision taken on behalf of the League of Nations by a simple member of a Committee.

It would be a mistake to suppose, as M. Rutgers had done, that the Financial Committee had wished to provide for the possibility of a guarantor State withdrawing its guarantee. The Financial Committee had only desired that, when a crisis arose (as very prompt action would be essential, and as the public would desire, before subscribing, to have a guarantee in a more concentrated form), they should have a list of super-guarantor States who would be responsible for the issue of the loan before bringing into effect the primary guarantee of the other States. The Financial Committee had not therefore devised this system to meet the case of default by a guarantor State but, on the contrary, to provide a more concentrated form of guarantee which would expedite the negotiations prior to the issue of the loan.

M. ERICH said that the explanations of Count de Chalendar and Sir Henry Strakosch satisfied him. If the scheme of assistance was to be effective, it was necessary that the Council should be able to take a decision imposing an obligation on the signatory States: Moreover, it would not be equitable that the Members of the Council should, in the end, be the only States bound by the Council's decision. It was still uncertain how far the Members of the Council would be bound if a State, not a Member of the Council, withdrew from its obligation. Could a Member of the Council take advantage of the refusal of a State not represented on the Council to withdraw its own guarantee? As regards Article 4, M. Erich thought that Sir Henry Strakosch's explanations were sufficient. It was quite true that there were Conventions in existence empowering the Council to take certain steps without the assistance of other Members of the League of Nations. The Convention of the Straits was an example; the Council decided on the measures to be taken without the other signatory States having a right to intervene. In his opinion, there was nothing to prevent the signatory States from conferring similar powers upon the Council.

M. RUTGERS recalled Sir Henry Strakosch's statement that serious consequences might ensue if the power of decision were left in the last resort to the signatory States. Nevertheless, they must foresee the contingency of a signatory State not exchanging its general bonds against specific bonds. There would always be at least one such State, if it were only the State declared to be the aggressor. Accordingly, the supplementary guarantee would seem necessary.

M. Rutgers wondered whether, if the signatory States were allowed greater liberty, a large number of States might be expected to repudiate their obligations. If it were anticipated that States would frequently refuse to accept decisions of the Council, it must be expected that a number of States would hesitate before signing a Convention which would render the Council's decision binding and might easily compel them to comply with a decision they could not recognise as just. If, however, as would seem probable, the number of cases in which individual States did not accept the Council's decision were extremely small, there would seem to be little danger from that source, and he thought that Sir Henry Strakosch had perhaps painted an unduly dark picture of the disastrous consequences which such a procedure would involve. Moreover, a parallel situation actually existed in regard to the military obligations imposed by the Covenant upon the States Members of the League. The States themselves were the ultimate judges of the desirability of military intervention on their part. According to the Protocol itself, all that the States would have undertaken would have been to fulfil their obligations loyally and effectively; the Council would not have had the right to impose any specific solution upon them. He was still convinced that it would be very difficult to draw up a draft convention such as States would accept if they were obliged in advance to promise blind obedience to the Council.

Sir Henry STRAKOSCH replied that the plan proposed by M. Rutgers would be impossible to apply. The Convention would have no value at all if each individual Member were left free to make its own decision. It could only be effective if it could be brought into play immediately; such, moreover, was the opinion of the Financial Committee. If the Joint Committee could not agree on that point, it might be left for the Committee on Arbitration and Security to settle; the important point was that a decision should be taken.

Dr. MELCHIOR agreed with Sir Henry Strakosch. If they desired to grant effective financial assistance to countries victims of aggression, they must act quickly, and therefore States not represented on the Council could not be allowed to withdraw their guarantees at the last moment. The vital point was not the actual conversion of general to specific bonds, but the obligation contracted by the States on signing the convention and thereby accepting the general obligation it entailed. According to point 4 of the resolutions proposed by the Financial Committee, however, the loan must be issuable without the need to convert general bonds into specific bonds. The provision of specific bonds in no way modified the juridical character of the general obligations undertaken by States, as this obligation was definitely constituted by the deposit of general bonds. Such was the opinion of the Financial Committee; all these questions, however, would undoubtedly have to be dealt with by the competent committees of the League, and, in particular, by the Committee on Arbitration and Security. No decision could be taken, therefore, before the last-named Committee's opinion had been obtained.

It was also important that the same Committee should be consulted on another question. Article 1 was worded in very wide terms. Indeed, the aim was to avoid making the scheme of financial assistance a kind of insurance policy alien to the fundamental principles of the Covenant. That was not the intention of the Financial Committee, which considered that the Convention should conform to the terms of Articles 11 and 16; and for that reason the Financial Committee had thought fit to lay down the principle that assistance should be granted not only in the event of war, but in the event of a threat of war. The Committee, when called upon to decide this point, might, for example, say that, in the event of a threat of war, the measures taken would be solely in the nature of a demonstration.

COUNT DE CHALENDAR considered that Sir Henry Strakosch had given a most accurate account of the Financial Committee's opinion. Even though the serious character of the obligation to be undertaken might lead certain States to reject the Convention, he thought this would be preferable to establishing a Convention not having an obligatory and definitive character. The slightest obscurity might ruin the whole scheme. He strongly urged that the obligation undertaken in the convention should be of a most solemn character. That consideration appeared in point 3, which laid down that the obligations undertaken by the signatory States must be clearly defined. Accordingly, although the exact maximum rates of interest and amortisation could not be defined, it was nevertheless thought possible to fix every year the maximum guarantee which each State would be liable to provide for the service of the loan. The more clearly the convention were drafted, the easier it would be to apply, because, if every signatory were left free to dispute its obligation, the consequences from the financial point of view would be disastrous.

Dr. MELCHIOR added that the object in view was to set on foot a practical plan, and it would be very difficult to issue a loan rapidly without knowing the exact number of States undertaking the guarantee.

M. RUTGERS asked that, if the Committee decided in favour of the Financial Committee's proposal, the objections raised by the various members of the Committee should be added to the report, so as to enable those objections to be taken into account in the discussion preceding the preparation of the report to be submitted to the Council. In his view, they were incurring the risk of drawing up a Convention which would not command a sufficient number of adherents. The idea of granting a State a loan for armaments might seem somewhat paradoxical in an organisation whose aim was to maintain peace — an aim for the sake of which they had hitherto endeavoured to cut down armament credits. Serious objections must be expected, particularly in certain circles, and they must therefore endeavour to make it easy for States to accede to the Convention. They might ultimately find that the fundamental objections, together with the practical objections, would considerably reduce the number of signatory States. In view, however, of the observations submitted by the Financial Committee, M. Rutgers did not think any procedure could be adopted other than to refer the Financial Committee's proposal to the Committee on Arbitration and Security, mentioning the objections which had been raised.

