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LEAGUE OF NATIONS

Pacific Settlement of International Disputes,  
Non-Aggression and Mutual Assistance.

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REPORT OF THE THIRD COMMITTEE TO THE ASSEMBLY

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*Rapporteur*: His Excellency M. N. POLITIS (*Greece*).

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## REPORT BY HIS EXCELLENCY M. POLITIS.

Among the tasks assigned to the Committee on Arbitration and Security under the Assembly resolution of September 26th, 1927, is "Action by the League of Nations with a view to promoting, generalising and co-ordinating special or collective agreements on arbitration and security".

The Committee on Arbitration and Security prepared two groups of model treaties in this connection, one relating to arbitration and conciliation, and the other to non-aggression and mutual assistance.

Each group of model treaties was accompanied by an introductory note and two resolutions, one regarding the submission and recommendation of the model treaties in question, and the other regarding the good offices of the Council. Moreover, the Committee on Arbitration and Security adopted a resolution concerning the optional clause of Article 36 of the Statute of the Permanent Court of International Justice.

### I.

As regards the model treaties of arbitration and conciliation and the draft resolution regarding the submission and recommendations of these models, the Third Committee asked the First Committee for a legal opinion. In order to facilitate liaison between the two Committees, a Sub-Committee was constituted, consisting of members appointed by each of those two Committees, and this Sub-Committee considered in detail the model treaties in question.

The Committee on Arbitration and Security had prepared six model Conventions for the Pacific Settlement of International Disputes, *i.e.*, three model general conventions and three model bilateral conventions.

A prior question arose in regard to the general conventions, *i.e.*, how to establish between them the indispensable connection which was lacking. Two methods were contemplated by the First Committee—a common Protocol linking up the three Conventions, and the fusion of these conventions into a single instrument. After exhaustive consideration, the Sub-Committee adopted the second method, which appeared to it to be the more practicable, and drew up a General Act (Annex 1) which was approved by the First Committee. This instrument in no way impairs the value of the three conventions; rather it increases their value as regards the simplicity of the system and the elasticity of the undertakings. The General Act consists of four chapters, the first three of which reproduce the distinctive provisions of the three Conventions C, B and A, while the fourth combines the general provisions of these conventions. The General Act is open to the accession of States, and may be accepted by them in whole or in part (Article 38).

The elasticity which the Committee on Arbitration and Security desired to give to the system of the three Conventions is maintained, and even increased, in the General Act. Not only does the latter give States a possibility of limiting their engagements (Article 38) and of making reservations (Article 39)—the regulations relating to which have been revised and made more explicit—but it also allows of the scope of the engagements already entered into being extended at any moment or of the reservations made being abandoned (Article 40). The General Act also allows of partial denunciation, which may consist in the notification of new reservations (Article 45).

Thus, while retaining the character of a law capable of becoming universal, the General Act lends itself by the diversity of its provisions to an infinite variety of situations and requirements.

It further preserves the essential character which the Committee on Arbitration and Security had finally given to the three Conventions. Like these Conventions, it is not a draft which requires to be negotiated upon, or to receive signatures, in order to become an effective instrument. It is a document which can be converted into a Convention as soon as it is accepted in its entirety or in part by two States. It will remain open indefinitely for the accession of all other States. Naturally, it is assumed that Governments will first secure the parliamentary approval necessary under their respective national constitutions, and that, in this way, the accessions will become valid.

The provisions of the General Act resulting from the fusion of the three Conventions have been modified in certain points, in view of the observations made by various delegations.

Among the most important of these changes, mention should be made of the following:

(1) The choice of the members of the Arbitral Tribunal provided for in Chapter III in the case of disagreement among the parties (Article 23). This change was effected for the purpose of ensuring still more completely the impartiality of the Tribunal;

(2) The deletion of the reservation regarding constitutional principles (Article 39). The reasons which led to this reservation being omitted are that it would have created inequality as between States possessing different constitutional systems and also that what is essential in this reservation can be safeguarded by the provisions of paragraph (c) in the same article;

(3) The addition to the above-mentioned paragraph (c) in Article 39 of a reference to disputes concerning "specific subject-matters". This would enable States which have concluded conciliation treaties with other States, and which do not desire, as regards these States, to enter into undertakings concerning judicial or arbitral settlement, to assume such undertakings with other States by acceding to the General Act.

Other amendments were proposed, but were not adopted, such as:

(1) The definition and enforcement of the term "reasonable time" in Article 31, paragraph 1. It is, indeed, impossible to indicate what a "reasonable time" might be under

Lord CUSHENDUN (British Empire). — I quite agree with the proposal that you have suggested, Mr. Chairman, and I have no wish to press on the discussion at the present moment, but I should like to say that, speaking for myself, and I can of course only speak for myself, I do not see any prospect of my being able to express an opinion any more at a later date than I can now. M. Veverka has told us that if we were to ask the Financial Committee now for a scheme we should be in danger of moving in a vicious circle, but I cannot follow that reasoning. He speaks as though we already had a definite financial scheme prepared by the Financial Committee before us. If that is so, it must be embodied in some document that I have not seen. I have as yet seen no such scheme.

I look forward to the way in which this scheme of financial assistance will have to work. A very important body of opinion is the money market in the various centres, and the money market in London (and I can, of course, only speak for London) will not care in the least about the opinion of this Committee or the opinion of the Assembly; what they will look at is whether or not the financial scheme is a sound one. In order to arrive at an opinion from that point, they will look first of all at a scheme which must be prepared some time or other by the Financial Committee and then at the report upon that scheme by our own Treasury. Therefore it seems to me that, unless we have the material upon which the Treasuries of the various countries must express an opinion and upon which the money markets must act if the scheme is ever to materialise, we are really beating the air in the meantime. I have no objection to doing that, but let us realise that we are beating the air and that we are not promoting a scheme of financial assistance to prevent aggression and war. That we shall not do until we have got a definite financial scheme before us by experts.

M. VEVERKA (Chairman of the Joint Committee). — I desire in a few words to reply to Lord Cushendun. I should like to invoke an authority, Sir Henry Strakosch, who is particularly qualified to speak for the money market on this question and who represented the Financial Committee in the deliberations of the Joint Committee.

Sir Henry Strakosch stated that it was impossible for the Financial Committee to work out any plan until it knew who was going to put this scheme into effect, that is to say, until a definite political reply had been given to a political question. In particular, the Committee would have to know whether financial assistance was to come into force by the unanimous vote of the Council, excluding the parties to the dispute. That is the vicious circle to which I previously referred.

At the end of his proposal, Sir Henry Strakosch states that, if the Joint Committee is unable to reach an agreement on this point, it should ask the Committee on Arbitration and Security to settle it, because it is important that it should be decided.

M. RUTGERS (Netherlands). — The proposed procedure was contemplated from the outset in the Financial Committee's report, of which an extract was communicated to the 1927 Assembly. The Financial Committee stated that, "if the Council desired to adopt such a scheme, the Financial Committee would be glad to have an opportunity of considering further the elaboration of the detailed scheme of which the general outlines have been sketched above." In introducing its plan, the Financial Committee stated that, should the Governments decide to adopt a scheme of this nature, they would first have to reply to certain questions which the problem involves, such as the definition of the victim of aggression, the method of determining the aggressor, the right of different States to participate in the scheme, the maximum limit of the guarantee, etc.

The Financial Committee believes that it has given us the broad lines of the scheme and that these should be accepted before it can go on to elaborate the details.

The Financial Committee stated that: "Should the Council desire to adopt such a scheme...." The Council replied that it was not for them to take a decision and that the question should be referred to the Assembly, by whom it was subsequently referred to the Committee on Arbitration and Security.

What the Financial Committee asked for in June 1927 still remains to be done, and is mentioned in the Joint Committee's report, which states that: "The Financial Committee recommended that the technical details of the scheme of financial assistance should be worked out on the following lines..." These outlines are similar to those indicated in the report of June 1927. It seems to me, therefore, that we must first adopt certain political decisions and then we must ask the Financial Committee to elaborate the detailed scheme.

The CHAIRMAN. — I think this discussion has already produced very useful results. It shows us where we stand in regard to this matter and what we now have to do. The discussion has shown us that the Financial Committee has already accomplished some very important work and that we are almost on the verge of being able to formulate concrete proposals. The possibility of drawing up a Convention on the matter has already been discussed, but it will be necessary to take certain political decisions before this question can be definitely examined. Those decisions must be taken either directly by the Governments or by some competent organ of the League of Nations. It is most desirable that we should avoid a procedure which would simply result in referring the question backwards and forwards from one committee to another. We have now reached the stage where a decision must be taken. I do not think, however, that it is possible for Governments to express an immediate opinion on the matter; decisions can hardly be taken until after the Assembly, when the Governments will have had an opportunity of seeing what has already been accomplished. But it is quite clear that our Committee will have to reply to the questions raised.

the different national laws of the various countries, in view of the variety of the judicial systems and the practice of different States. Moreover Article 41, under which all disputes regarding the interpretation and application of the General Act are submitted to the Permanent Court of International Justice, provides the means for dealing with any possible abuses;

(2) The addition to Article 39 of a provision whereby, should one party accede with reservations, any other party which has already acceded would be entitled, within a very short period, to indicate reservations which would be valid solely in its relations with the above-mentioned party. This addition would have seriously complicated the general structure of the system; and have led in practice to inextricable difficulties.

From another point of view the proposals of the Committee on Arbitration and Security continue unchanged. By framing three model bilateral Conventions (Annex 2) in addition to the three model general conventions, the Committee did not intend to indicate any preference as between these two classes of treaty. They were submitted simultaneously to take account of the two tendencies which had appeared in the course of the Committee's work, *i.e.*, one favourable to general engagements and the other to particular engagements. Their simultaneous presentation thus constituted, as between these two tendencies, a compromise which continued to be respected. Nevertheless, the framing of the General Act caused certain misgivings in this respect. The First Committee desired to remove them by categorical statements contained in the draft resolution accompanying these documents. Three model bilateral conventions are annexed to this draft resolution, in addition to the General Act; and it is stated in the resolution that countries which prefer particular agreements may conclude such agreements either by using the model bilateral conventions or by concluding their agreements on other bases.

The draft resolution further includes the substance of the preamble to the three general conventions and of the draft resolution relating thereto; clauses taken from the provisions of the three general conventions regarding the action of the League of Nations (No. 7) which it seemed preferable to separate from the actual text of the General Act, so as to allow of this Act meeting the case of States not Members of the League of Nations.

This paragraph was modified during the discussion in Committee so as to remove certain apprehensions and it was understood that the action of the Council was not intended to interrupt any procedure which had been begun and that it would be desirable if the details of such action were thoroughly examined at a later date. Finally, two provisions, one of which (No. 9) provided for the communication of the General Act and of the model bilateral conventions to States Members of the League of Nations and to such States non-Members of the League as may be indicated by the Council, and the other (No. 10) providing for the preparation by the Secretariat of the League of a list of the general or particular engagements contracted, to enable all of them to follow the future progress of the procedure for the pacific settlement of international disputes.

The Third Committee also examined the draft resolution for the Assembly, drawn up by the Committee on Arbitration and Security, concerning the good offices of the Council with a view to the conclusion of treaties on the pacific settlement of international disputes. It adopted this draft with a slight addition in the last paragraph to bring it into line with the corresponding draft resolution concerning the good offices of the Council with a view to the conclusion of treaties of mutual assistance and non-aggression.

