[Distributed to the Council, the Members of the League and the Delegates at the Assembly.]

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LEAGUE OF NATIONS

RELATIONS BETWEEN THE LEAGUE OF NATIONS AND THE INSTITUTES OR BODIES SET UP UNDER ITS AUTHORITY

At its fiftieth session, on June 7th, 1928, the Council of the League of Nations adopted the following report submitted by the Chinese representative, and decided to forward it to the Assembly in accordance with the latter's resolution of September 26th, 1927.

"The following report of the Second Committee was adopted by the Assembly of the League of Nations in September 1927:

"The Second Committee has made a preliminary examination of the draft resolution presented by the Hon. Mrs. Alfred Lyttelton with regard to institutes or bodies set up under the authority of the League of Nations (document A.94.1927).[1]

"It has noted the great importance of this question and proposes that the Assembly should invite the Council to have this question studied and to ask that a report on this subject should be submitted to the Assembly at its ninth ordinary session in 1928.

"The questions to be considered are, first, the application of the general principles to be followed in placing international bureaux under the League's authority — that is, the application of Article 24 of the Covenant — and, secondly, the general rules which might in the future govern the acceptance of international institutes by the League.

"I. The Assembly resolution seems to apply only to international institutes. Accordingly, co-operation between the League organs and national institutions — which may in certain cases form the subject of special agreements — should not be included in the general study and the procedure to be followed in these cases should be left quite undefined and contingent on the requirements of each particular case.

"II. *Application of Article 24 of the Covenant.*

"This article provides that 'there shall be placed under the direction of the League all international bureaux already established by general treaties if the parties to such treaties consent. All such international bureaux and all commissions for the regulation of matters of international interest hereafter constituted shall be placed under the direction of the League'.

"At its meeting on June 27th, 1921, the Council approved a report by M. Hanotaux concerning 'the general principles to be observed in placing the international bureaux under the authority of the League of Nations.[2]' The main object of this report was to establish, in response to the requirements of the hour, certain rules for the practical application of Article 24. The report did not deal, however, with the establishment by the League organs of definite rules by which Members of the League might enforce that article.

[1] Text of the draft resolution:

"The Assembly:

"Considers that the moment has arrived when the general questions of the relations between the League of Nations and institutes or bodies set up under its authority, but not forming part of its organisation, should be studied, and the principles which should govern their acceptance by the League of Nations be laid down by the Council."

[2] See Minutes of the Thirteenth Session of the Council, pp. 54 and 249 *et seq.*

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Publications of the League of Nations
XII. B. INTERNATIONAL BUREAUX
1928. XII. B. 1.

" The article may apply to a vast number of different cases, so that it would be inexpedient to make its application subject to the observance of too rigid rules. The general principles which should govern the relations contemplated in this article between the League and certain international institutions and, similarly, the procedure for the establishment of such relations and their acceptance by the League might, however, be usefully defined as follows:

" (*a*) Article 24 employs the word ' direction' [French: *autorité*] to denote the relations between the League and a large number of international institutions. Despite the use of so strong a term, the authors of the Covenant, it should be stated, had no intention of bringing such a variety of international institutions indirectly within the framework of the League or of encroaching upon their internal autonomy or statutory provisions in regard to their headquarters, etc. They did, however, desire to make the League a centre of co-ordination for the work of the various international institutions. Hence, the League's authority might be defined as the exercise by the League of a general mission in regard to the examination and co-ordination of the various manifestations of international life. On this hypothesis, the League should see that the organisation in question always preserves a strictly international character and that its work is carried on in an efficient manner. The necessity of avoiding overlapping must also be borne in mind.

" To this intent, and without prejudice to the provisions applicable in special cases, it may be said that the exercise of authority by the League implies, firstly, that the League organs shall be fully informed as to the work of the institutions covered by Article 24 of the Covenant; secondly, with due reference to the precedents already established, that it shall be able to call upon those institutions whenever their services may be of technical value from the standpoint of the League's general work, and, lastly, that the League's competent organs shall, if they think fit, be able to reach any decision in pursuance of this mission concerning general examination and co-ordination.

" In practice, it is essential:

" 1. That the Secretary-General of the League should be entitled to receive publications and official documents exchanged between these institutions and the States represented on them, the nature and amount of the documents required being defined by the Secretary-General;

" 2. That the Secretary-General or his delegate should be entitled to be present in an advisory capacity at all meetings of these institutions or meetings organised by them;

" 3. That these institutions should, on request, give the Council or the Assembly or the League's technical organisations opinions coming within their special competence;

" 4. That an annual report on the work of each of these institutions should be sent to the Secretary-General for circulation to the Council, the Members of the League and the technical organisations concerned, that they may have an opportunity of examining it in the light of the principles set forth above.

" (*b*) The procedure for the establishment of the direction thus contemplated raises somewhat more complex questions. The institutions covered by Article 24 fall into three categories, namely: (1) International bureaux established by collective treaties before the entry into force of the Covenant; (2) international bureaux established by collective treaties since its entry into force, or which may in future be so established; (3) lastly, all Commissions for the settlement of questions of international interest created since the entry into force of the Covenant, or which may in future be created. Hence the institutions in questions must be official and not private institutions. The Council has, moreover, already expressed itself to this effect [1].

" One principle would appear to be common to all these cases. The ' direction ' of the League must be established by a definite legal act, admitting of no future doubt. According to existing precedents, it would be for the Council to pass a resolution, when the conditions laid down in Article 24 are fulfilled, declaring that this or that institution is henceforth placed under the League's direction. In order that the Council may adequately perform this task, all questions connected with the application of Article 24 would have to be regularly submitted to it.