Sir Henry STRAKOSCH pointed out how important it was that the Joint Committee should take a decision. If the plan were referred to the Arbitration Committee without any decision on the majority of articles, the final drafting of the scheme might be still further delayed. It would be particularly unfortunate if the Joint Committee dispersed without having given its opinion on the Financial Committee's draft.

The CHAIRMAN concluded from the discussion that the Joint Committee might submit a report to the Committee on Arbitration and Security, at the same time formulating the suggestions submitted by Sir Henry Strakosch and the objections raised thereto, while leaving the Committee on Arbitration and Security to decide whether the draft should be referred to the Financial Committee.

Dr. MELCHIOR asked whether the draft would be accompanied by a Protocol.

Sir Arthur SALTER (Director of the Economic and Financial Section) replied that, if the opinion of the Joint Committee on the provisions of the draft were unanimous, a short report would be sufficient. If, however, differences of opinion still remained, the draft would have to be accompanied by either written or verbal explanations formulated by the Chairman. The present Joint Committee was not an official Committee constituted by the Council; it was simply a Committee established by two Committees for purposes of discussion, in order to facilitate the exchange of views on a common question.

M. RUTGERS observed that agreement could easily be reached between the representatives of the Financial Committee and of the Arbitration Committee on a number of points in the draft. It would therefore be sufficient to notify the objections submitted in regard to the points on which agreement had not been reached. The present Committee had perhaps more authority than Sir Arthur Salter thought, as the question at present under discussion had been referred to the Committee on Arbitration and Security by the Council, with the suggestion that the question should be studied in collaboration with the Financial Committee.

Sir Arthur SALTER replied that, from the juridical point of view, the present Committee had not been created by the Council; it had only been constituted by the two Committees concerned in order to simplify discussion of the outstanding points at issue between them.

The CHAIRMAN concluded that a small report would be submitted on this question to the Committee on Arbitration and Security; the latter would definitively decide whether it should again consult the Financial Committee before submitting the draft to the Council, which would take the final decision.

M. ERICH had no objection to the principle of unanimity which was required of the Council, but observed that the possibility of establishing a clear presumption of aggression had not been excluded. Emphasis should be laid on the necessity of deciding in what cases a State displayed intentions incompatible with the Covenant, such as refusal to submit a dispute to the procedure of arbitration or conciliation, failure to execute an award or judgment, aggravated perhaps by resistance to the measures taken by the Council to ensure execution, and, lastly, aggression as defined in Article 17. An evil intention was not the only one which could be deduced from this attitude of a State prior to rupture. It must be admitted that if a State requested the Council's intervention — that is to say, in the case with which the Committee was now dealing — and applied for financial assistance under Article 11, it might, by its attitude as a whole, give conclusive evidence of its goodwill and of its intention to conform to the measures taken by the Council to safeguard peace. If, nevertheless, through the fault of the other party, peace could not be maintained, it would be easier, in view of all that happened prior to the rupture, to establish clearly the existence of the situation so admirably described by the Financial Committee in its first report. Nevertheless, the Committee considered that, if once the Council solemnly declared that one of the parties was in no way responsible for the crisis which had arisen, and that accordingly it authorised the application of financial guarantees on behalf of that State and pledged the countries represented on the Council to give it their support, the moral effect, and the confidence produced in the success of the issue of the public loan, would be sufficient to enable the State attacked to obtain the temporary financial accommodation required for its most urgent needs.

M. RUTGERS asked whether the report could not indicate the reasons why it was decided not to fix a maximum for the obligations of States regarding the service of the interest and amortisation charges on the loan, as the Belgian delegation had requested.

Sir Henry STRAKOSCH repeated the reasons he had given. The conditions on which the loan would be issued could not be laid down at once, because it was quite impossible to foresee the circumstances attending the issue. Moreover, to lay down in advance conditions which would necessarily be onerous would create a situation which might subsequently hamper the course of negotiations.

Dr. MELCHIOR added that there would always be considerable differences, according to whether the loan were a long-, medium-, or short-term one.

COUNT DE CHALENDAR pointed out that the last sentence in point 3 was inserted after discussion by the Financial Committee, it being shown that a State assuming financial responsibility under the scheme of assistance could accede to the Convention much more readily if a definite maximum limit to its obligation were fixed. This provision met an unavoidable necessity which existed in certain countries where parliament would require to know the maximum obligation falling upon the country every year.

Point 3 was adopted with the above observations.

Point 4 was adopted without observations.

Sir Henry STRAKOSCH observed that the Joint Committee might already declare its unanimity on the practical question raised by the provisions of point 1, namely, that a decision unanimously taken by the Council should constitute an obligation upon the signatories, as it would not be practicable to allow the signatory States the option of deciding for themselves after the Council had stated its view. If the Joint Committee were unanimous on that point, a great advance would be made.

M. RUTGERS did not think he could share Sir Henry Strakosch's view on the point, as he was not wholly convinced by the arguments submitted by the Financial Committee; he still thought that the freedom of individual States could be reserved up to a certain point. No doubt the procedure proposed by the Financial Committee was the most practical, but no doubt, too, States would give their accession more readily if they felt they could retain a certain degree of freedom.

M. VALDÉS-MENDEVILLE thought that all the views expressed were intended to ensure the success of the scheme. The Financial Committee was of opinion that, in practice, individual States could not possibly be allowed the right to decide after the Council; M. Rutgers, on the other hand, thought that the number of acceding States would be much greater if they kept their individual freedom. It was, therefore, for the Committee on Arbitration and Security to decide whether the difficulties referred to were all as great as had been thought, and to determine the best way to obtain a decision binding upon the signatory States, while at the same time securing the accession of as many States as possible.

The CHAIRMAN concluded that the Joint Committee would submit a report setting forth the objections raised in connection with point 1. The Committee on Arbitration and Security would take a decision on that subject. The decision would be communicated to the Financial Committee and then to the Council, together with the draft scheme as a whole.