The Third Committee therefore has the honour to submit to the Assembly for approval the two following draft resolutions:

I. RESOLUTION ON THE SUBMISSION AND RECOMMENDATION OF A GENERAL ACT (ANNEX 1)  
AND OF THREE MODEL BILATERAL CONVENTIONS IN REGARD TO CONCILIATION, ARBITRATION  
AND JUDICIAL SETTLEMENT.

“ The Assembly:

“ Having considered the work of the Committee on Arbitration and Security;

“ (1) Firmly convinced that effective machinery for ensuring the peaceful settlement of international disputes is an essential element in the cause of security and disarmament;

“ (2) Considering that the faithful observance, under the auspices of the League of Nations, of methods of pacific settlement renders possible the settlement of all disputes;

“ (3) Noting that respect for rights established by treaty or resulting from international law is obligatory upon international tribunals;

“ (4) Recognising that the rights of the several States cannot be modified except with their consent;

“ (5) Taking note of the fact that a great number of particular international conventions provide for obligatory conciliation, arbitration or judicial settlement;

“ (6) Being desirous of facilitating to the greatest possible degree the development of undertakings in regard to the said methods of procedure;

“ (7) Declaring that such undertakings are not to be interpreted as restricting the duty of the League of Nations to take at any time whatever action may be deemed wise and effectual to safeguard the peace of the world; or as impeding its intervention in virtue of Articles 15 and 17 of the Covenant, where a dispute cannot be submitted to arbitral or judicial procedure or cannot be settled by such procedure or where the conciliation proceedings have failed;

“ (8) Invites all States whether Members of the League or not, and in so far as their existing agreements do not already achieve this end, to accept obligations in pursuance of the

above purpose either by becoming parties to the annexed General Act or by concluding particular conventions with individual States in accordance with the model bilateral conventions annexed hereto or in such terms as may be deemed appropriate;

"(9) Resolves to communicate the annexed General Act and the annexed model bilateral conventions to all Members of the League of Nations and to such States not Members of the League as may be indicated by the Council.

"(10) Requests the Council to give the Secretariat of the League of Nations instructions to keep a list of the engagements contracted in accordance with the terms of the present resolution either by acceptance of the provisions of the General Act or by the conclusion of particular conventions with the same object, so as to enable Members of the League and States non-Members of the League to obtain information as soon as possible."

## 2. RESOLUTION CONCERNING THE GOOD OFFICES OF THE COUNCIL.

"The Assembly:

"In view of the resolution adopted by the Assembly on September 25th, 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;

"Recognising that the development of procedures for the pacific settlement of any disputes which may arise between States is an essential factor in the prevention of wars;

"Expresses its appreciation of the progress achieved in concluding treaties of this kind, and its desire to see the application of the principle of the pacific settlement of all disputes extended as far as possible, and

"Invites the Council, to inform all States Members of the League that, should States feel the need of reinforcing the general security conferred by the Covenant and of contracting for this purpose undertakings concerning the pacific settlement of any disputes which may arise between them, and should negotiations in connection therewith meet with difficulties, the Council would, if requested to do so by one of the Parties — 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 by them, would be calculated to bring the negotiations to a happy issue."

## II.

As regards the question of non-aggression and mutual assistance, the Committee on Arbitration and Security has drawn up three model treaties (Annex 3), namely, a model collective treaty of mutual assistance, a model collective treaty of non-aggression, and a model bilateral treaty of non-aggression. These model treaties contain, in Chapter II, stipulations concerning the peaceful settlement of disputes. These stipulations are broadly similar to the corresponding stipulations in the General Act and in the model bilateral conventions for the pacific settlement of disputes.

The principles of these model treaties concerning non-aggression and mutual assistance were explained in the introductory note drawn up by the Committee on Arbitration and Security.

It will be seen from this note that the model treaties do not provide for mutual assistance by the Contracting Parties in the case of aggression by a third State. This note indicated that it had been decided to insert in the said models only clauses of a general character likely to be accepted in a treaty of this kind. Care was taken to indicate a certain number of particular clauses which might be found useful in certain circumstances. Such are, for example, the clauses relative to flagrant aggression and to demilitarised zones.

(1) As regards the clause concerning flagrant aggression, it has been proposed to accept as a general rule in treaties of mutual assistance a clause similar to Article 4, paragraph 3, of the Rhine Pact of Locarno. This clause reads as follows:

"In the case of a flagrant violation of Article 1 of the present Treaty by one of the High Contracting Parties, each of the other Contracting Parties hereby undertakes immediately to come to the help of the Party against which such a violation or breach has been directed, as soon as the said Power has been able to satisfy itself that this violation constitutes an unprovoked act of aggression and that, by reason either of the crossing of the frontier or the outbreak of hostilities, immediate action is necessary. Nevertheless, the Council of the League of Nations, when officially informed of the question in accordance with the first paragraph of this article, will issue its findings, and 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."

Certain States attach particular importance, in the case of a flagrant aggression, to the promise of assistance before action is taken by the Council. But it was also thought that it would be wiser not to recommend the system adopted at Locarno and that the examination of the special circumstances of each case will allow it to be decided whether the clause in question should be inserted in a given treaty or not.

(2) In the same way, as regards the establishment of demilitarised zones, it was recognised that, while they are often capable of giving the nations concerned a greater sense of security, this is

not always the case. Here again, all depends on circumstances. If the contracting parties or some of them consider it useful to establish such zones on their frontiers, they may do so by means of special conventions.

During the discussion before the Third Committee, it was suggested that it might be well for the Preparatory Commission for the Disarmament Conference or the Committee on Arbitration and Security, to draw up model regulations for demilitarised zones. Such a model might no doubt greatly facilitate negotiations between States who were prepared to establish a zone or zones along their frontiers. In the proceedings of the Inter-Parliamentary Union we already possess interesting suggestions in this connection, in particular, a preliminary draft of "General Regulations" for demilitarised zones, voted by the Union at its conference at Washington in 1925.

The Third Committee decided to amend slightly the draft resolution prepared by the Committee on Arbitration and Security for the submission and recommendation of the treaties of non-aggression and mutual assistance. To meet the wish expressed by certain delegations, the Third Committee added the reference to the explanations given in the introductory note drawn up by the aforesaid Committee.

It also completed the same Committee's draft resolution regarding the good offices of the Council with a view to the conclusion of treaties of non-aggression and mutual assistance. It did this with the object of making it clearer that in such cases the Council's intervention could only be sought by one of the Parties concerned.

The Third Committee therefore has the honour to submit for the approval of the Assembly the following draft resolutions:

3. RESOLUTION ON THE SUBMISSION AND RECOMMENDATION OF MODEL TREATIES OF NON-AGGRESSION AND MUTUAL ASSISTANCE.

"The Assembly;

"Having noted the model treaties of non-aggression and mutual assistance prepared by the Committee on Arbitration and Security, and amended as a result of the work of the First and Third Committees of the Assembly, together with the explanations supplied in the introductory note drawn up by the first-named Committee;

"Highly 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."

4. RESOLUTION CONCERNING THE GOOD OFFICES OF THE COUNCIL.

"In view of the resolution adopted by the Assembly on September 25th, 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 treaties of non-aggression and mutual assistance 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 treaties;

"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 treaty of non-aggression and mutual assistance or a treaty of non-aggression for this purpose, and should the negotiations relating thereto meet with difficulties, the Council would, if requested by one of the Parties — 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."

III.

The Committee on Arbitration and Security recommends that a draft resolution concerning the optional clause of Article 36 of the Statute of the Permanent Court of International Justice be submitted for the approval of the Assembly. This draft was examined by the First Committee, which made a useful addition to the penultimate paragraph. The Third Committee

accepted the text thus revised. It therefore has the honour to propose to the Assembly the adoption of the following resolution:

5. RESOLUTION REGARDING THE OPTIONAL CLAUSE OF ARTICLE 36 OF THE STATUTE OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE.

“ The Assembly:

“ Referring to the resolution of October 2nd, 1924, in which the Assembly, considering that the terms of Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice are sufficiently wide to permit States to adhere to the special Protocol opened for signature in virtue of that article, with the reservations which they regard as indispensable, and convinced that it is in the interest of the progress of international justice that the greatest possible number of States should, to the widest possible extent, accept as compulsory the jurisdiction of the Court, recommends States to accede to the said Protocol at the earliest possible date;

“ Noting that this recommendation has not so far produced all the effect that is to be desired;

“ Being of opinion that, in order to facilitate effectively the acceptance of the clause in question, it is expedient to diminish the obstacles which prevent States from committing themselves;

“ Being convinced that the efforts now being made through progressive codification to diminish the uncertainties and supply the deficiencies of international law will greatly facilitate the acceptance of the optional clause of Article 36 of the Statute of the Court, and that meanwhile attention should once more be drawn to the possibility offered by the terms of that clause to States which do not see their way to accede to it without qualification to do so subject to appropriate reservations limiting the extent of their commitments, both as regards duration and as regards scope;

“ Noting in this latter connection that the reservations conceivable may relate, either generally to certain aspects of any kind of dispute, or specifically to certain classes or lists of disputes, and that these different kinds of reservation can be legitimately combined;

“ Recommends that States which have not yet acceded to the optional clause of Article 36 of the Statute of the Permanent Court of International Justice should, failing accession pure and simple, consider, with due regard to their interests, whether they can accede on the conditions above indicated;

“ Requests the Council to communicate the text of this resolution to those States as soon as possible, desiring them to notify it of their intentions in the matter, indicating at the same time the questions of international law the elucidation of which would in their opinion facilitate their accession to the optional clause of Article 36 of the Statute of the Court; and

“ Asks the Council to inform the Assembly at its next session of the replies it has by then received. ”

IV.

Lastly, the First Committee examined and approved a draft resolution submitted by the French delegation concerning the documentation of the Secretariat of the League of Nations in regard to treaties on peaceful settlement and arbitral awards.

The Third Committee, having accepted this proposal, has the honour to submit for the approval of the Assembly the following resolution:

6. RESOLUTION WITH REGARD TO THE REVISION OF THE SYSTEMATIC SURVEY OF ARBITRATION CONVENTIONS AND TREATIES OF MUTUAL SECURITY DEPOSITED WITH THE LEAGUE OF NATIONS, PREPARED BY THE LEGAL SECTION OF THE SECRETARIAT.

“ The Assembly:

“ Recognising the importance of the documentation which the Secretariat of the League of Nations has begun to collect concerning treaties of judicial settlement, arbitration and conciliation, and of the maps and graphs which it contemplates establishing: —

“ Requests the Secretary-General to be so good as to invite the Governments of States Members or non-Members of the League of Nations to communicate to the Secretariat the text:

“ (1) Of those treaties for the pacific settlement of disputes which are now in force and which were concluded prior to the establishment of the League of Nations and which have not been registered;

“ (2) Of such arbitral awards affecting them as may be rendered in the future, with the exception of judgments of the Permanent Court of International Justice and of the Permanent Court of Arbitration and of special tribunals such as the Mixed Arbitral Tribunals. ”

## ANNEX 1.

### GENERAL ACT.

#### CHAPTER I. — CONCILIATION.

##### *Article 1.*

Disputes of every kind between two or more Parties to the present General Act which it has not been possible to settle by diplomacy shall, subject to such reservations as may be made under Article 39, be submitted, under the conditions laid down in the present Chapter, to the procedure of conciliation.

##### *Article 2.*

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

##### *Article 3.*

On a request to that effect being made by one of the Contracting Parties to another Party, a permanent Conciliation Commission shall be constituted within a period of six months.

##### *Article 4.*

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. 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 5.*

If, when a dispute arises, no permanent Conciliation Commission appointed by the parties is in existence, a special commission shall be constituted for the examination of the dispute within a period of three months from the date at which a request to that effect is made by one of the parties to the other party. The necessary appointments shall be made in the manner laid down in the preceding article, unless the parties decide otherwise.

