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Geneva, February 29th, 1936.

**LEAGUE OF NATIONS**

**SETTLEMENT OF THE ASSYRIANS OF IRAQ**

**STATUTES OF THE TRUSTEE BOARD**

**I. DECLARATION OF THE FRENCH GOVERNMENT.**

The French Government, on behalf of the Levant States under French mandate, promises that the necessary measures shall be taken to ensure to the Assyrian Settlement Trustee Board, set up by the resolution of the Council of the League of Nations of December 18th, 1935, the legal character, powers and privileges set out in the Statutes of the Board.

Done in Paris on January 25th, 1936.

(Signed) P. E. FLANDIN.

**II. STATUTES OF THE TRUSTEE BOARD, APPROVED BY THE COUNCIL  
OF THE LEAGUE OF NATIONS ON DECEMBER 18TH, 1935.**

*Article 1.*

There is established in the Levant States under French mandate an Assyrian Settlement Trustee Board, hereinafter called the Board, domiciled in Beirut.

*Article 2.*

(1) The Board shall be a legal person, competent to sue and be sued in its own name, to hold and alienate property of all kinds, and generally to perform any acts which can be performed by a corporation possessing full legal personality.

(2) The Board shall alone be responsible for its own activities. Neither the League of Nations nor the High Commissioner of the French Republic in Syria and the Lebanon shall incur any liability as the result of the operations of the Board.

(3) The members of the Board shall incur no personal responsibility, either jointly or severally, in respect of the activities of the Board or their own action as members of the Board, except in case of a breach of trust knowingly and intentionally committed by them.

*Article 3.*

The Board shall perform the functions and exercise the powers attributed to it expressly or by implication in the decisions which have been or may subsequently be adopted by the Council of the League of Nations. In particular, it shall be responsible, in the manner provided in the annexed Financial Regulations, for the expenditure on the settlement operation (as distinct from the public works for the reclaiming of the Ghab), and shall collaborate with the High Commissioner in all that concerns the installation and administration of the Assyrian colonies. As and when the land in the Ghab area is reclaimed, the ownership of such parts of the reclaimed land as are destined for the Assyrians shall be vested in the Board, whose duty it shall be to arrange the

distribution of the land to the Assyrians, settle finally the price and conditions of its purchase by them and transfer the property therein to them on completion of the payments due.

*Article 4.*

The Board shall be composed of a chairman and two members. The Chairman and one member shall be appointed and may be removed from office by the Council of the League of Nations; the other member shall be a representative of the High Commissioner.

*Article 5.*

The Chairman or, if he is unable to act, his substitute, shall convene all meetings of the Board, sign all documents and correspondence and be charged with the execution of the decisions of the Board.

*Article 6.*

The Board shall have power to appoint and dismiss its staff.

*Article 7.*

The Board shall be exempt from all taxes and charges, whether general or local in respect of all operations and property of the Board, and in particular of lands transferred to it or any transactions affecting such lands, to the exclusion, however, of expenditure assigned by States to the execution of technical or topographical operations necessitated by their registration in the Land Register.

*Article 8.*

Subject to the provisions of these Statutes, the Board shall make its own internal regulations, which it shall communicate to the Council of the League of Nations, and shall have power to delegate particular duties to individual members.

*Article 9.*

(1) Decisions of the Board may be taken by a majority. Two members may constitute a quorum if the third is prevented from attending.

(2) Substitutes for the members of the Board appointed by the Council of the League of Nations may be appointed by the Council.

(3) Vacancies among the members appointed by it shall be filled by the Council of the League of Nations.

*Article 10.*

The expenses of the Board shall be payable in accordance with the annexed Financial Regulations.

*Article 11.*

(1) The Board shall communicate every three months to the Council of the League of Nations a report on its activities, the progress of the settlement scheme, the condition of the Assyrian settlers, and, in general, all questions relating to the provisional or final settlement. A copy shall simultaneously be sent to the High Commissioner. The Council of the League of Nations shall have the right to consider the reports of the Board and to take such measures thereon as it may consider proper.