M. ERICH asked that the report should mention the objections put forward by the Finnish Government.

V. German Delegation's Suggestions.

(a) INTRODUCTORY NOTE TO THE MODEL TREATY TO STRENGTHEN THE MEANS OF PREVENTING WAR.

1. During the second session of the Committee on Arbitration and Security, the German delegation presented a series of suggestions designed to strengthen the means of preventing war.

At its meeting on March 5th, 1928, the Committee on Arbitration and Security decided to appoint M. Rolin-Jaequemyns, Belgian delegate on the Committee, as Rapporteur, and to request him to prepare a memorandum with a view to the discussion of these suggestions during the Committee's third session.

2. After carefully considering and discussing the German suggestions and M. Rolin-Jaequemyns' memorandum during its third session, the Committee on Arbitration and Security framed on first reading a model Treaty to strengthen the Means of preventing War, which it has the honour to submit to the Assembly, requesting at the same time that Governments will give the necessary instructions to their delegations on the subject.

3. In the passages which follow, the Committee on Arbitration and Security ventures to draw the attention of Governments to certain points which arose during the discussion.

(a) It should be observed in the first place that the purpose of the contemplated treaty, as clearly shown by the debates, is to facilitate, by undertakings to be assured voluntarily in advance by the contracting States, the action taken by the Council of the League of Nations under the Covenant.

(b) The German delegation's second suggestion, that States should undertake in advance to accept the recommendations of the Council to the effect of maintaining and re-establishing the military *status quo* normally existing in time of peace, gave rise to a lengthy exchange of views.

Certain delegations held that a provision of this kind might with advantage be included among the measures designed to prevent war. Other delegations contended, however, that this suggestion would appear to be impracticable, especially in view of the fact that the difficulty of devising a rigid system for the definition of the military *status quo* normally existing in time of peace would be so great that the drawbacks of any attempts to provide for such action by the Council would outweigh its advantages.

As the Committee was unable to reach agreement on this point, it thought it preferable not to take the German delegation's second suggestion into consideration for the time being. This delegation thought that better results could be achieved when further progress had been made in the work connected with the limitation of armaments, and reserved the right to revert to suggestion No. II in due course.

(c) Another question which gave rise to lengthy discussion was that of supervising the execution of the measures recommended by the Council. Certain delegations expressed the view that the contemplated treaty would not be acceptable unless, in return for the undertakings given, States could be assured that the Council would take prompt and efficient measures to satisfy itself of the execution of the measures recommended. Other delegations, however, said that supervision on lines to be settled in advance appeared to them difficult if not impossible to accept.

The Polish delegation expressed the view that the question of supervision could best be settled by the following draft:

"The High Contracting Parties, considering that the provisions referred to above will not be effective unless accompanied by a system of prompt control, undertake forthwith to conform to such measures of supervision as may be applied by the direction of the Council."

A certain number of delegations having declared that they could not accept this form of draft, it appeared to the Committee that the various opinions might be reconciled by drafting Article 4 in the form which appears in the attached model, and which reads as follows:

"The High Contracting Parties between whom hostilities may have broken out undertake to lend themselves to any action which may be decided upon by the Council with a view to ensuring the observance and execution of the measures it may have recommended in conformity with Article 3."

The Polish delegation agreed that the model should be submitted to Governments, with Article 4 drafted in this manner, provided the attention of Governments was drawn, in the introductory note, to the form of draft it had proposed.

(d) With regard to the question of the Council's vote, a number of delegations held that it would be much preferable, and much more in keeping with the idea of the effective prevention of conflicts, if the provision of Article 5 of the model were not limited to the Council recommendations covered by Articles 3 and 4, but extended to the recommendations covered by Article 1.

(e) The Committee did not feel that it could accept the idea of a general protocol open to the signature of all States. It merely prepared a model multilateral treaty, whilst recording its opinion that the practical value of such a treaty would be directly proportional to the number of contracting States. It did not wish, moreover, to exclude the possibility of using this model for bilateral treaties as well, in all cases in which this procedure might appear preferable to certain States owing to the particular circumstances of their special situation.

(f) Finally, the Committee would point out that, in contemplating the conclusion of special treaties of the kind indicated, it did not wish to exclude the possibility of supplementing treaties of mutual assistance on these lines, if certain States preferred to adopt this procedure.

A solution of this kind would meet the views of certain delegations which considered that the Council could not avoid drawing the necessary consequences from the measures prescribed by it and referred to in the treaty. In the view of these delegations, the indispensable corollary of the undertakings to be given is a system of mutual assistance against any State which fails to keep its pledges, as their violation ought to entail the same consequences as the violation of Article 3 of the model Collective Treaty of Mutual Assistance.

(b) MODEL TREATY TO STRENGTHEN THE MEANS OF PREVENTING WAR.

Preamble.

(List of Heads of States.)

Being sincerely desirous of developing mutual confidence by strengthening the means of preventing war;

Noting that to this end the task of the Council of the League of Nations in ensuring peace and conciliation might be facilitated by undertakings assumed voluntarily in advance by the States;

Have decided to achieve their common aim by means of a treaty and have appointed as their plenipotentiaries:

(List of plenipotentiaries.)

who, having deposited their full powers found in good and due form, have agreed on the following provisions:

Article 1.

The High Contracting Parties undertake, in the event of a dispute arising between them and being brought before the Council of the League of Nations, to accept and apply provisional recommendations by the Council relating to the substance of the dispute and designed to prevent any measures being taken by the parties which might have a prejudicial effect on the execution of an arrangement to be proposed by the Council.

Article 2.

In the case provided for in Article 1, the High Contracting Parties further undertake to refrain from any measures which might aggravate or extend the dispute.

Article 3.

In the event of hostilities of any kind having broken out, without the possibilities of a peaceful settlement having in the Council's opinion been exhausted, the High Contracting Parties undertake to comply with the recommendations which the Council may make to them for the cessation of hostilities, prescribing, in particular, the withdrawal of forces having penetrated into the territory of another State, or into a zone demilitarised in virtue of international treaties, and in general inviting them to respect each other's sovereignty and any obligations assumed in regard to demilitarised zones.

Article 4.

High Contracting Parties between whom hostilities may have broken out undertake to lend themselves to any action which may be decided upon by the Council with a view to ensuring the observance and execution of the measures it may have recommended in conformity with Article 3.

Article 5.