##### *Article 6.*

1. If the appointment of the commissioners to be designated jointly is not made within the periods provided for in Articles 3 and 5, the making of the necessary appointments shall be entrusted to a third Power, chosen by agreement between the parties, or on request of the parties, to the Acting President of the Council of the League of Nations.

2. If no agreement is reached on either of these procedures, 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, the 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 7.*

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 default thereof by one or other of the parties.

2. The application, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable solution.

3. If the application emanates from only one of the parties, the other party shall, without delay, be notified by it.

##### *Article 8.*

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 notify the other party; the latter shall, in such case, be entitled to take similar action within fifteen days from the date on which it received the notification.



*Article 9.*

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 its President.

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

*Article 10.*

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 11.*

1. In the absence of agreement to the contrary between the parties, 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 Part 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 shall be heard.

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

*Article 12.*

In the absence of agreement to the contrary between 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 13.*

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 14.*

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 manner.

*Article 15.*

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 unanimously or 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 given cognisance of the dispute.

*Article 16.*

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

CHAPTER II. — JUDICIAL SETTLEMENT.

*Article 17.*

All disputes with regard to which the parties are in conflict as to their respective rights shall, subject to any reservations which may be made under Article 39, 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.

It is understood that the disputes referred to above include in particular those mentioned in Article 36 of the Statute of the Permanent Court of International Justice.

*Article 18.*

If the parties agree to submit the disputes mentioned in the preceding article to an arbitral tribunal, they shall draw up a special agreement in which they shall specify the subject of the dispute, the arbitrators selected, and the procedure to be followed. 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 so far as is necessary. If nothing is laid down in the special agreement as to the rules regarding the substance of the dispute to be followed by the arbitrators, the tribunal shall apply the substantive rules enumerated in Article 38 of the Statute of the Permanent Court of International Justice.

*Article 19.*

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 20.*

1. Notwithstanding the provisions of Article 1, disputes of the kind referred to in Article 17 arising between parties who have acceded to the obligations contained in the present chapter shall only be subject to the procedure of conciliation if the parties so agree.

2. The obligation to resort to the procedure of conciliation remains applicable to disputes which are excluded from judicial settlement only by the operation of reservations under the provisions of Article 39.

3. In the event of recourse to and failure of conciliation, neither party may bring the dispute before the Permanent Court of International Justice or call for the constitution of the arbitral tribunal referred to in Article 18 before the expiration of one month from the termination of the proceedings of the Conciliation Commission.

CHAPTER III. — ARBITRATION.

*Article 21.*

Any dispute not of the kind referred to in Article 17 which does not, within the month following the termination of the work of the Conciliation Commission provided for in Chapter I, form the object of an agreement between the parties, may, subject to such reservations as may be made under Article 39, be brought before an arbitral tribunal which, unless the parties otherwise agree, shall be constituted in the manner set out below.

*Article 22.*

The Arbitral Tribunal shall consist of five members. The parties shall each nominate one member, who may be chosen from among their respective nationals. The two other arbitrators and the Chairman shall be chosen by common agreement from among the nationals of third Powers. They must be of different nationalities and must not be habitually resident in the territory nor be in the service of the parties.

*Article 23.*

1. If the appointment of the members of the Arbitral Tribunal is not made within a period of three months from the date on which one of the parties requested the other party to constitute an arbitral tribunal, a third Power, chosen by agreement between the parties, shall be requested to make the necessary appointments.

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

3. If, within a period of three months, the two Powers so chosen have been unable to reach an agreement, the necessary appointments shall be made by the President of the Permanent Court of International Justice. If the latter is prevented from acting or is a subject of one of the parties, the nomination shall be made by the Vice-President. If the latter is prevented from acting or is a subject of one of the parties, the appointments shall be made by the oldest member of the Court who is not a subject of either party.

*Article 24.*

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 25.*

The parties shall draw up a special agreement determining the subject of the disputes and the details of procedure.

*Article 26.*

In the absence of sufficient particulars in the special agreement regarding the matters referred to in the preceding article, the provisions of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes shall apply so far as is necessary.

*Article 27.*

Failing the conclusion of a special agreement within a period of three months from the date on which the Tribunal was constituted, the dispute may be brought before the Tribunal by an application by one or other party.

*Article 28.*

If nothing is laid down in the special agreement or no special agreement has been made, the Tribunal shall apply the rules in regard to the substance of the dispute enumerated in Article 38 of the Statute of the Permanent Court of International Justice. In so far as there exists no such rule applicable to the dispute, the Tribunal shall decide *ex aequo et bono*.

CHAPTER IV. — GENERAL PROVISIONS.

*Article 29.*

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. The present General Act shall not affect any agreements in force by which conciliation procedure is established between the Parties or they are bound by obligations to resort to arbitration or judicial settlement which ensure the settlement of the dispute. If, however, these agreements provide only for a procedure of conciliation, after such procedure has been followed without result, the provisions of the present General Act concerning judicial settlement or arbitration shall be applied in so far as the parties have acceded thereto.

*Article 30.*

If a party brings before a Conciliation Commission a dispute which the other party, relying on conventions in force between the parties, has submitted to the Permanent Court of International Justice or an Arbitral Tribunal, the Commission shall defer consideration of the dispute until the Court or the Arbitral Tribunal has pronounced upon the conflict of competence. The same rule shall apply if the Court or the Tribunal is seized of the case by one of the parties during the conciliation proceedings.

*Article 31.*

1. In the case of a dispute the occasion of which, according to the municipal law of one of the parties, falls within the competence of its judicial or administrative authorities, the party in question may object to the matter in dispute being submitted for settlement by the different methods laid down in the present General Act until a decision with final effect has been pronounced, within a reasonable time, by the competent authority.

2. In such a case, the party which desires to resort to the procedures laid down in the present General Act must notify the other party of its intention within a period of one year from the date of the aforementioned decision.

*Article 32.*

If, in a judicial sentence or arbitral award, it is declared 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 sentence or arbitral award shall grant the injured party equitable satisfaction.

*Article 33.*

1. In all cases where a dispute forms the object of arbitration or judicial proceedings, 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. 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 and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

*Article 34.*

Should a dispute arise between more than two Parties to the present General Act, the following rules shall be observed for the application of the forms of procedure described 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 all have 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 not parties to the dispute, 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, unless they agree otherwise, shall apply Article 5 and the following articles of the present Act, so far as they are compatible with the provisions of the present article.

(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, in the case of the disputes mentioned in Article 17 each party shall have the right, by means of an application, to submit the dispute to the Permanent Court of International Justice; in the case of the disputes mentioned in Article 21, the above Article 22 and following articles shall apply, but each party having separate interests shall appoint one arbitrator and the number of arbitrators separately appointed by the parties to the dispute shall always be one less than that of the other arbitrators.

*Article 35.*

1. The present General Act shall be applicable as between the parties thereto, even though a third Power, whether a party to the Act or not, has an interest in the dispute.
2. In conciliation procedure, the parties may agree to invite such third Power to intervene.

*Article 36.*

1. In judicial or arbitral procedure, if a third Power should consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit to the Permanent Court of International Justice or to the arbitral tribunal a request to intervene as a third Party.
2. It will be for the Court or the tribunal to decide upon this request.

*Article 37.*

1. Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar of the Permanent Court of International Justice or the arbitral tribunal shall notify all such States forthwith.
2. Every State so notified has the right to intervene in the proceedings; but, if it uses this right, the construction given by the decision will be binding upon it.

*Article 38.*

Accessions to the present General Act may extend:

- A. Either to all the provisions of the Act (Chapters I, II, III and IV);
- B. Or to those provisions only which relate to conciliation and judicial settlement (Chapters I and II), together with the general provisions dealing with these procedures (Chapter IV);
- C. Or to those provisions only which relate to conciliation (Chapter I), together with the general provisions concerning that procedure (Chapter IV).

The Contracting Parties may benefit by the accessions of other Parties only in so far as they have themselves assumed the same obligations.

*Article 39.*

1. In addition to the power given in the preceding article, a Party, in acceding to the present General Act, may make his acceptance conditional upon the reservations exhaustively enumerated in the following paragraph. These reservations must be indicated at the time of accession.

2. These reservations may be such as to exclude from the procedure described in the present Act:

- (a) Disputes arising out of facts prior to the accession either of the Party making the reservation or of any other Party with whom the said Party may have a dispute;
- (b) Disputes concerning questions which by international law are solely within the domestic jurisdiction of States;
- (c) Disputes concerning particular cases or clearly specified subject-matters, such as territorial status, or disputes falling within clearly defined categories.

3. If one of the parties to a dispute has made a reservation, the other parties may enforce the same reservation in regard to that party.

4. In the case of Parties who have acceded to the provisions of the present General Act relating to judicial settlement or to arbitration, such reservations as they may have made shall, unless otherwise expressly stated, be deemed not to apply to the procedure of conciliation.

*Article 40.*

A Party whose accession has been only partial, or was made subject to reservations, may at any moment, by means of a simple declaration, either extend the scope of his accession or abandon all or part of his reservations.

*Article 41.*

Disputes relating to the interpretation or application of the present General Act, including those concerning the classification of disputes and the scope of reservations, shall be submitted to the Permanent Court of International Justice.

*Article 42.*

The present General Act, of which the French and English texts shall both be authentic, shall bear the date of the 26th of September, 1928.

*Article 43.*

1. The present General Act shall be open to accession by all the Heads of States or other competent authorities of the Members of the League of Nations and the non-Member States to which the Council of the League of Nations has communicated a copy for this purpose.

2. The instruments of accession and the additional declarations provided for by Article 40 shall be transmitted to the Secretary-General of the League of Nations, who shall notify their receipt to all the Members of the League and to the non-Member States referred to in the preceding paragraph.

3. The Secretary-General of the League of Nations shall draw up three lists, denominated respectively by the letters A, B and C, corresponding to the three forms of accession to the present Act provided for in Article 38, in which shall be shown the accessions and additional declarations of the Contracting Parties. These lists, which shall be continually kept up to date, shall be published in the annual report presented to the Assembly of the League of Nations by the Secretary-General.

*Article 44.*

1. The present General Act shall come into force on the ninetieth day following the receipt by the Secretary-General of the League of Nations of the accession of not less than two Contracting Parties.

2. Accessions received after the entry into force of the Act, in accordance with the previous paragraph, shall become effective as from the ninetieth day following the date of receipt by the Secretary-General of the League of Nations. The same rule shall apply to the additional declarations provided for by Article 40.

*Article 45.*

1. The present General Act shall be concluded for a period of five years, dating from its entry into force.

2. It shall remain in force for further successive periods of five years in the case of Contracting Parties which do not denounce it at least six months before the expiration of the current period.

3. Denunciation shall be effected by a written notification addressed to the Secretary-General of the League of Nations, who shall inform all the Members of the League and the non-Member States referred to in Article 43.

4. A denunciation may be partial only, or may consist in notification of reservations not previously made.

5. Notwithstanding denunciation by one of the Contracting Parties concerned in a dispute, all proceedings pending at the expiration of the current period of the General Act shall be duly completed.

*Article 46.*

A copy of the present General Act, signed by the President of the Assembly and by the Secretary-General of the League of Nations, shall be deposited in the archives of the Secretariat; a certified true copy shall be delivered by the Secretary-General to all the Members of the League of Nations and to the non-Member States indicated by the Council of the League of Nations.