(2) The Council of the League of Nations may at any time enquire by such methods as it determines into the manner in which the Board is discharging its functions.

(3) The Board may call the attention of the Council of the League of Nations to any difficulties which it may encounter in the execution of its functions.

*Article 12.*

The Board shall be entitled to submit to the Council of the League of Nations any question of interpretation of the present Statutes or of the decisions concerning the settlement scheme taken by the Council of the League of Nations. The decisions of the Council shall be final and binding for all purposes.

*Article 13.*

The Board may be dissolved by the Council of the League of Nations.

*Article 14.*

The present Statutes may be amended by the Council of the League of Nations, on the proposal of one of its members or on the proposal of the Board.

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Annex.

FINANCIAL REGULATIONS FOR THE CONTROL OF THE FUNDS.

I. PREAMBLE.

The financial administration of the plan for the settlement of the Assyrians of Iraq in the Levant territories under French mandate shall be governed by the following provisions:

*Article 1.* — In the text of the present Regulations, the special Committee set up by the decision of the Council at its seventy-seventh session, or any other body which may be set up by the Council to follow the execution of the settlement scheme, is hereinafter referred to as "the Committee"; the autonomous body constituted by the foregoing statutes, as the "Trustee Board"; the High Commissioner of the French Republic in Syria and the Lebanon, as "the High Commissioner"; the Secretary-General of the League of Nations, as "the Secretary-General"; the whole operation of settlement, including the public works scheme, as "the scheme"; the settlement operation proper, as "the settlement"; and the public works scheme to be undertaken with a view to reclaiming the area in the plain of the Ghab to be placed at the disposal of the Assyrians, as "the Ghab reclamation scheme".

II. RECEIPTS AND CUSTODY OF FUNDS.

*Article 2.* — The funds for the scheme shall include:

(a) The amounts subscribed or to be subscribed by the Government of Iraq in virtue of the communications from that Government of May 26th and September 26th, 1935;

(b) The amounts to be subscribed by the United Kingdom Government in virtue of the communication from that Government of September 12th, 1935;

(c) The amounts to be subscribed by the Levant territories under French mandate, in accordance with the offer contained on page 25 of the detailed plan submitted by the French Government;<sup>1</sup>

(d) The subsidy voted by the Assembly of the League of Nations on September 28th, 1935;

(e) Any contributions from other Governments and private organisations received in answer to the appeal made by the Council on January 19th, 1934, and by the Committee on July 16th, 1935;

(f) Funds raised on a recoverable basis from various sources, in particular the supplementary contribution from the mandated territories mentioned in the report to the Council by the Committee of September 12th, 1935;

(g) In the event of the cost of the reclamation scheme exceeding 62 million French francs, the funds paid by the mandated territories to cover such excess;

(h) Miscellaneous receipts from other sources.

*Article 3.* — The funds, excluding payments made by the Assyrians on account of the purchase of their land, shall be paid to the Secretary-General, who shall keep them in a special account separate from the ordinary funds of the League of Nations, or in a bank account which shall be at his sole disposal. The said funds shall be used exclusively:

(1) For the refund of advances which have been made by the League of Nations;

(2) For the refund of expenditure incurred by the High Commissioner up to June 30th, 1935, for the provisional settlement of the Assyrians in the Khabur;

(3) For defraying the expenditure involved for the settlement, including the cost of the Trustee Board and its staff;

(4) For the Ghab reclamation scheme, the cost of which, in so far as it may exceed 62 million French francs, shall be an additional charge on the mandated territories;

(5) For defraying the expenditure involved in the examination and audit of accounts.

*Article 4.* — Payments made by the Assyrians on account of the purchase of their land shall be paid into a special account opened in the name of the Trustee Board.