In the cases referred to in Articles 3 and 4, the High Contracting Parties undertake to act in accordance with the recommendations of the Council, provided that they are concurred in by all the members other than the representatives of the parties which have engaged in hostilities.

Article 6.

The provisions of the present Treaty shall only apply on the basis of reciprocity, *i.e.*, in respect of disputes between the High Contracting Parties.

Article 7.

The present Treaty may not be interpreted as entailing any change in the task of the Council of the League of Nations as laid down in the Covenant.

Article 8.

The present Treaty shall bear to-day's date¹; it shall be ratified. The instruments of ratification shall be forwarded to the Secretary-General of the League of Nations, who shall notify their receipt to all Members of the League.

Article 9.

The present Treaty shall enter into force as soon as all the ratifications have been deposited. The present Treaty, done in one copy, shall be deposited in the archives of the League of Nations.

The Secretary-General of the League of Nations shall be requested to deliver certified true copies to all the High Contracting Parties.

Article 10.

The present Treaty shall be concluded for a period of.....

Article 11.

The present Treaty shall be registered by the Secretary-General of the League of Nations on the date of its entry into force.

IN FAITH WHEREOF the above-mentioned plenipotentiaries have signed the present Treaty.

DONE at on

(c) RESOLUTION ON THE SUGGESTIONS SUBMITTED BY THE GERMAN DELEGATION WITH A VIEW TO STRENGTHENING THE MEANS OF PREVENTING WAR.

The Committee on Arbitration and Security,

Having taken note of the memorandum of its Rapporteur, Baron Rolin-Jaequemyns, on the suggestions submitted by the German delegation with a view to strengthening the means of preventing war;

Thanks its Rapporteur for the exhaustive report which he has submitted;

Adopts the model Treaty designed to give effect to the German delegation's suggestions and submits it to the Assembly;

And requests the Secretary-General to forward the said model with the introductory note, as well as Baron Rolin Jaequemyns' memorandum and the minutes of its third session, to the Governments in order that they may give the necessary instructions to their delegations at the Assembly.

(d) Appendix. — MEMORANDUM ON THE GERMAN DELEGATION'S SUGGESTIONS FOR THE PREVENTION OF WAR.

Submitted by M. ROLIN JAEQUEMYS, Rapporteur.

CHAPTER I. — PRELIMINARY STATEMENT.

At the last session of the Committee on Arbitration and Security, the German delegation submitted a series of *suggestions* designed to strengthen the existing means of preventing war.

According to the statements of M. von Simson, the German delegate, his Government's proposal was that the League of Nations should use these suggestions in framing certain measures which would lead to an increase in security "by strengthening mutual confidence, and particularly by strengthening such confidence by methods which can be rapidly applied".

Subsequently, at its meeting on March 5th, 1928, the Committee on Arbitration and Security, "appreciating the great importance of these suggestions", adopted the following resolution, stating that it:

"Considers that they should be thoroughly examined, and that Governments should be enabled to study them in detail; and

"Decides to place them on the agenda of its next session and to appoint a rapporteur, who will report to the Committee in the light of the Committee's discussions and of any observations which may be forwarded by Governments".

¹ Date of signature.

Lastly, at the close of its last session, the Committee on Arbitration and Security decided, more particularly under paragraph 3, "to examine at its third session the suggestions of the German delegation on the basis of the memorandum prepared by" the undersigned rapporteur.

* * *

It may be well to reproduce the text of the above-mentioned suggestions, numbered I to V:

" I. In case of a dispute being submitted to the Council, the States might undertake in advance to accept and execute provisional recommendations of the Council for the purpose of preventing any aggravation or extension of the dispute and impeding any measures to be taken by the parties which might exercise an unfavourable reaction on the execution of the settlement to be proposed by the Council.

" II. In case of threat of war, the States might undertake in advance to accept and to execute the recommendations of the Council to the effect of maintaining or re-establishing the military *status quo* normally existing in time of peace.

" III. In the case of hostilities of any kind breaking out without, in the Council's opinion, all possibilities of a pacific settlement having been exhausted, the States might undertake in advance to accept, on the Council's proposal, an armistice on land and sea and in the air, including especially the obligation of the two parties in dispute to withdraw the forces which might have penetrated into foreign territory and to secure the respect of the sovereignty of the other State.

" IV. The question should be considered whether the above-mentioned obligations should be undertaken only in case of a unanimous vote of the Council (the votes of the parties to the dispute not being counted), or whether the majority, simple or qualified, might suffice in the matter. Furthermore, it should be considered in what form the obligations would have to be drawn up in order to bring them into conformity with the Covenant.

" V. These obligations might constitute the object of an agreement or of a protocol which would be open for signature by all States Members and non-members of the League of Nations, and which might come into force separately for the several continents, in a way similar to that provided for in the draft Treaty of Mutual Assistance of 1923."

The suggestions reproduced above supplement the ideas put forward in the *Observations submitted in January 1928 by the German Government on the programme of the work of the Committee on Arbitration and Security* (document C.A.S. 10, pages 58 to 60).

We would note more particularly the following passage in those Observations:

" The duty of preventing a conflict between the States concerned from finally leading to recourse to arms is above all one for the Council, and it will be for the Committee to propose measures which will allow that body to intervene promptly and effectively to prevent threatened hostilities. A careful investigation of the possibilities offered by Article 11 of the Covenant cannot fail to lead to a series of practical proposals. These can be supplemented by special voluntary undertakings going beyond the scope of the Covenant, undertakings which, even if not acceptable to all the Members of the League, can no doubt form the subject of an agreement between a large number of them. As an example may be quoted the provisions, agreed upon at Locarno, of Articles 4 and 5 of the Rhine Pact and those of Article 19 of the Arbitration Treaty, regarding certain recommendations and proposals to be made by the Council of the League. "

The idea underlying the suggestions which form the subject of the present memorandum is therefore that special voluntary undertakings should be entered into by means of a general agreement, or at all events an agreement between a large number of parties.

The arguments put forward by the German delegate, M. von Simson, at the last session of the Committee, in support of these suggestions by the German Government, may be summed up as follows:

1. In order that the action of the Council of the League of Nations may be exercised with increasing effect in the pacific settlement of international disputes, provision must be made for measures which will prevent either party to the dispute from employing the delay involved by such intervention to modify the *status quo* improperly in its own interests. Accordingly "conservatory measures" of a purely *provisional* character should be taken by the Council.