*Article 47.*

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

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I therefore propose that we should proceed in the same way as we have done in regard to the Conventions and with reference to the suggestions of the German delegation, — *i.e.*, the various principles involved should be examined and the delicate questions of law elucidated by a Drafting Committee, which might propose a final solution to the Committee on Arbitration and Security. I do not think this work could be undertaken during the present session, and it appears preferable to postpone the matter until after the Assembly. In any case, the minutes of our discussion will be included in the final report to the Assembly, and the Governments will thus see what questions call for replies. I propose that the examination of the text of our report to the Assembly, which will embody the present discussion, should be postponed until Tuesday or Wednesday.

*The procedure proposed by the Assembly was adopted. M. VEVERKA was appointed Rapporteur.*

#### 6. Communications by the Chairman on the Progress of the Work of the Drafting Committee.

The CHAIRMAN. — The Drafting Committee has reviewed all the model conventions that have been drawn up. The Committee of Three, which was instructed to study certain amendments proposed in the Drafting Committee or submitted in writing by various delegations, has completed its work. The Drafting Committee is at the moment engaged upon a final revision of the text of the treaties. We think that it will be able to submit these texts of model treaties to the Committee on Monday morning, when they will be adopted at their second reading.

*The meeting rose at 7.30 p.m.*

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### THIRD MEETING

*Held on Saturday, June 30th, 1928, at 4 p.m.*

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Chairman : M. BENEŠ (Czechoslovakia).

#### 7. German Delegation's Suggestions. Discussion on Procedure and on Suggestion No. V.

*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.

*Questions submitted by the Rapporteur 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 ?

The CHAIRMAN. — You have before you the memorandum by M. Rolin Jaequemyns. At the end of this document, you will find certain questions which, in his opinion, are raised by the German delegation's suggestions.

The point is whether we are to enter forthwith into a general discussion on the memorandum as a whole and on all the German suggestions, or whether, seeing that we have already had two exchanges of general ideas on the German suggestions, we shall go on at once to discuss the specific questions raised by the Rapporteur. If we proceed to discuss the questions immediately, we shall have to decide whether to begin with the first suggestion or the fifth. In other words, we have to settle the preliminary question of the directions to be given to the Drafting Committee — whether it is to draft a general treaty or a multilateral treaty.

In regard to this item on our agenda we shall follow our usual procedure. Having discussed it in plenary session and stated the views of our Governments, we shall instruct the Drafting Committee to prepare a draft. At the opening of the first meeting of this session, I asked the delegations to hand in their proposals or objections in writing. So far we have received only two memoranda — one from the Netherlands Government (Annex 3) and one from the Swedish Government (Annex 4).

M. VON SIMSON (Germany). — I am willing to accept the Chairman's suggestion that we should proceed forthwith to discuss the questions in M. Rolin Jaequemyns' memorandum.

ANNEX 2.

BILATERAL CONVENTION FOR THE PACIFIC SETTLEMENT OF ALL INTERNATIONAL DISPUTES.

(Convention a.)

The Heads of States. (Governments are left free to draw up the preamble as they may think fit.)

.....

Have decided to realise their common aim by means of a Convention, and have appointed as their plenipotentiaries:

.....

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

CHAPTER I. — PACIFIC SETTLEMENT IN GENERAL.

Article 1.

Disputes of every kind which may arise between the High Contracting Parties and which it has not been possible to settle by diplomacy shall be submitted, under the conditions laid down in the present Convention, to settlement by judicial means or arbitration, preceded, according to circumstances, as a compulsory or optional measure, by recourse to the procedure of conciliation

Article 2.

- 1. Disputes for the settlement of which a special procedure is laid down in other conventions in force between the parties shall be settled in conformity with the provisions of those conventions.
- 2. The present Convention shall not affect any agreements in force by which conciliation procedure is established between the High Contracting Parties or they are bound by obligations to resort to arbitration or judicial settlement which ensure the settlement of the dispute. If, however, these agreements provide only for a procedure of conciliation, after such procedure has been followed without result, the provisions of the present Convention concerning judicial settlement or arbitration shall be applied.

Article 3.

- 1. In the case of a dispute the occasion of which, according to the municipal law of one of the parties, falls within the competence of its judicial or administrative authorities, the party in question may object to the matter in dispute being submitted for settlement by the different methods laid down in the present Convention until a decision with final effect has been pronounced, within a reasonable time, by the competent authority.
- 2. In such a case, the party which desires to resort to the procedures laid down in the present Convention must notify the other party of its intention within a period of one year from the date of the aforementioned decision.

CHAPTER II. — JUDICIAL SETTLEMENT.

Article 4.

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.

It is understood that the disputes referred to above include in particular those mentioned in Article 36 of the Statute of the Permanent Court of International Justice.

Article 5.

If the parties agree to submit the disputes mentioned in the preceding article to an arbitral tribunal, they shall draw up a special agreement in which they shall specify the subject of the dispute, the arbitrators selected and the procedure to be followed. 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 so far as is necessary. If nothing is laid down in the special agreement as to the rules regarding the substance of the dispute to be followed by the arbitrators, the tribunal shall apply the substantive rules enumerated in Article 38 of the Statute of the Permanent Court of International Justice.

*Article 6.*

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 7.*

1. In the case of the disputes mentioned in Article 4, before any procedure before the Permanent Court of International Justice or any arbitral procedure, the parties may agree to have recourse to the conciliation procedure provided for in the present Convention.

2. In the event of recourse to and failure of conciliation, neither party may bring the dispute before the Permanent Court of International Justice or call for the constitution of the Arbitral Tribunal referred to in Article 5 before the expiration of one month from the termination of the proceedings of the Conciliation Commission.

CHAPTER III. — CONCILIATION.

*Article 8.*

All disputes between the parties other than the disputes mentioned in Article 4 shall be submitted obligatorily to a procedure of conciliation before they can form the subject of a settlement by arbitration.

*Article 9.*

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

*Article 10.*

On a request to that effect being made by one of the Contracting Parties to the other Party, a permanent Conciliation Commission shall be constituted within a period of six months.

*Article 11.*

Unless the parties 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. 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 12.*

If, when a dispute arises, no permanent Conciliation Commission appointed by the parties is in existence, a special commission shall be constituted for the examination of the dispute within a period of three months from the date at which a request to that effect is made by one of the parties to the other party. The necessary appointments shall be made in the manner laid down in the preceding article, unless the parties decide otherwise.

*Article 13.*

1. If the appointment of the commissioners to be designated jointly is not made within the periods provided for in Articles 10 and 12, the making of the necessary appointments shall be entrusted to a third Power, chosen by agreement between the parties or, on request of the parties, to the Acting President of the Council of the League of Nations.

2. If no agreement is reached on either of these procedures, 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, the 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 14.*

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 default thereof, by one or other of the parties.



2. The application, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable solution.

3. If the application emanates from only one of the parties, the other party shall without delay be notified by it.

*Article 15.*

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 notify the other party; the latter shall in such case be entitled to take similar action within fifteen days from the date on which it received the notification.

*Article 16.*

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 its President.

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

*Article 17.*

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 18.*

1. In the absence of agreement to the contrary between the parties, 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 Part 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 shall be heard.

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

*Article 19.*

In the absence of agreement to the contrary between 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 20.*

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 21.*

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 manner.

*Article 22.*

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 unanimously or 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 given cognisance of the dispute.

*Article 23.*

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

CHAPTER IV. — SETTLEMENT BY ARBITRATION.

*Article 24.*

If the parties have not reached an agreement within a month from the termination of the proceedings of the Conciliation Commission mentioned in the previous articles, the question shall be brought before an arbitral tribunal which, unless the parties agree otherwise, shall be constituted in the manner indicated below.

*Article 25.*

The Arbitral Tribunal shall consist of five members. The parties shall each nominate one member, who may be chosen from among their respective nationals. The two other arbitrators and the Chairman shall be chosen by common agreement from among the nationals of third Powers. They must be of different nationalities and must not be habitually resident in the territory nor be in the service of the parties.

*Article 26.*

1. If the appointment of the members of the Arbitral Tribunal is not made within a period of three months from the date on which one of the parties requested the other party to constitute an arbitral tribunal, a third Power, chosen by agreement between the parties, shall be requested to make the necessary appointments.

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

3. If, within a period of three months, the two Powers so chosen have been unable to reach an agreement, the necessary appointments shall be made by the President of the Permanent Court of International Justice. If the latter is prevented from acting or is a subject of one of the parties, the nomination shall be made by the Vice-President. If the latter is prevented from acting or is a subject of one of the parties, the appointments shall be made by the oldest member of the Court who is not a subject of either party.

*Article 27.*

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 28.*

The parties shall draw up a special agreement determining the subject of the dispute and the details of procedure.

*Article 29.*

Failing stipulations to the contrary in the special agreement, the procedure followed by the Arbitral Tribunal shall be that laid down in Part IV, Chapter III, of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

*Article 30.*

Failing the conclusion of a special agreement within a period of three months from the date on which the Tribunal was constituted, the dispute may be brought before the Tribunal by an application by one or other party.

*Article 31.*

If nothing is laid down in the special agreement or no special agreement has been made, the Tribunal shall apply the rules in regard to the substance of the dispute indicated in Article 38 of the Statute of the Permanent Court of International Justice. In so far as there exists no such rule applicable to the dispute, the Tribunal shall decide *ex aequo et bono*.

CHAPTER V. — GENERAL PROVISIONS.

*Article 32.*

1. In all cases where a dispute forms the object of arbitration or judicial proceedings, 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. 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, and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

Article 33.

If, in a judicial sentence or arbitral award, it is declared 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 sentence or arbitral award shall grant the injured party equitable satisfaction.

Article 34.

1. The present Convention shall be applicable as between the High Contracting Parties, even though a third Power 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, if a third Power should consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit to the Permanent Court of International Justice or to the Arbitral Tribunal a request to intervene as a third party. It will be for the Court or the Tribunal to decide upon this request.

4. Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar of the Permanent Court of International Justice or the Arbitral Tribunal shall notify all such States forthwith.

Every State so notified has the right to intervene in the proceedings: but if it uses this right, the construction given by the decision will be binding upon it.

Article 1.

Article 35.

Disputes relating to the interpretation or application of the present Convention, including those concerning the classification of disputes ( . . . . .<sup>2</sup>) shall be submitted to the Permanent Court of International Justice.

Article 36.

The present Convention, which 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, whatever action may be deemed wise and effectual to safeguard the peace of the world.

Article 37.

1. The present Convention shall be ratified and the exchange of ratifications shall take place at .....

It shall be registered at the Secretariat of the League of Nations.

2. The Convention shall be concluded for a period of five years dating from the exchange of ratifications.

3. If it has not been denounced at least six months before the expiration of this period, it shall remain in force for further successive periods of five years.

4. Notwithstanding denunciation by one of the High Contracting Parties, all proceedings pending at the expiration of the current period of the Convention shall be duly completed.

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

DONE at ..... on .....

in ..... copies .....

<sup>1</sup> States desiring to introduce reservations might insert here an article based on Article 39 of the General Act. In this case they would require to adapt various articles of the Convention to the existence of reservations, as is done in the General Act.

<sup>2</sup> If the Convention contains reservations, it would be convenient to add: " and the scope of reservations ".

BILATERAL CONVENTION FOR JUDICIAL SETTLEMENT,  
ARBITRATION AND CONCILIATION.

(Convention b.)

The Heads of States (Governments are left free to draw up the Preamble as they may think fit)

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

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

CHAPTER I. — PACIFIC SETTLEMENT IN GENERAL.

*Article 1.*

Disputes of every kind which may arise between the High Contracting Parties and which it has not been possible to settle by diplomacy shall be submitted to a procedure of judicial settlement, arbitration or conciliation under the conditions laid down in the present Convention.