<sup>1</sup> Document C.352.M.179.1935.VII.

### III. ADMINISTRATION AND APPROPRIATION OF FUNDS.

*Article 5.* — (a) As regards the carrying-out of the Ghab reclamation scheme, the High Commissioner shall prepare the draft annual budget, incur expenditure, administer the funds advanced by the Secretary-General and keep the accounts.

(b) As regards the settlement, the Trustee Board shall prepare the draft annual budget and incur expenditure. The funds advanced by the Secretary-General shall be kept in the custody of and shall be administered by the High Commissioner within the limits of the available credits. Payments shall be made by him on the submission by the Trustee Board of certified warrants (*mandats*). The Trustee Board shall register all commitments to expenditure and the warrants (*mandats*) passed to the High Commissioner for payment shall quote a reference to the registered commitment.

*Article 6.* — When the High Commissioner submits a request to this effect to the Secretary-General, the latter shall make to him advances out of the funds placed at his disposal, though such advances may not at any time exceed the amount of the balance available.

*Article 7.* — Except for the subsidy referred to in Article 2 (d) above, the funds belonging to the League of Nations itself shall not be drawn upon either for recoverable or irrecoverable advances.

*Article 8.* — Subject to the provisions of Articles 2 (c), (f) and (g), the High Commissioner may not at any time be placed under an obligation to make advances out of his own funds.

He shall not at any time be bound, owing to the fact of having regularly undertaken any particular section of work, to continue such work out of his own funds, should the funds placed at his disposal by the Secretary-General prove to be insufficient.

*Article 9.* — In regard to the Ghab reclamation scheme, the High Commissioner shall not be under any obligation to put in hand a particular section of the work (1) unless he is satisfied that the necessary funds for carrying out in its entirety this section of the work contemplated will be available in due time; (2) until a working capital fund, representing 10% of the total cost of the section of the work contemplated, has been constituted with the High Commissioner.

*Article 10.* — The financial rules in force in the Levant States under French mandate shall be applied as regards both the administration of the funds placed at the disposal of the High Commissioner by the Secretary-General and the incurring of expenditure by the High Commissioner or the Trustee Board.

### IV. ESTIMATES OF EXPENDITURE.

*Article 11.* — Without prejudice to the modifications which may later be approved by the Committee, the general estimates of expenditure, and the distribution of this expenditure year by year, given in the annex, are considered as the financial bases of the scheme.

*Article 12.* — There shall be drawn up each year for the Ghab reclamation scheme and for the settlement separate budgets, expressed in French francs, covering the whole of the operations contemplated during the year in question from January 1st to December 31st. These budgets shall be divided into two parts, corresponding to the two half-years.

These budgets shall be submitted to the Committee through the Secretary-General.

When the annual budgets have been approved by the Committee, the Secretary-General shall forward them to the High Commissioner; he shall also forward to the Trustee Board the budget relating to the settlement.

*Article 13.* — At the beginning of each half-year, the Secretary-General shall advise the High Commissioner and the Trustee Board whether the budget estimates of the said half-year for the reclamation scheme and the settlement respectively have been approved by the Committee. He shall also inform them of the amounts of the funds available, and for this purpose he shall take into account the undertakings entered into by the Governments and further sums, if any, which he is due to receive within the same period.

*Article 14.* — Transfers from one chapter to another of the annexed general estimate of expenditure and of the annual budgets shall require the approval of the Committee.

### V. ACCOUNTANCY AND AUDIT OF THE ACCOUNT.

*Article 15.* — The High Commissioner and the Trustee Board, in so far as each is concerned, shall draw up and submit to the Secretary-General the monthly, quarterly and annual statements contemplated in the following articles.

*Article 16.* — Monthly appropriation statements and monthly cash statements shall be drawn up both in regard to the reclamation scheme and the settlement.