2. In order to prevent a difference or dispute between States from leading to war between them, the Council of the League of Nations must be in a position to prevent the said States from making military preparations with this object, such preparations being of a nature to lead to war despite the pacific efforts of the responsible statesmen.

3. The League of Nations must endeavour to stop armed conflicts, even when a state of war already exists, and this, not only in the case of a war waged in violation of the Covenant, but even in the case of a war not prohibited by the Covenant. Hence the first step to be considered must be an *armistice*, under clearly defined conditions.

4. The possibility might be considered whether the Council, in the above-mentioned contingencies, should not take its decision by majority vote, simple or qualified, as otherwise it might be unable to take any action whatever.

5. To increase the feeling of confidence, an essential factor in security, the measures proposed by the Council must be binding upon the parties, in virtue of a general treaty or of collective treaties open to signature by all States, including even those which are not Members of the League. The above is a summary of the considerations put forward during the discussions, in support of preventive measures for the more adequate maintenance of peace.

In the following chapter, the suggestions are examined individually from this standpoint.

CHAPTER II. — OBSERVATIONS ON THE SUGGESTIONS SUBMITTED.

Suggestion No. I.

“ In case of a dispute being submitted to the Council, the States might undertake in advance to accept and to execute provisional recommendations of the Council for the purpose of preventing any aggravation or extension of the dispute and impeding any measures to be taken by the parties which might exercise an unfavourable reaction on the execution of the settlement to be proposed by the Council. ”

Suggestion No. I aims at provisional measures touching the actual subject of the dispute. These closely resemble the system of “conservatory measures” found in a number of national codes of civil procedure and in various systems of arbitration and conciliation procedure under international law.

Most arbitration and conciliation treaties contain a provision requiring the parties, while the procedure is in progress, to refrain from certain acts which might “prejudicially affect the execution of the award or the final proposal”.

Furthermore, the arbitration treaties confer on the arbitral court, in the majority of cases, the right to order conservatory measures. In the arbitration and conciliation treaties, this power is generally conferred on the Conciliation Commission, especially as there is a growing tendency in conciliation procedure to recognise the Commission’s proposals as binding. The position is the same as regards the Council of the League when arbitration and conciliation treaties provide for its intervention in disputes. Article 19 of the Locarno Treaties of Arbitration and Conciliation is a case in point.

The German delegation’s first suggestion is simply a proposal to generalise this system of conservatory measures, so that the actual principle is not likely to encounter opposition.

Difficulties in the matter of application, however, may be anticipated, since many States would undoubtedly refuse to assume undertakings conferring unlimited discretionary powers on the Council. Accordingly, it might be expedient to limit the Council’s powers in the matter. This would also facilitate agreement within the Council itself in regard to the conservatory measures it is entitled to propose.

One way of thus limiting the powers of the Council or, more correctly, of conferring specific powers on it in this matter of conservatory measures, would obviously be to enumerate and define all the categories of conservatory measures that it might have to order. But considering the extreme diversity of cases that might arise and the differences in internal legislation, such a definition seems neither opportune nor feasible. For this reason, none but general formulæ have hitherto been adopted, the Arbitral Court, the Conciliation Committee or the Council being empowered at its discretion to define the measures in each particular case.

This would appear then to point to the advisability of conferring general powers on the Council in the matter of conservatory measures, particularly as it is the Council’s special function to intervene in political disputes, in which a definition or limitation of such measures is even more difficult than in legal disputes.

Furthermore, even in the absence of any exact statement or definition, the actual nature of the conservatory measures specifically limits their scope. They cannot in any case prejudice the fundamental issue.

Accordingly, adopting the suggestion to be found in Article 19 of the Locarno Treaties, States might rely on the wisdom of the Council and recognise that it will only order such conservatory measures as are fair in themselves and really indispensable.

If, however, it were deemed advisable, especially in general agreements, to limit the power conferred on the Council in the matter of conservatory measures in order to relieve the anxiety of States unwilling to undertake obligations not defined beforehand, use might be made of the following or other similar indications:

(a) For all questions generally left by international law to the exclusive jurisdiction of a State, the latter would retain its liberty of action. For example, in the case of a serious dispute arising out of increases in the Customs tariff (failing a commercial treaty) or the

expulsion of aliens, it would hardly be possible to place any restraint on a State in the regular exercise of its sovereign rights.

(b) As a general rule, no conservatory measures should be taken in regard to a State, save in the case of injury which cannot be made good by the payment of ordinary compensation or some other material form of reparation. This principle appears to be generally accepted in international law and was explicitly recognised quite recently by the Permanent Court of International Justice, in Judgment No. 8 (Denunciation of the Treaty between China and Belgium).

(c) Again, it will have to be decided whether conservatory measures might be taken by the Council in the case of all disputes, or only if there is danger of war. In this last eventuality, the Council's intervention would be of the first importance and the prevention of war would seem to justify a greater restriction on the liberty of the parties. Such restriction is, however, open to various objections which seem very difficult to overcome. In the first place, the conservatory measures would depend on one of the States parties to the dispute adopting an uncompromising and threatening attitude calculated in actual fact or in appearance to create the danger of war, whereas the same State, should it adopt a more moderate and conciliatory tone would not secure the benefit of conservatory measures. Furthermore, it would be unfortunate to confine conservatory measures to cases involving a danger of war, when there is every reason to hope that, if such measures were taken in good time, they might prevent that danger from arising. Lastly, is it really desirable that the Council should be obliged, for the purposes of ordinary conservatory measures, to raise the very serious question of the threat of war?

The Committee on Arbitration and Security will decide whether these various limitations are necessary. It will be open to the Committee to adopt all of them in principle, or only one, or more.

Suggestion No. II.

“ In case of threat of war, the States might undertake in advance to accept and to execute the recommendations of the Council to the effect of maintaining or re-establishing the military *status quo* normally existing in time of peace.”

It may perhaps be useful, in this connection, to recall Article 12 of the Covenant of the League, which also deals with the threat of war, Members of the League agreeing more particularly “ in no case to resort to war until three months after the award by the arbitrators or the report by the Council ”.

The second of the Geneva suggestions, relating to the question of the “ military *status quo* ”, appears to be based on the same principle.