*Article 2.*

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. The present Convention shall not affect any agreements in force by which conciliation procedure is established between the High Contracting Parties or they are bound by obligations to resort to arbitration or judicial settlement which ensure the settlement of the dispute. If, however, these agreements provide only for a procedure of conciliation, after such procedure has been followed without result, the provisions of the present Convention concerning judicial settlement or arbitration shall be applied.

*Article 3.*

1. In the case of a dispute the occasion of which, according to the municipal law of one of the parties, falls within the competence of its judicial or administrative authorities, the party in question may object to the matter in dispute being submitted for settlement by the different methods laid down in the present Convention until a decision with final effect has been pronounced, within a reasonable time, by the competent authority.

2. In such a case, the party which desires to resort to the procedures laid down in the present Convention must notify the other party of its intention within a period of one year from the date of the aforementioned decision.

CHAPTER II. — JUDICIAL SETTLEMENT.

*Article 4.*

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.

It is understood that the disputes referred to above include in particular those mentioned in Article 36 of the Statute of the Permanent Court of International Justice.

*Article 5.*

If the Parties agree to submit the disputes mentioned in the preceding article to an arbitral tribunal, they shall draw up a special agreement in which they shall specify the subject of the dispute, the arbitrators selected and the procedure to be followed. 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 so far as is necessary. If nothing is laid down in the special agreement as to the rules regarding the substance of the dispute to be followed by the arbitrators, the Tribunal shall apply the substantive rules enumerated in Article 38 of the Statute of the Permanent Court of International Justice.

*Article 6.*

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 7.*

1. In the case of the disputes mentioned in Article 4, before any procedure before the Permanent Court of International Justice or any arbitral procedure, the parties may agree to have recourse to the conciliation procedure provided for in the present Convention.

2. In the event of recourse to and failure of conciliation, neither party may bring the dispute before the Permanent Court of International Justice or call for the constitution of the arbitral Tribunal referred to in Article 5 before the expiration of one month from the termination of the proceedings of the Conciliation Commission.

CHAPTER III. -- CONCILIATION.

*Article 8.*

All disputes between the parties other than the disputes mentioned in Article 4 shall be submitted obligatorily to a procedure of conciliation.

*Article 9.*

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

*Article 10.*

On a request to that effect being made by one of the Contracting Parties to the other Party, a permanent Conciliation Commission shall be constituted within a period of six months.

*Article 11.*

Unless the parties 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. 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 12.*

If, when a dispute arises, no permanent Conciliation Commission appointed by the parties is in existence, a special commission shall be constituted for the examination of the dispute within a period of three months from the date at which a request to that effect is made by one of the parties to the other party. The necessary appointments shall be made in the manner laid down in the preceding article, unless the parties decide otherwise.

*Article 13.*

1. If the appointment of the commissioners to be designated jointly is not made within the periods provided for in Articles 10 and 12, the making of the necessary appointments shall be entrusted to a third Power, chosen by agreement between the parties or, on request of the parties, to the Acting President of the Council of the League of Nations.

2. If no agreement is reached on either of these procedures, 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, the 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 14.*

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 default thereof, by one or other of the parties.

2. The application, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable solution.

3. If the application emanates from only one of the parties, the other party shall without delay be notified by it.

*Article 15.*

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 notify the other party; the latter shall in such case be entitled to take similar action within fifteen days from the date on which the notification reaches it.

*Article 16.*

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 its President.

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

*Article 17.*

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 18.*

1. In the absence of agreement to the contrary between the parties, 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 Part 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 shall be heard.

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

*Article 19.*

In the absence of agreement to the contrary between 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 20.*

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 21.*

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 manner.

*Article 22.*

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 unanimously or 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 given cognisance of the dispute.

*Article 23.*

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

*Article 24.*

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 Article 15<sup>1</sup> of the Covenant of the League of Nations. This provision shall not apply in the case provided for in Article 7.

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<sup>1</sup> Should the Convention be concluded between a Member of the League of Nations and a non-Member State the reference to Article 15 should be replaced by a reference to Article 17.

CHAPTER IV. — GENERAL PROVISIONS.

Article 25.

1. In all cases where a dispute forms the object of arbitration or judicial proceedings, 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. 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 and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

Article 26.

If, in a judicial sentence or arbitral award, it is declared 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 sentence or arbitral award shall grant the injured party equitable satisfaction.

Article 27.

1. The present Convention shall be applicable as between the High Contracting Parties, even though a third Power 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, if a third Power should consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit to the Permanent Court of International Justice or to the Arbitral Tribunal a request to intervene as at third Party. It will be for the Court or the Tribunal to decide upon this request.

4. Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar of the Permanent Court of International Justice or the Tribunal shall notify all such States forthwith.

Every State so notified has the right to intervene in the proceedings; but, if it uses this right, the construction given by the decision will be binding upon it.

Article 1.

Article 28.

Disputes relating to the interpretation or application of the present Convention, including those concerning the classification of disputes (. . . . .<sup>2</sup>) shall be submitted to the Permanent Court of International Justice.

Article 29.

The present Convention, which 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, whatever action may be deemed wise and effectual to safeguard the peace of the world.

Article 30.

1. The present Convention shall be ratified and the exchange of ratifications shall take place at .....

It shall be registered at the Secretariat of the League of Nations.

2. The Convention shall be concluded for a period of five years dating from the exchange of ratifications.

3. If it has not been denounced at least six months before the expiration of this period, it shall remain in force for further successive periods of five years.

4. Notwithstanding denunciation by one of the High Contracting Parties, all proceedings pending at the expiration of the current period of the Convention shall be duly completed.

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

DONE at ..... on .....  
in ..... copies .....

<sup>1</sup> States desiring to introduce reservations might be guided by Article 39 of the General Act. In this case they would require to adapt various articles of the Convention to the existence of reservations, as is done in the General Act.  
<sup>2</sup> If the Convention contains reservations, it would be convenient to add: "and the scope of reservations".

## BILATERAL CONCILIATION CONVENTION.

### (Convention c.)

The Heads of States (Governments are left free to draw up the Preamble as they may think fit).

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

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

#### *Article 1.*

Disputes of every kind which may arise between the High Contracting Parties and which it has not been possible to settle by diplomacy shall be submitted, under the conditions laid down in the present Convention, to settlement by recourse to the procedure of conciliation.

#### *Article 2.*

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

#### *Article 3.*

Disputes for the settlement of which a procedure by judicial settlement, arbitration or conciliation is laid down in other conventions in force between the parties shall be settled in conformity with the provisions of such conventions.

#### *Article 4.*

If a party brings before a Conciliation Commission a dispute which the other party relying on conventions in force between the parties has submitted to the Permanent Court of International Justice or an arbitral tribunal, the Commission shall defer consideration of the dispute until the Court or the Arbitral Tribunal has pronounced upon the conflict of competence. The same rule shall apply if the Court or the Tribunal is seized of the case by one of the parties during the conciliation proceedings.

#### *Article 5.*

1. In the case of a dispute the occasion of which, according to the municipal law of one of the parties, falls within the competence of its judicial or administrative authorities, the party in question may object to the matter in dispute being submitted for settlement by the different methods laid down in the present Convention until a decision with final effect has been pronounced, within a reasonable time, by the competent authority.

2. In such a case, the party which desires to resort to the procedures laid down in the present Convention must notify the other party of its intention within a period of one year from the date of the aforementioned decision.

#### *Article 6.*

On a request to that effect being made by one of the Contracting Parties to the other Party, a permanent Conciliation Commission shall be constituted within a period of six months.

#### *Article 7.*

Unless the parties 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. 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.



I think it would be a good thing to maintain the order adopted by the Rapporteur, which is also the order of the German suggestions, and I would ask you to do so. It seems to me that we must decide what is to be the subject-matter of a convention before considering the question — very important though it obviously is — of the scope of that convention.

Lord CUSHENDUN (British Empire). — I quite agree that the most convenient procedure would probably be not to indulge in a general discussion, but to take the various points one by one. I am not quite sure, though, that it would be the most convenient to take them in their present order, for this reason: it appears to me that the last of the suggestions is one that to a certain extent governs all the others. When we were dealing with this matter in March, I indicated my view, which remains the same, with regard to a general protocol, and I heard a report — I do not know whether it is correct — that the honourable delegate for Germany would not insist upon a general protocol, but would be quite satisfied with drawing up a form containing these proposals, which could be accepted either as a bilateral treaty or as a multilateral treaty. That will modify my view very much. I would look on the suggestions with at least a much more benevolent neutrality if it were only a question of a model treaty which anybody might sign. If, on the other hand, the suggestion No. V to draw up a general protocol were decided upon, then I am afraid that I should have to express rather more opposition than I desire to do, unless it is necessary, to some of the earlier proposals. I would suggest, if M. von Simson does not object, that we should decide first of all whether or not it is a general protocol that is to be signed; we should then know how to deal with the other suggestions.

As regards the suggestion of referring the matter to a Drafting Committee, of course that entirely depends on whether there is anything to refer. I do not know at all what the attitude of the Committee will be, but it is possible that there will not be sufficient agreement with the proposals as a whole to have anything to refer to the Drafting Committee. That is a point, I think, which we can only decide when we have discovered how far there is support for or opposition to the clauses as a whole.

M. SATO (Japan). — I was very glad to hear Lord Cushendun's remarks. I myself had felt that special importance should be attached to suggestion No. V.

It is quite correct to say that the trend of the discussion will be determined by the form which it is proposed to give to the draft embodying the German suggestions. If the Committee decides to make it a regional or bilateral treaty, I shall not feel called upon to take part in the discussion on each point in the questionnaire. If, on the other hand, it is not decided what form is to be adopted I shall perhaps have to be continually breaking in, and that will make the discussion unnecessarily long.

I would therefore urge that Lord Cushendun's suggestion be adopted.

M. PAUL-BONCOUR (France). — I second the observations of the British and Japanese delegates. As regards procedure, of course it is for the German delegate to decide what procedure he wishes to be followed in regard to his own suggestions.

I also think that there is no need to repeat the whole of the general discussion which we have already conducted at the first reading; the best method would be to take the various points in the German suggestions in turn. I agree with the British delegate, however, that it would be preferable to begin with the last suggestion, namely whether it is expedient to draw up a general agreement. We have just heard a suggestion from the Japanese delegate to the effect that bilateral or regional agreements might be better. I would point out, however, that the observations to be made on the different points will vary considerably according to whether we contemplate proposing to the parties a general or multilateral agreement or a bilateral agreement.

General DE MARINIS (Italy). — I support Lord Cushendun's proposal for the reasons given by him and by M. Sato and apparently shared by M. Paul-Boncour.

M. VON SIMSON (Germany). — As far as I can make out, we are already in the middle of a discussion on suggestion No. V. I am bound to admit that I would rather have taken the suggestions in their original order, but since our colleagues seem to have a strong preference for beginning with suggestion No. V, at all events on general grounds, I shall do the same. Accordingly, I shall repeat what I said at the last session — with, if I remember rightly, the utmost emphasis — that our idea was that our suggestions should be embodied in a protocol open for signature by all countries. I said this on February 29th, 1928, with the object of preventing any possibility of misunderstanding:

“ Our suggestions are not submitted for insertion in bilateral or regional treaties. They have a wider basis. We do not think it is necessary to wait for a large number of States to adhere to such a protocol for it to be brought into force, but we very strongly desire to see as large a number of States as possible adhere to the protocol. ”

I also agree with M. Rolin Jaequemyns that the importance of these engagements depends largely on the number of States which accept them.