" A Council resolution to this effect seems particularly necessary, since in many cases it will have to be considered whether the conditions for the application of Article 24 have actually been fulfilled. As regards bureaux established by collective treaties, whether before or since the entry into force of the Covenant, the question may sometimes arise as to whether these treaties, although collective in form, can, in view of their object and the number of States contracting parties to them, be regarded as such. Similarly, the establishment under the League's direction of Commissions for the settlement of questions of international interest may, in specific cases, involve discretionary questions as to the international interest of the matters actually dealt with by them, questions which can only be determined by reference to the objects of the Commissions, and, subsidiarily, the number of States participating. Furthermore, the probable duration of the specific institution — whether or not permanent — might influence the decision.

" In these and other similar cases, it will be for the Council to examine the situation before deciding upon the attitude to be adopted.

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[1] See Minutes, twenty-fifth session of the Council, pp. 858 and 951.

" (d) *Article 24 of the Covenant:*

" 1. The Council:

"While emphasising the value which it sets on the collaboration of unofficial organisations in the study of special questions, and on its freedom to solicit the opinions of these organisations, without prejudicing their autonomy,

" Is, however, of the opinion:

" (1) That it is not desirable to risk diminishing the activity of these voluntary international organisations, the number of which is fortunately increasing, by even the appearance of an official supervision;

" (2) That Article 24 of the Covenant refers solely to international bureaux which have been actually established by general conventions.

. . . . . .

" Considers . . . . . "

" III. *Principles which might govern the Acceptance of International Institutes by the League of Nations.*

" Apart from the international bodies placed under the direction of the League of Nations in virtue of Article 24 of the Covenant to which reference has been made above, offers have been received by the League from individual Governments to place at its disposal international institutes connected with some of its work. The Institutes which have been already thus accepted are naturally governed by the agreements reached between the League of Nations and the Governments concerned. This report therefore only refers to institutes which may be created subsequently.

" In establishing the principles which should in future govern the acceptance of such institutes by the League, it would seem that the following three points should be taken into consideration: the object, the legal status of the institute, and its relations with the League. Taking into account the experience of the last few years, in connection with the creation of the International Institutes of Intellectual Co-operation, for the Unification of Private Law, and for the Educational Cinematograph, it might be possible to adopt the following principles, which appear likely to afford the guarantees required by the Assembly resolution:

" (*a*) The object of the Institute must come within the sphere of activity of the League of Nations, the Institute serving as a working instrument. To achieve the object in view, a certain degree of international co-operation must be required.

" The adoption of the principle suggested at the beginning of this clause must obviously have a restrictive effect on offers of institutes to the League, but this restriction appears to be not only in keeping with the intention of the Assembly resolution but even desirable in itself, in that it affords a definite solution of the question and precludes all danger of ambiguity. It is also in keeping with the principles laid down on the occasion of the foundation of the International Institute of Intellectual Co-operation and the Institute of the Educational Cinematograph. Its adoption would have the effect in future of preventing the acceptance of an institute whose purpose is not covered by the work of the League, but it would still be possible to establish a system of co-operation between the League and an Institute of this kind.

" (*b*) Legal status: The legal status of the Institute should provide for its independence *vis-à-vis* the local authorities. Furthermore, it is desirable that institutes should be constituted as autonomous entities possessing civil personality under the laws of the country in which their headquarters are situated. Such a provision would be of value from the standpoint of the Institute's financial working.

" (*c*) Relations with the League of Nations: The constitution of the Institute should be such that the League organs (Assembly, Council, technical advisory organs) should be able to exercise supervision over its work. Provision should be made for a Governing Body including, in their personal capacity, a number of persons also members of that League advisory organ which is specially competent in the matter [1].

" It might be expedient, further, to provide that official communications between the Institute and Governments shall be through the Secretary-General of the League of Nations.

" Even if the above conditions are fulfilled, it is, of course, still the duty of the organs of the League to consider, in each separate case, the advisability of the League's accepting an offer for the creation of an Institute."

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[1] This is the principle embodied in Articles II, V, VI, IX and X of the Internal Regulations of the International Institute of Intellectual Co-operation. These articles are as follows:

" *Article II.* — The Institute is placed at the disposal of the League of Nations for the use of the Committee on Intellectual Co-operation as the working instrument of this Committee.

" It shall act as a liaison and information centre for everything which concerns international intellectual relations.

" *Article V.* — The Institute shall be directed: (*a*) by a Governing Body composed of the members of the Committee on Intellectual Co-operation in office at the time and presided over by a French member of this Committee; (*b*) by the Committee of Directors appointed by the Governing Body with the approval of the Council of the League of Nations.

" *Article VI.* — The Governing Body shall draw up the budget of the Institute and determine its programme of work. It shall approve the report of the Committee of Directors. It shall make the report provided for in Article XIV of the Organic Statute.

" It shall appoint the Committee of Directors, the Director-General and, in consultation with the Director-General, the chiefs of sections and of services. It shall approve the appointments made by the Committee of Directors.

" *Article IX.* — The Committee of Directors shall meet every two months at the seat of the Institute, except in August and September. It may also be convened at any time by the Governing Body. In cases of urgency the Committee of Directors shall be convened by its Chairman on the proposal, accompanied by a statement of reasons, of the Director-General of the Institute or at the request of two of its members.

" *Article X.* — Each year the Governing Body shall fix the general programme whose application is to be supervised by the Committee of Directors. It shall confer the necessary powers on the Committee of Directors for this purpose.

" The Committee of Directors shall make such proposals to the Governing Body and shall take such steps within the limits of its powers as it may deem useful to the work of the Institute.

" The Committee of Directors shall, after hearing the Director-General, appoint the assistants and officials other than those whose appointment is in the hands of the Governing Body of the Director-General (in conformity with Article 7 of the Organic Statute)."