It is not the first time that this question has come before the League of Nations. Apart from the Protocol of 1924, the work of the Preparatory Commission for the Disarmament Conference involved a protracted investigation into the *status quo ante*. The results are incorporated in the report of the Committee of Three on Article 11 of the Covenant, approved by the Council on December 6th, 1927 (document C.169.M.119. 1927 — C.D.C.67 (1)).

The report states, in paragraph III (d), that “ the Council may take steps to see that the *status quo ante* is not disturbed in such manner as to aggravate or extend the dispute, and thus to compromise the pacific settlement thereof. For this purpose, it may indicate to the parties any movements of troops, mobilisation operations and other similar measures from which it recommends them to abstain. Similar measures of an industrial, economic or financial nature may also be recommended ”.

Sub-paragraph (e) reads: “ In order to satisfy itself of the way in which these measures have been carried out and to keep itself informed of the course of events, the Council may think it desirable to send representatives to the locality of the dispute ”.

It seems impossible to define the measures to be taken more precisely beforehand. The great diversity of cases must preclude any attempt to catalogue them all in advance. Accordingly, the Council should be left wide powers of action, not only in order to ensure that States shall abstain from all threatening or provocative acts, but also, if necessary, with a view to restoring the *status quo* existing before such measures were taken. In each particular case, moreover, the Council will of course ask the opinion of its competent technical organs or of qualified experts.

If this procedure were adopted, it would perhaps be possible to avoid certain disadvantages which attach to the Council's intervention for the maintenance of the military *status quo ante*, and which consist in consolidating the advantages of the State harbouring aggressive designs. Such a State would, indeed, probably have been making particularly intensive military preparations for some time past.

The German suggestion appears to require supplementing in another direction, namely, by some provision whereby the Council should supervise the execution of any measures ordered, as proposed in the above-mentioned report of the Committee of Three (III (e)). A State would not be likely to undertake to execute measures of such gravity from the point of view of its national security unless it were sure and possessed some guarantee that the other party to the dispute would also execute them in good faith and in their entirety. These measures, which would be clearly defined and enforceable without delay, should of course always be suited to the individual case.

On the one hand, insistence was laid upon the necessity for making the Council's decision binding upon all signatory States and of obtaining from signatory Members of the League and not Members of the Council an undertaking not to sit on the Council when this decision was taken.

On the other hand, the opinion was expressed that it was important to leave to the signatory States the right to decide for themselves after the Council had taken its own decision.

On this matter, it has been rightly observed — this is in my opinion an essential point — that the guarantee provided by the rule of unanimity in the Council is not of equal value for all the signatories. It would be far more substantial for those which are permanent Members of the Council, since they would be sure that no scheme of financial assistance would ever be enforced against their will.

Doubts were expressed as to the possibility of departing from the general provision contained in Article 4, paragraph 5, of the Covenant, and it was pointed out that, even in the most serious cases, the Council's decisions could not be absolutely binding. You see therefore that we must continue our enquiries so as to elucidate the questions at issue. At the present stage in our work it is, I think, almost impossible to take any final decisions in a matter so important and so pregnant with consequences as financial assistance. Without any wish to prejudge the discussion that will have to take place, I would propose that, for the moment, we confine ourselves to an exchange of general views.

The Joint Committee's report has not yet been communicated to Governments and therefore many delegations here present cannot know their Governments' views.

I think too that we should do well to communicate the result of our discussions to the Financial Committee so that it may give us its opinion from the financial point of view upon the ideas expressed in our Committee.

New points to which our discussion may give rise would be combined with those in the Joint Committee's report to form a provisional report for submission to the Assembly. This report would set forth our Committee's opinion and mark the great importance we attach to this question of financial assistance and the need for our pursuing its study.

The CHAIRMAN. — We have just listened to the statement by the Chairman of the Joint Committee on its work. You will certainly agree with me in thinking that the Joint Committee has done a very useful piece of work and that it has succeeded in elucidating the points which deserve our attention, and more particularly in indicating the difficulties with which we are faced.

I must thank the members of the Joint Committee very heartily for what they have done to facilitate our task. As regards the procedure to be adopted for our discussion, you will certainly agree with M. Veverka. The question of financial assistance is of a political as well as of a financial character. It is very complicated and exceedingly important, and that is why it claims our very close attention.

The time at the Committee's disposal during the present session is very limited and will not allow us to enter into all the details — some of them very delicate — connected with this question. Moreover, as M. Veverka has rightly observed, the Governments have not yet had time to take cognisance of the Joint Committee's report; nor are we ourselves in a position to ask their opinion at the present stage of our work.

We should therefore do best to be content with an exchange of quite general views and not attempt to take any final decisions during the present session. I can only support M. Veverka's suggestion and propose a general discussion, the results of which, together with those already achieved, will be embodied in a report which we should submit to the Assembly, at the same time insisting upon the necessity for further study. The Assembly would transmit it for discussion to one of its Committees. In all probability, the Committee on Arbitration and Security would then have to submit concrete proposals.

Accordingly, if you think fit, and if the members of the Committee desire at the present stage to express their Governments' point of view, we can begin a general discussion at once.

I propose first to appoint a Rapporteur who, at the next meeting, will submit to you a draft report for the Assembly. I propose as Rapporteur M. Veverka, Chairman of the Joint Committee. M. Veverka's report to the Committee could be discussed at a plenary meeting on Tuesday or Wednesday next.

Lord CUSHENDUN (British Empire). — I do not wish to intervene as regards the procedure, except to this extent. So far as I am able to follow the proposals which you have made, I do not think that, at the end of the suggested procedure, much progress would have been made. It appears to me that what we really want, in the first instance, is a technical scheme drawn up by financial experts. The Committee will remember that I expressed the support of my Government on the general principle of this proposal, but I said that I could not express any final opinion upon it until I had had a financial scheme drawn up which I should be in a position to submit to my Government at home, especially having in view the Treasury, which is the technical department concerned. We shall have to have that financial scheme sooner or later, and although there are very interesting and important political questions set out in this report, it really will only become of first-rate importance when we have decided whether

Suggestion No. III.

“ In the case of hostilities of any kind breaking out without, in the Council's opinion, all possibilities of a pacific settlement having been exhausted, the State might undertake in advance to accept, on the Council's proposal, an armistice on land and sea and in the air, including especially the obligation of the two parties in dispute to withdraw the forces which might have penetrated into foreign territory and to secure the respect of the sovereignty of the other State.”