We originally contemplated a protocol open to all, but, as I have already said, we shall not press this point. At the same time, I am bound to observe that, if these provisions were only embodied in bilateral conventions, they would be of no value. I shall be satisfied if we proceed as in the case of the other treaties — I mean if we instruct the Drafting Committee to draw up a model collective convention without specifying whether the collectivity it embraces is to be very large or very small.

*Article 8.*

If, when a dispute arises, no permanent Conciliation Commission appointed by the parties is in existence, a special commission shall be constituted for the examination of the dispute within a period of three months from the date at which a request to that effect is made by one of the parties to the other party. The necessary appointments shall be made in the manner laid down in the preceding article, unless the parties decide otherwise.

*Article 9.*

1. If the appointment of the commissioners to be designated jointly is not made within the periods provided for in Articles 6 and 8, the making of the necessary appointments shall be entrusted to a third Power, chosen by agreement between the parties or, on request of the parties, to the Acting President of the Council of the League of Nations.

2. If no agreement is reached on either of these procedures, 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, the 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 10.*

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 default thereof by one or other of the parties.

2. The application, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable solution.

3. If the application emanates from only one of the parties, the other party shall without delay be notified by it.

*Article 11.*

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 notify the other party; the latter shall, in such case, be entitled to take similar action within fifteen days from the date on which it received the notification.

*Article 12.*

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 its President.

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

*Article 13.*

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 14.*

1. In the absence of agreement to the contrary between the parties, 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 Part 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 shall be heard.

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

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In the absence of agreement to the contrary between 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.

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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.

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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 manner.

*Article 18.*

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 unanimously or 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 given cognisance of the dispute.

*Article 19.*

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

*Article 20.*

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 Conciliation Commission, when given cognisance of the dispute, may recommend to the parties the adoption of such provisional measures as it may consider desirable.

2. The parties to the dispute undertake to abstain from all measures likely to react prejudicially upon the arrangements proposed by the Conciliation Commission, and in general to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

*Article 21.*

1. The present Convention shall be applicable as between the High Contracting Parties, even though a third Power has an interest in the dispute.

2. The parties may agree to invite such third Power to intervene.

*Article 1.*

*Article 22.*

Disputes relating to the interpretation or application of the present Convention, including those concerning the classification of disputes (. . . .<sup>2</sup>) shall be submitted to the Permanent Court of International Justice.

*Article 23.*

The present Convention, which 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, whatever action may be deemed wise and effectual to safeguard the peace of the world.

*Article 24.*

1. The present Convention shall be ratified and the exchange of ratifications shall take place at .....

It shall be registered at the Secretariat of the League of Nations.

2. The Convention shall be concluded for a period of five years dating from the exchange of ratifications.

3. If it has not been denounced at least six months before the expiration of this period, it shall remain in force for further successive periods of five years.

4. Notwithstanding denunciation by one of the High Contracting Parties, all proceedings pending at the expiration of the current period of the Convention shall be duly completed.

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

DONE at ..... on .....

in..... copies .....

<sup>1</sup> States desiring to introduce reservations might insert here two articles based on Article 39 of the General Act. In this case they would require to adapt various articles of the Convention to the existence of reservations, as is done in the General Act.

<sup>2</sup> If the Convention contains reservations, it would be convenient to add " and the scope of reservations ".

### ANNEX 3.

#### NON-AGGRESSION AND MUTUAL ASSISTANCE.

##### a) INTRODUCTORY NOTE TO THE MODEL COLLECTIVE TREATIES OF MUTUAL ASSISTANCE AND OF COLLECTIVE AND BILATERAL TREATIES OF NON-AGGRESSION DRAWN UP BY THE COMMITTEE ON ARBITRATION AND SECURITY.

The Committee thought it advisable to prepare three model treaties which are of unequal scope as regards the degree of security they might afford to States seeking fresh guarantees.

##### I. MODEL TREATY OF MUTUAL ASSISTANCE.

The draft having the widest scope is clearly that which combines the three elements: non-aggression, peaceful settlement of disputes and mutual assistance.

This draft differs from the Rhine Pact of Locarno in several respects:

- (a) It contains no clause guaranteeing the maintenance of the territorial *status quo*.
- (b) It provides for no guarantee by third States.
- (c) It provides for the case of States non-members of the League of Nations being parties to the treaty.
- (d) It contains, with regard to the peaceful settlement of disputes, a certain number of clauses which, in the Locarno Agreements, do not figure in the Rhine Pact, but in annexed Conventions.

These differences are due, in the model treaty recommended, to the following reasons:

(a) The individual and collective guarantee of the maintenance of the territorial *status quo* would clearly constitute a very important factor of security in the model treaty proposed; but the fact that certain Powers, when negotiating such a treaty, would not feel able to accept such a clause should not, in the Committee's opinion, prevent the negotiations from being successful. For the clause in question is not essential, and it is understood that, being concluded under the auspices of the League of Nations and within the scope of its Covenant, the treaty assumes the full maintenance of the fundamental principle of Article 10 and all other provisions of the Covenant in relation between the contracting parties.

It is therefore quite possible to be content with the three essential factors of the treaty: non-aggression, the peaceful settlement of disputes and mutual assistance. By their close combination, they signify that the contracting parties, renouncing the use of force to back up their claims, will be guided by a respect for legality in their relations with each other, and that whichever of them breaks its engagements will expose itself, apart from the possible application of the collective sanctions provided for in Article 16 of the Covenant, to the particular sanctions organised by the system of mutual assistance provided for in the treaty.

(b) Similarly, while the guarantee of third States can greatly add to the effectiveness of a treaty of mutual assistance, clearly its absence must not constitute an obstacle to the conclusion of the treaty. The Committee has therefore not thought it advisable to include a clause of this nature in the model treaty it recommends. In the event of the contracting parties being able to rely on the guarantee of third States, the details of this guarantee might either figure in the treaty itself, according to the precedent of the Rhine Pact of Locarno, or be dealt with in separate conventions.

(c) The Committee thought it expedient to provide for the case of States non-members of the League of Nations being parties to the treaty. It considers that it has made this possible by inserting the provision of Article 28 under which any non-legal conflict between the parties would, in the event of the failure of conciliation proceedings, be governed by the provisions of Article 17 of the Covenant if one of the parties to the dispute is not a member of the League of Nations.

The Turkish delegation proposed that the Committee should go a step further and omit the exceptions provided for in Article 1, which lays down the obligation of non-aggression, and should stipulate:

- (1) That aggression by one of the Contracting Parties against another Contracting Party would involve the annulment of the treaty.
- (2) That aggression by one of the Contracting Parties against a third Power would involve release from the obligation of neutrality which should be provided for in a new article of the treaty.

Moreover, the Turkish delegation proposed that it should be stipulated in Article 3 with reference to a violation of Article 1 that, if one of the Contracting Parties not a member of the League of Nations so requests, the question should not be brought before the Council, but submitted to an international commission of enquiry.

The Committee was of opinion that the problems raised by the Turkish delegation's proposals were too complex for it to be possible to examine them at the present session. Unless the Assembly itself desires to examine them, they might be considered at a subsequent meeting of the Committee on Arbitration and Security.

The Turkish delegation agreed to the proposed adjournment.

(d) The Committee thought it advisable to insert in the model treaty it recommends a certain number of clauses relating to the peaceful settlement of disputes. This does not mean that the parties will not be free to apply among themselves the clauses of wider scope which may have been stipulated in the arbitration conventions they have previously concluded or which they may subsequently conclude; but the Committee desired to indicate that a certain minimum of explicit rules is necessary owing to the interdependence of the elements of non-aggression, of the peaceful settlement of disputes and of mutual assistance. Since it is assuming obligations in regard to mutual assistance, each of the Contracting Parties must know that the other Parties are accepting sufficiently extensive obligations in regard to the peaceful settlement of disputes.

The draft treaty recommended consists of a preamble and a series of articles. In the Committee's view, these texts are not unalterable. The Contracting Parties may make any modification they consider useful, provided they respect the interdependence and equilibrium of the three essential factors to which we have referred.

The Committee itself indicates below a certain number of possible departures from the text which it has drawn up.

*Preamble:* The preamble might be limited to a single paragraph, omitting those which have been borrowed from some of the Locarno Conventions. The Committee thinks, however, that it would be well to retain these additional paragraphs. They would serve to create that confidence between the Contracting Parties by which their relations should be governed. They would mark the respect for legality by which the contracting parties would agree to be guided in their relations, and the absence of all chicanery and moral or political pressure.

*Article 1.* The formula by which "each of the High Contracting Parties undertakes not to . . . resort to war against another Contracting Party" must, in the opinion of the Committee, be understood to mean that the parties, which undertake by the Treaty of Mutual Assistance to settle all their disputes by forms of pacific procedure, in every case exclude recourse to force in any form whatever, apart from the exceptions formally reserved in the text.

*Article 3.* It might be possible and desirable in certain cases to add stipulations regarding flagrant aggression. Parties could insert in their Treaty of Mutual Assistance a clause similar to that in paragraph 3, Article 4, of the Rhine Pact of Locarno. This clause reads as follows:

"In case of a flagrant violation of Article 2 of the present Treaty or of a flagrant breach of Articles 42 or 43 of the Treaty of Versailles by one of the High Contracting Parties, each of the other Contracting Parties hereby undertakes immediately to come to the help of the Party against whom such a violation or breach has been directed as soon as the said Power has been able to satisfy itself that this violation constitutes an unprovoked act of aggression and that, by reason either of the crossing of the frontier or of the outbreak of hostilities or of the assembly of armed forces in the demilitarised zone, immediate action is necessary. Nevertheless, the Council of the League of Nations, which will be seized of the question in accordance with the first paragraph of this Article, will issue its findings, and 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."

The Parties might further stipulate that, should the Council prescribe an armistice, they undertake to carry out its conditions. Such a formula would have the twofold advantage of not anticipating any measures that the Council might take in the case of hostilities which had started, and of facilitating the designation of the aggressor, if the Council decided to prescribe an armistice. But this is a difficult point, and the Committee thought it best to make no mention of it in the model treaty.

#### *Subjects which might be dealt with in Special Clauses.*

(a) *Reservations.* — The Committee did not think that it should draft a special article providing for the possibility of excluding certain classes of disputes from the procedure for the pacific settlement of disputes. If the contracting parties agreed to insert in their treaty certain reservations, they might be guided by the provisions regarding reservations contained in the General Convention for Judicial Settlement, Arbitration and Conciliation (Convention B). It would be clearly understood, of course, that the undertaking regarding non-aggression contained in Article 1 would in no case be affected by the insertion of provisions of this kind. Even in respect of disputes reserved in this way, the obligation not to resort to force would remain unaffected.

(b) *Preventive and provisional measures.* — The clause inserted in the general provisions with regard to the provisional measures which might be indicated by an international court, or recommended by a Conciliation Commission, could be supplemented by the relevant provisions of the model treaty to strengthen the means of preventing war.

(c) *Re-establishment of peace after an aggression.* — The Committee had to consider, in pursuance of the proposal made by some of its members, whether the model Treaty of Mutual Assistance should not include stipulations concerning the action to be taken by the Council in connection with the cessation of mutual assistance, the re-establishment of normal relations and the reparations to be claimed from the aggressor.

After consideration, the Committee decided that it would not be expedient to insert such detailed provisions. It would always be open to the Parties, should they so desire, to extend their particular treaty by the inclusion of clauses of this kind.