The idea that the Council might call upon the parties to agree to an armistice after hostilities have broken out is to be found in the Geneva Protocol (Article 10). It was taken up again by the French delegation in the memorandum submitted in 1926 to the Preparatory Disarmament Commission, and by M. Politis in his “Memorandum on Security Questions” (cf. document C.A.S. 10, paragraphs 79 and 96).

In these documents, however, the main purpose was to facilitate the designation of the aggressor; the idea accordingly formed of *the procedure respecting sanctions*.

The German suggestion, on the other hand, would make the undertaking of the parties to accept an armistice primarily a link in the chain of *preventive measures*.

Whatever the object in view, the suggestion would undoubtedly be of very great value, both as a preventive measure and as one of the means by which the Council might subsequently determine the aggressor.

The obligations in regard to the armistice should of course always include, as the German delegation suggested, an obligation on the parties to withdraw any forces which might have entered a foreign territory and to respect the sovereignty of the other State.

But even under the simplest conditions, the enforcing of an armistice is bound to meet with considerable difficulties.

As was mentioned at the second session of the Committee on Arbitration and Security, a State which had resolved to become an aggressor in violation of the Covenant and any other undertakings would probably not be inclined to accept the Council's recommendations in regard to an armistice.

Furthermore, considering the variety of possible cases, the duty of laying down equitable armistice conditions might involve the Council in a very difficult and very delicate technical task.

Accordingly, as a solution of the difficulty, the Council might first take a preliminary decision stating that an armistice was necessary and ordering the parties to withdraw such of their forces as might have penetrated into foreign territory and to respect the sovereignty of the other State. These provisions might also apply to demilitarised zones, in virtue of international agreements. As regards the other conditions of the armistice, the Council would grant the parties a short time to come to a direct understanding, and only if they failed to do so would it proceed itself to lay down the conditions, after consulting its technical organs or qualified experts.

It seems unlikely that any State would openly refuse to accept the actual principle of an armistice and the principle that the territory and sovereignty of the other State should be respected. The other armistice conditions, however, might easily lead to protracted discussions and thus enable a State in certain circumstances to oppose a lengthy resistance to the Council's efforts. If, on the other hand, the parties are given time to come to a direct understanding, the prospect of an agreement would undoubtedly be promoted by the knowledge that, in the event of failure, the Council would itself proceed to lay down the conditions and that an uncompromising attitude would be bound to influence those conditions.

Lastly, it should be noted that, despite the considerable *technical* difficulties referred to, the chief obstacle to the adoption of the suggestion for an armistice appears to be of a *political* character. It is doubtful whether, having regard to the existing international situation, States would be prepared to enter into such far-reaching undertakings. If so, this would undoubtedly constitute a very considerable guarantee of security.

It is of course understood that, in all the cases considered above, the question of the supervision of the armistice conditions by the Council is just as important here as it is in the case of Suggestion No. II.

Suggestion No. IV.

“ The question should be considered whether the above-mentioned obligation should be undertaken only in the case of a unanimous vote of the Council (the votes of the parties to the dispute not being counted), or whether the majority, simple or qualified, might suffice in the matter. Furthermore, it should be considered in what form the obligations would have to be drawn up in order to bring them into conformity with the Covenant.”

(a) *Vote of the Council.* — The question of the simple or qualified majority vote of the Council brings us back to the difficulties encountered during the discussion on M. Politis' memorandum at the second session. These led him to adopt the view of those delegates who maintained that the rule of unanimity should remain unchanged.

The dangers, however, are perhaps less serious in the present case. The Council's decisions, it must be remembered, would never touch the fundamental issue in the dispute, but would be limited to preventing the parties from modifying the situation to their own advantage while the procedure is in progress, or from continuing hostilities.

The Governments would have to decide whether in these circumstances the idea of a majority vote might be considered.

The majority vote undoubtedly possesses a very special importance in the case of measures which must be taken as rapidly as possible if they are to have the desired effect. Accordingly, a mixed system might be feasible whereby the Council would normally comply with the rule of unanimity (naturally excluding the votes of representatives of the parties), an exception to this rule being allowed in the case of decisions in the nature of questions of procedure. But how are such decisions to be defined?

(b) *Conformity with the Covenant.* — When studying the German suggestions from the point of view of conformity with the letter and spirit of the Covenant, it is important first to note that, to a considerable extent, the proposed convention is simply a confirmation of existing law. As regards the first of the German suggestions, the provisions of the League Covenant would appear to be comprehensive enough to empower the Council to recommend that the parties should take conservatory measures. As to the second and third of these suggestions, it must be remembered that the Council, on December 6th, 1927, adopted a report concerning measures calculated to facilitate the application of Article II of the Covenant. This report contemplates a series of similar measures designed mainly to arrest military preparations and even, up to a point, to enforce their suspension. A system of supervision was also included.

The German suggestions, however, go even further. The fundamental idea lies in the proposal that States should assume an explicit undertaking in advance to accept the Council's recommendations.

The usefulness of this proposal would appear in itself to admit of no dispute. The establishment of a definite international undertaking must undoubtedly strengthen the obligations assumed under the Covenant. The first effect would be to facilitate action by the Council and to increase its efficacy. This is in keeping with the policy of those who insist on the progressive and systematic development of preventive measures.

From the standpoint of sanctions, equally valuable results might be anticipated. A State that refused to obey a recommendation of the Council would place itself in a very serious position. It would be violating a definite and specific international undertaking, and would thereby provide the Council, as already shown, with valuable evidence to be used when the latter came to determine the aggressor and, if necessary, to set in motion the machinery of sanctions. This legal offence appearing among disputes of a purely political character would also assist the Council in its work.

But notwithstanding the undoubted advantages of adopting the German suggestions, it is obviously necessary to determine whether these agreements could exist side by side with the machinery of the Covenant, or whether they would have to be drawn up in some particular form, with a view at least to this requirement.

This point is referred to in the last sentence of Suggestion No. IV.

It raises, in effect, the question whether the proposed system might not create difficulties as regards the application of the Covenant of the League. This difficulty does not appear likely to arise. What would happen if a State actually violated undertakings of the nature contemplated in the German suggestion? The matter would be brought before the Council in virtue of one of the articles of the Covenant — Article II in the first instance. The Council would be in possession of additional evidence (violence of an international obligation under the Convention in question) when deciding what arrangements should be made or what measures should be adopted. The normal working of the machinery of the Covenant, however, would not thereby be affected.