(d) *Establishment of demilitarised zones.* — The establishment of demilitarised zones, as long experience has shown—in particular the naval demilitarisation of the Great Lakes of North America or of the frontier between Norway and Sweden—tends to give nations a feeling of greater security. However, this is not always the case. Here, again, all depends on circumstances. If the Contracting Parties or certain of them wished to establish such zones along their frontiers, they could do so by separate conventions.

(e) *Accession of third States.* — The Committee decided not to insert a clause stipulating that collective treaties of mutual assistance should remain open for the accession of third States. Such accessions are only conceivable with the consent of the Contracting Parties.

(f) *Co-ordination of Treaties of Mutual Assistance with the Covenant of the League of Nations and any separate agreements which the Contracting Parties may have concluded previously.* — The Committee considers that the provisions of the draft harmonise with those of the League Covenant. The parties will have to see that no clauses are introduced the application of which would conflict with the operation of the Covenant. Otherwise they will risk weakening the general guarantee given to Members of the League by Article 16 of the Covenant.

In any case, the parties will do well to retain in their treaty the clause by which they reserve their rights and obligations as Members of the League of Nations.

The parties will also have to co-ordinate with the Treaty of Mutual Assistance any separate agreements which they may have concluded previously.

(g) *Duration of Treaties of Mutual Assistance.* — The Committee did not feel called upon to decide between the various systems which could be adopted with regard to the duration of the treaty. It had in mind three main systems: the first, on the lines of the Rhine Pact of Locarno, without indication as to duration, but expiring as a result of a decision by the Council; the second, providing for a duration of ten or twenty years with the possibility of denunciation at the end of these periods after one year's notice, or, failing denunciation, renewal of the treaty by tacit consent for a similar period; the third system would be a combination of the other two; it would provide for a short trial period after which the parties could free themselves from their contract subject to one year's notice. If not denounced, the treaty would remain in force indefinitely, but it might be brought to an end by a decision of the Council.

The Committee has felt that none of these systems could be definitely selected without going very deeply into the question—a course which it has been impossible to follow.

(h) *Aggression by a third State.* — The Committee has not felt called upon to refer to the mutual assistance to be afforded by Contracting Parties in the case of aggression by third States. The discussion showed that some States held that such a guarantee is necessary in view of certain definite contingencies, particularly where certain other States refuse to conclude with them a collective treaty, including non-aggression, the pacific settlement of disputes and mutual assistance. On the other hand, it may be held that it is not for the League of Nations, whose object it is to promote sincere co-operation between all its Members with a view to maintaining and consolidating peace, to recommend in a treaty of its own framing provisions which might lead to the formation of rival groups of nations. In this connection, it has been pointed out in the course of discussion that treaties of mutual assistance will be the more valuable and will more certainly merit the support of the League of Nations if they are, in accordance with the precedent of the Rhine Pact of Locarno, concluded between States which only a short time ago belonged to rival groups, or States whose differences might endanger the peace of the world.

It is equally clear that the Contracting Parties could not in any case afford any assistance to a third State which ventured to attack one of them in violation of the Covenant of the League of Nations. The insertion of a special clause to this effect is useless, since it cannot be presumed that a Power which agrees to become party to a treaty of security would be disloyal to any of its co-signatories. It would even be dangerous to insert such a clause, for it might well weaken the force of Articles 16 and 17 of the Covenant; the undertaking not to afford assistance to a third aggressor State would not, for States Members of the League of Nations, be an adequate commitment. The Covenant provides, not for negative, but for positive action against any State resorting to war in violation of the engagements subscribed to in Articles 12, 13 and 15.

(i) *Linking-up of Treaties of Mutual Assistance with disarmament.* — As pointed out above in the paragraph which deals with the duration of treaties of mutual assistance, the latter are calculated to facilitate the successful issue of a general Conference on the Reduction and Limitation of Armaments. The Committee on Security, not unmindful of the fact that it owes its origin to a 1927 Assembly resolution on the question of disarmament, feels bound to lay special stress on this consideration, which has influenced all its deliberations. But it would be premature, at the present juncture, to attempt to define the connection which should exist between treaties of mutual assistance and the limitation and reduction of armaments.

(j) *Recommendation with a view to the conclusion of collective Treaties of Mutual Assistance.* — Conceived as they are in the spirit of the League and therefore meriting the League's full support, the conclusion of collective Treaties of Mutual Assistance should, in the opinion of the Committee,

be facilitated if necessary. The Committee therefore proposes to recommend a draft resolution defining the conditions under which the Council of the League might, in this connection, lend its good offices. In these cases, the Council's task would obviously be a very delicate one, but we may be sure that it would, as ever, act with the greatest prudence and that, if it took action in such a matter, it would be likely to prove successful.

The conclusion of a collective Treaty of Mutual Assistance, as conceived by the Committee, naturally presupposes political preparation and endeavours to bring about a better understanding between the countries destined to conclude reciprocal agreements.

II. MODELS OF COLLECTIVE AND BILATERAL TREATIES OF NON-AGGRESSION.

States anxious to obtain better guarantees of security but unwilling for some reason or another to bind themselves by a treaty of mutual assistance will find various model treaties under which they can enter into obligations with other States as regards non-aggression and the pacific settlement of disputes only. The provisions of these treaties on these two latter points are the same as those embodied in the draft collective treaty of mutual assistance.

(b) MODEL TREATIES AMENDED AS A RESULT OF THE WORK OF THE FIRST AND THIRD COMMITTEES.

COLLECTIVE TREATY OF MUTUAL ASSISTANCE.

(Treaty D.)

(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 consent;

Considering that the faithful observance, under the auspices of the League of Nations, of methods of pacific settlement renders possible the settlement of all disputes;

Desirous of establishing on a firm basis relations of frank co-operation between their respective countries and of securing additional guarantees for 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 AND MUTUAL ASSISTANCE.

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.

As soon as the Council of the League of Nations has ascertained that such a violation has taken place, it shall at once advise the Powers which have signed the present Treaty, and each of these Powers undertakes in such a case to give assistance forthwith to the Power against which the act complained of has been directed.

*Article 4.*

1. Should one of the High Contracting Parties refuse to accept the methods of pacific settlement provided for in the present Treaty or to execute an arbitral award or judicial decision and be guilty of a violation of Article 1 of the present Treaty, the provisions of Article 3 shall apply.

2. Should one of the High Contracting Parties, without being guilty of a violation of Article 1 of the present Treaty, refuse to accept the methods of pacific settlement or to execute an arbitral award or judicial decision, the other party shall inform the Council of the League of Nations, which shall propose the methods to be adopted; the High Contracting Parties shall accept these proposals.

CHAPTER II. — PACIFIC SETTLEMENT OF DISPUTES.

*Article 5.*

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 6.*

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 7.*

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.

It is understood that the disputes referred to above include in particular those mentioned in Article 36 of the Statute of the Permanent Court of International Justice.

*Article 8.*

If the parties agree to submit the disputes mentioned in the preceding article to an arbitral tribunal, they shall draw up a special agreement in which they shall specify the subject of the dispute, the arbitrators selected and the procedure to be followed. 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 so far as is necessary. If nothing is laid down in the special agreement as to the rules regarding the substance of the dispute to be followed by the arbitrators, the Tribunal shall apply the substantive rules enumerated in Article 38 of the Statute of the Permanent Court of International Justice.

*Article 9.*

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 10.*

If, in a judicial sentence or arbitral award, it is declared 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 sentence or arbitral award shall grant the injured party equitable satisfaction.

*Article 11.*

1. In the case of the disputes mentioned in Article 7, prior to any procedure before the Permanent Court of International Justice or any arbitral procedure, the parties may agree to have recourse to the conciliation procedure provided for in the present Treaty.

2. In the event of recourse to and failure of conciliation, neither party may bring the dispute before the Permanent Court of International Justice or call for the constitution of the Arbitral Tribunal referred to in Article 8 before the expiration of one month from the termination of the proceedings of the Conciliation Commission.



*Section II. — Conciliation.*

*Article 12.*

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 13.*

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

*Article 14.*

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 15.*

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 16.*

If, when a dispute arises, no permanent Conciliation Commission appointed by the parties to the dispute is in existence, a special commission shall be constituted for the examination of the dispute within a period of three months from the date at which a request to that effect is made by one of the parties to the other party. The necessary appointments shall be made in the manner laid down in the preceding article, unless the parties decide otherwise.

*Article 17.*

1. If the appointment of the commissioners to be designated jointly is not made within the periods provided for in Articles 14 and 16, the making of the necessary appointments shall be entrusted to a third Power, chosen by agreement between the parties, or, on request of the parties, to the Acting President of the Council of the League of Nations.

2. If no agreement is reached on either of these procedures, 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 the 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 18.*

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 default thereof, by one or other of the parties.

2. The application, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable solution.

3. If the application emanates from only one of the parties, the other party shall without delay be notified by it.

*Article 19.*

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 notify the other party; the latter shall in such case be entitled to take similar action within fifteen days from the date on which it received the notification.

*Article 20.*

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 21.*

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 22.*

1. In the absence of agreement to the contrary between the parties, 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 Part 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 shall be heard.

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

*Article 23.*

In the absence of agreement to the contrary between 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 24.*

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 25.*

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 manner.

*Article 26.*

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 unanimously or by a majority vote.

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

*Article 27.*

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

*Article 28.*

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 Article 15 of the Covenant of the League of Nations. This present provision shall not apply in the case provided for in Article 11.

CHAPTER III. — GENERAL PROVISIONS.

*Article 29.*

1. In all cases where a dispute forms the object of arbitration or judicial proceedings, 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 30.*

Should a dispute arise between more than two High Contracting Parties, 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 all have 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 not parties to the dispute, 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, unless they agree otherwise, shall apply Article 16 and the following articles of the present Treaty so far as they are compatible with the provisions of the present article.

(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 31.*

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, if a third Power should consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit to the Permanent Court of International Justice or to the Arbitral Tribunal a request to intervene as a third party. It will be for the Court or the Tribunal to decide upon this request.

4. Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar of the Permanent Court of International Justice or the Arbitral Tribunal shall notify all such States forthwith.

Every State so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the decision will be binding upon it.

#### *Article 32.*

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 33.*

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 whatever action may be deemed wise and effectual to safeguard the peace of the world.

#### *Article 34.*

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 ratifications 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 35 (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.

I hope that it will be very large and that a great number of countries will accept these provisions, but I do not wish to lay it down as an essential condition that the convention should be signed by a certain number of States. I should like a draft collective convention to be prepared, as has already been done in the case of the other proposals. The Governments would then be free to say whether they wished to sign that convention or not.

I would remind the representative of the British Empire that, referring to Convention A — the General Convention on Conciliation and Arbitration, he stated that Great Britain would be unable to sign such a Convention, but he made no objection to the Drafting Committee's preparing a draft.

M. ROLIN JAEQUEMYS (Rapporteur). — In reading my memorandum, you will have realised that I have no reason to be surprised at the objections offered. I was well aware that certain difficulties would be raised in connection with a protocol open for signature by all countries, or a convention intended to have necessarily a very general scope. Our experience in the League has shown us that, more than once, drafts have been rejected because of their too general character. States which would have been prepared to assume certain obligations towards a certain number of other States have hesitated to assume those obligations towards all other States. We can see that this question arises again for several Governments. I therefore think that we should begin by deciding that there is no question of an open protocol. The author of the suggestions, moreover, has himself agreed to this. I share his view, on the other hand, on the subject of bilateral treaties. Even if a number of them were to be concluded, such treaties would scarcely conduce to the object we have in view. If we were only going to succeed in drawing up a model bilateral treaty, it would be better to abandon the idea of giving effect to the German suggestions. Indeed, if we are not going to make a general convention, we must at all events make a convention to which as many States as possible will adhere. M. von Simson has referred to a *collective agreement*, meaning an agreement which, though not universal, would embrace a large number of parties. On the other hand, I have no use for regional agreements, because the matter with which we are dealing is not one that interests certain regions more than others.