Suggestion No. V.

“ These obligations might constitute the object of an agreement or of a protocol which would be open for signature by all States Members and non-members of the League of Nations, and which might come into force separately for the several continents, in a way similar to that provided for in the draft Treaty of Mutual Assistance of 1923. ”

The German delegation suggests, lastly, that the obligations of the States “ might constitute the object of an agreement or of a protocol which would be open for signature by all States Members and non-members of the League of Nations ”.

An agreement of so general a scope undoubtedly has much to recommend it. Moreover, as several delegates pointed out at the second session of the Committee on Arbitration and Security, the German suggestions could not be expected to give practical results of any importance unless they were accepted by a large number of States. In other words, the efficacy of the agreements would depend essentially on the number of contracting parties.

At the same time, it must be borne in mind that important projects undertaken by the League have failed chiefly by reason of their general character. Some States might feel doubtful whether their vast, numerous and varied interests would permit of their assuming a general undertaking in regard to all States without exception, even if the undertaking appeared acceptable, or had already been accepted, in regard to specific States.

This difficulty also exists in the present case, as was amply demonstrated in the discussion at the second session of the Committee on Arbitration and Security. It is of capital importance, as the general form of the undertaking to be entered into by States appears to be one of the essential features which distinguish the German suggestions from similar provisions contained in many special treaties.

The German delegation, however, has foreseen these objections and suggests that the general agreement might come into force separately for the several continents in a way similar to that provided for in the Draft Treaty of Mutual Assistance of 1923.

The provisions for the entry into force of this Treaty are as follows:

“ It (the Treaty) shall come into force:

“ In Europe when it shall have been ratified by five States, of which three shall be permanently represented on the Council;

“ In Asia, when it shall have been ratified by two States, one of which shall be permanently represented on the Council;

“ In North America, when ratified by the United States of America;

“ In Central America and the West Indies, when ratified by one State in the West Indies and two in Central America;

“ In South America, when ratified by four States;

“ In Africa and Oceania, when ratified by two States. ”

The legal and political difficulties of such a system appeared so great, however, that the Third Committee mentioned expressly, in its report to the Assembly on the Draft Treaty of 1923, that the text proposed was not a definite text, but merely an indication “ of subject-matter requiring further study by those Governments to which the Draft is submitted with a view to arriving at a satisfactory and definite result ”. The question is thus seen to be both delicate and complicated. It may be granted, however, that the political difficulties will be less serious in the present case, which does not involve measures of mutual assistance, like the Draft of 1923, but simply provisional measures that do not touch the actual substance of the disputes, and can, moreover, failing a general agreement, be adopted in the form of regional pacts.

The question of the signature of the proposed agreement by States non-members of the League raises an even more delicate political issue. From the legal standpoint, it does not appear to involve insurmountable difficulties, in view of the principles of the Covenant, more particularly Articles 11 and 17.

CHAPTER III. — CONCLUSIONS.

Following on the account of the German suggestions and the observations thereon given in the preceding chapters, the Rapporteur has decided to summarise the questions of principle raised, questions in regard to which the Committee on Arbitration and Security might be required to give a decision at its next session:

With reference to Suggestion No. I.

1. Should the Council have power, in virtue of an agreement to be concluded between States, to lay down “ conservatory measures ” for the purpose of preventing any aggravation or extension of a dispute between States ?

2. Should such conservatory measures be left entirely to the discretion of the Council, or should the powers of the latter be restricted in conformity with the following principles, or with one or more of those principles ?

(a) In all questions left by international law to the exclusive jurisdiction of a State, the latter will retain its liberty of action (*e.g.*, Customs tariffs, expulsion of aliens);

(b) Conservatory measures may not be ordered when satisfaction may be given for the injury by the payment of ordinary compensation or by some other national form of reparation;

(c) The Council will only have power to take conservatory measures if there is a danger of war.

With reference to Suggestion No. II.

1. Should the Council have power, in virtue of an agreement to be concluded between States, to order measures, when there is a danger of conflict between the said States, with a view to maintaining or restoring between them the *status quo ante* in the matter of preparations for war ?

2. Should the above rule relating to principle be supplemented in accordance with the following provisions reproduced from Article III (d) and (e) of the report on Article 11 of the Council, approved by the Council on December 6th, 1927 ?

(d) The Council “ may indicate to the parties any movements of troops, mobilisation operations and other similar measures from which it recommends them to abstain. Similar measures of an industrial, economic or financial nature may also be recommended ”;

(e) “ In order to satisfy itself of the way in which these measures have been carried out and to keep itself informed of the course of events, the Council may think it desirable to send representatives to the locality of the dispute. ”

3. Should the Council be given explicitly a right of supervision in regard to the execution of measures prescribed with a view to restoring the *status quo ante*, and should it be granted entire freedom to adopt for this purpose measures clearly defined and of immediate application ?

With reference to Suggestion No. III.

1. Should the Council have power, in virtue of an agreement to be concluded between States, to order the parties to accept an armistice when hostilities have broken out between the said States ?

2. Should it be laid down that the Council will first order the parties to withdraw any forces which may have penetrated into foreign territory and to respect the sovereignty of the other State, and that it will only proceed to fix the other conditions of the armistice if the parties fail to reach a direct agreement within a specified time ?

3. Should the execution and observance of the armistice conditions be placed under the supervision of the Council ?

With reference to Suggestion No. IV.

1. Should the Council resolutions concerning the cases mentioned in the above suggestions be adopted unanimously (not counting, of course, the votes of the representatives of the parties to the dispute), or would a majority vote, simple or qualified, be admissible, at all events in certain cases ? If so, in what cases ?

2. Would the Council's action, in virtue of the above-mentioned agreements between States, be in conformity with the Covenant ?

With reference to Suggestion No. V.

1. Should the above-mentioned agreements take the form of an open protocol, or general or regional conventions, or even separate agreements ?

2. In each of the above-mentioned cases, could the agreements in question include States not members of the League ?

3. In the case of an open protocol or general convention, should this come into force separately for the several continents in a manner similar to that provided for in the Draft Treaty of Mutual Assistance of 1923 ?

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After a discussion on the above questions, the Committee will no doubt be able to frame proposals to be submitted to the next Assembly.