I think that we might then adopt the suggestion made by the representative of the German Government, namely, that a model collective treaty should be drawn up. This being agreed, we might discuss the various questions in the order in which they are presented.

M. SOKAL (Poland). — There are two possible procedures. The first consists in taking the German suggestions point by point so that each delegate can express his opinion; the second consists in considering in the first place what is to be the final form of our conclusions. Since it appears from the discussion which has just taken place that the second alternative is preferred by the Committee, I shall not re-open the debate on this point provided it is clearly understood that the Committee's decision is conditional. Personally, I could not agree to one form or another without having first reached a decision on the substance of the matter. It must therefore be clear that we cannot take a final decision on the form of the draft to be prepared by the Drafting Committee until we have considered the substance of the general suggestions.

The CHAIRMAN. — The honourable representative of Poland is perfectly right. No final decision can be taken on a question of this nature until the substance of the question has been examined. We will therefore provisionally instruct the Drafting Committee to draw up a model collective treaty, and we will return to the question after that.

M. VON SIMSON (Germany). — I agree to this procedure.

M. SOKAL (Poland). — I must thank you, Mr. Chairman, for your kind reception of my proposal. In order to make the matter quite clear, however, I would like to ask you whether those are all the instructions that the Committee on Arbitration and Security is giving to the Drafting Committee.

The CHAIRMAN. — As regards the question of form, yes. As regards the substance, we are going to discuss the points one after another, taking one by one the final questions in the memorandum of M. Rolin Jaquemys.

## 8. German Delegation's Suggestions. Discussion on Suggestion No. I.

*Suggestion No. 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.

(As regards the duration of the Treaty, the Assembly 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.)

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

DONE at ..... on .....

COLLECTIVE TREATY OF NON-AGGRESSION.

(Treaty E.)

(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 consent;

Considering that the faithful observance, under the auspices of the League of Nations, of methods of pacific settlement renders possible the settlement of all disputes;

Desirous of establishing on a firm basis relations of frank co-operation between their respective countries and of securing additional guarantees for 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.

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.

It is understood that the disputes referred to above include in particular those mentioned in Article 36 of the Statute of the Permanent Court of International Justice.

*Article 7.*

• If the Parties agree to submit the disputes mentioned in the preceding article to an arbitral tribunal, they shall draw up a special agreement in which they shall specify the subject of the dispute, the arbitrators selected and the procedure to be followed. 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 so far as is necessary. If nothing is laid down in the special agreement as to the rules regarding the substance of the dispute to be followed by the arbitrators, the tribunal shall apply the substantive rules enumerated in Article 38 of the Statute of the Permanent Court of International Justice.

*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 declared 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 sentence or arbitral award shall grant the injured party equitable satisfaction.

*Article 10.*

1. In the case of the disputes mentioned in Article 6, before any procedure before the Permanent Court of International Justice or any arbitral procedure, the parties may agree to have recourse to the conciliation procedure provided for in the present Treaty.

2. In the event of recourse to and failure of conciliation, neither party may bring the dispute before the Permanent Court of International Justice or call for the constitution of the Arbitral Tribunal referred to in Article 7 before the expiration of one month from the termination of the proceedings of the Conciliation Commission.

*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 shall be constituted for the examination of the dispute within a period of three months from the date at which a request to that effect is made by one of the parties to the other party. The necessary appointments shall be made in the manner laid down in the preceding article, unless the parties decide otherwise.

*Article 16.*

1. If the appointment of the commissioners to be designated jointly is not made within the periods provided for in Articles 13 and 15, the making of the necessary appointments shall be entrusted to a third Power, chosen by agreement between the parties, or, on request of the parties, to the Acting President of the Council of the League of Nations.

2. If no agreement is reached on either of these procedures, 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 default thereof, by one or other of the parties.

2. The application, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable solution.

3. If the application emanates from only one of the parties, the other party shall without delay be notified by it.

*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. In the absence of any agreement to the contrary between the parties, 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 Part 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 shall be heard.

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

*Article 22.*

In the absence of agreement to the contrary between 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 manner.

*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 unanimously or 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 given cognisance 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 Article 15 of the Covenant of the League of Nations. This present provision shall not apply in the case provided for in Article 10.

CHAPTER III. — GENERAL PROVISIONS.

*Article 28.*

1. In all cases where a dispute forms the object of arbitration or judicial proceedings, 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 High Contracting Parties, 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 all have 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, unless they agree otherwise, shall apply Article 15 and the following articles of the present Treaty so far as they are compatible with the provisions of the present article.

(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, if a third Power should consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit to the Permanent Court of International Justice or to the Arbitral Tribunal a request to intervene as a third party. It will be for the Court or the Tribunal to decide upon this request.

4. Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar of the Permanent Court of International Justice or the Arbitral Tribunal shall notify all such States forthwith.

Every State so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the decision will be binding upon it.

*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 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 ratifications 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 Assembly 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.

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

DONE at . . . . . on . . . . .

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 consent;

Considering that the faithful observance, under the auspices of the League of Nations, of methods of pacific settlement renders possible 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 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. It is understood that the disputes referred to above include in particular those mentioned in Article 36 of the Statute of the Permanent Court of International Justice.

*Article 7.*

If the Parties agree to submit the disputes mentioned in the preceding article to an arbitral tribunal, they shall draw up a special agreement in which they shall specify the subject of the dispute, the arbitrators selected and the procedure to be followed. 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 so far as is necessary. If nothing is laid down in the special agreement as to the rules regarding the substance of the dispute to be followed by the arbitrators, the Tribunal shall apply the substantive rules enumerated in Article 38 of the Statute of the Permanent Court of International Justice.

*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 declared 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 sentence or arbitral award shall grant the injured party equitable satisfaction.

*Article 10.*

1. In the case of the disputes mentioned in Article 6, prior to any procedure before the Permanent Court of International Justice or any arbitral procedure, the parties may agree to have recourse to the conciliation procedure provided for in the present Treaty.

2. In the event of recourse to and failure of conciliation, neither party may bring the dispute before the Permanent Court of International Justice or call for the constitution of the Arbitral Tribunal referred to in Article 7 before the expiration of one month from the termination of the proceedings of the Conciliation Commission.

*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 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 shall be constituted for the examination of the dispute within a period of three months from the date at which a request to that effect is made by one of the parties to the other party. The necessary appointments shall be made in the manner laid down in the preceding article, unless the parties decide otherwise.

*Article 16.*

1. If the appointment of the commissioners to be designated jointly is not made within the periods provided for in Articles 13 and 15, the making of the necessary appointment shall be entrusted to a third Power, chosen by agreement between the parties, or, on request of the parties, to the Acting President of the Council of the League of Nations.

2. If no agreement is reached on either of these procedures, 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, the 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 default thereof, by one or other of the parties.

2. The application, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable solution.

3. If the application emanates from only one of the parties, the other party shall without delay be notified by it.

*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 notify the other party; the latter shall in such case be entitled to take similar action within fifteen days from the date on which it received the notification.

*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. In the absence of agreement to the contrary between the parties, 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 Part 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 shall be heard.

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

*Article 22.*

In the absence of agreement to the contrary between 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 manner.

*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 unanimously or 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 given cognisance 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 Article 15<sup>1</sup> of the Covenant of the League of Nations. This present provision shall not apply in the case provided for in Article 10.

CHAPTER III. — GENERAL PROVISIONS.

*Article 28.*

1. In all cases where the dispute forms the object of arbitration or judicial procedure, 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

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<sup>1</sup> Should the Convention be concluded between a Member of the League of Nations and a non-member State, the reference to Article 15 should be replaced by a reference to Article 17.

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 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, if a third Power should consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit to the Permanent Court of International Justice or to the Arbitral Tribunal a request to intervene as a third party.

It will be for the Court or the Tribunal to decide upon this request.

4. Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar of the Permanent Court of International Justice or the Arbitral Tribunal shall notify all such States forthwith.

Every State so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the decision will be binding upon it.

*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 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 Assembly 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.)

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

DONE at . . . . . on . . . . .

*Questions submitted by the Rapporteur 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.

M. RUTGERS (Netherlands). — M. Rolin Jaequemyns' observations on Suggestion No. I in the body of his memorandum begin with these words: "Suggestion No. I aims at provisional measures touching the actual subject of the dispute." It might be as well to add this restriction to the first question laid before us and to read it as follows: "Should the Council have power in virtue of an agreement to be concluded between States to lay down 'conservatory measures' touching the actual subject of the dispute for the purpose of preventing any aggravation or extension of a dispute between States?" I think the question will be clearer if expressed in this form.

M. ROLIN JAEQUEMYS (Rapporteur). — It seems obvious to me that any conservatory measures which might be in contemplation could only relate to the actual subject of the dispute and could not have any final character. In my view, the expression "conservatory measures" says all there is to say, and if we were to add "touching the actual subject of the dispute" people might ask exactly what we meant. I think, moreover, that the Drafting Committee might take M. Rutgers' observation into account as far as possible in the final wording, but we cannot adopt a formula on the spur of the moment.

The CHAIRMAN. — This is a question of detail which might be referred to the Drafting Committee. As M. Rutgers is a member of the Drafting Committee, he will, no doubt, see that the question is not overlooked.

Lord CUSHENDUN (British Empire). — I presume we are not to be rigidly tied to the observations of the Rapporteur. We are taking the German suggestions in order. For example, the Rapporteur suggests that the powers to be given to the Council might be restricted in conformity with certain principles. It is quite possible we may think they should be governed by other considerations altogether. I take it that it will be open to us to suggest that.

The CHAIRMAN. — I am sure we all agree with Lord Cushendun. It is quite clear that, when discussing any particular point, we are free to touch on other questions or even to make general observations. We shall follow the logical and practical order of the questions as set out in the memorandum; but it is understood that we can extend the scope of the debate.

M. PAUL-BONCOUR (France). — The first question in M. Rolin Jaequemyns' admirable memorandum seems to me to be very well expressed, because it bases the conservatory measures on an agreement to be concluded between States. From this point of view, I can trace a continuity — which is what I am always looking for — between the findings of the Committee of the Council in 1927, which were subsequently adopted by the Assembly and by the Council and have become a part of the constitution of the League, and the first German suggestion as interpreted by the Rapporteur.

In the findings of the Committee of the Council, it is laid down that, in the event of a dispute arising out of only one of the paragraphs of Article 11 — this is a very important point — the Council shall prescribe conservatory measures and shall request the parties to notify it of their agreement; but the efficacy of the conservatory measures and the selection of those to be adopted is thus made conditional on an agreement being concluded between the parties at the time of the dispute. The importance of the German suggestion as interpreted by M. Rolin Jaequemyns is that the agreement between the parties is not deferred until the dispute has arisen, but is reached in advance.

I do not wish to call in question the decision we have just reached, but in view of the difficulty in a procedure like the present of avoiding expressing one's thoughts as they present themselves during the discussion, I would ask one question. Since in this case these conservatory measures are based on an agreement concluded prior to the dispute, is it really desirable to drop the idea of bilateral agreements entirely? I quite agree that a more general agreement is highly desirable, and indeed necessary, but I feel that in certain cases it might be an advantage to contemplate establishing the agreement referred to in the first suggestion, even in a bilateral form. It is when a dispute is submitted to the Council that the conservatory measures can come into operation; their importance becomes clear when conciliation and