(1) The monthly appropriation statements shall be drawn up on the model of the budget estimates and shall indicate:

- (a) The original budget credits;
- (b) The expenditure incurred;
- (c) The amounts for which warrants have been issued.

(2) The monthly cash statements shall be drawn up on the model of the budget estimates and shall indicate:

- (a) The actual receipts;
- (b) The payments made on the basis of warrants issued.

These statements shall be examined monthly by the Treasury of the League of Nations.

*Article 17.* — Every quarter, the High Commissioner shall submit to the Secretary-General a recapitulatory statement of the monthly cash statements of the previous quarter, and shall attach thereto all the relevant documentary evidence, including payment warrants, invoices, schedules, counterfoils, etc. These documents shall be submitted to the Treasury of the League of Nations for preliminary audit.

*Article 18.* — After the close of each financial period and on the completion of the scheme, recapitulatory statements of the monthly statements provided for under Article 16 shall be submitted to the Secretary-General.

These accounts shall be subjected to comprehensive audit by the Auditor of the League of Nations in accordance with the rules regarding the financial administration of the League.

## VI. GENERAL PROVISION.

*Article 19.* — Any question which cannot be settled in accordance with the provisions laid down in the present Regulations shall be submitted to the Secretary-General, who will refer it to the Committee, if necessary.

*Article 20.* — The present regulations may be amended and completed by the Committee in agreement with the Secretary-General and the High Commissioner and, in so far as the provisions relating to the settlement are concerned, in agreement with the Trustee Board.

*Article 21.* — The Committee shall fix, in agreement with the High Commissioner, the date on which these regulations shall come into force either as a whole or with regard to such of its provisions as it may think fit.

Annex to the Financial Regulations.

TABLE SHOWING ESTIMATED EXPENSES ON ACCOUNT OF THE SETTLEMENT OF THE ASSYRIANS OF IRAQ IN SYRIA  
(French francs).

|   | 1935         | 1936                   | 1937       | 1938       | 1939       | 1940      | Subsequent<br>years | Total      |
|---|--------------|------------------------|------------|------------|------------|-----------|---------------------|------------|
| <b>A. Ghab Reclamation Scheme:</b>  |              |                        |            |            |            |           |                     |            |
| Total expenditure . . . . .   | 1,000,000.—  | 10,000,000.—           | 21,000,000 | 20,000,000 | 10,000,000 | —         | —                   | 62,000,000 |
| <b>B. Settlement Operations:</b>  |              |                        |            |            |            |           |                     |            |
| Expenses:   |              |                        |            |            |            |           |                     |            |
| (a) Payment of arrears of expenditure in respect of the<br>provisional settlement on the Khabur . . . . . | 705,198.50   | 705,198.50             | —          | —          | —          | —         | —                   | 1,410,397  |
| (b) Completion of the work of settlement on the Khabur<br>of 3,600 Assyrians . . . . .                    | 1,752,000.—  | 1,577,000.—            | 141,000    | 140,000    | 140,000    | —         | —                   | 3,750,000  |
| (c) Settlement of 2,600 fresh arrivals on the Khabur . . . .  | 390,000.—    | 780,000.—              | 390,000    | 260,000    | 130,000    | —         | —                   | 1,950,000  |
| (d) Cost of settlement and maintenance of 15,000 Assyrians<br>in the Ghab . . . . .                       | —            | 7,170,700.—            | 4,655,950  | 2,353,700  | 1,518,450  | 1,006,700 | 1,184,103           | 17,889,603 |
| (e) Administrative expenses:  |              |                        |            |            |            |           |                     |            |
| (i) Expenses already incurred by the League . . . . .   | —            | 525,000.— <sup>1</sup> | —          | —          | —          | —         | —                   | 525,000    |
| (ii) Salaries, etc., of certain officials . . . . .   | —            | 250,000.—              | 250,000    | 250,000    | 250,000    | 250,000   | 250,000             | 1,500,000  |
| Total expenditure . . . . .   | 2,847,198.50 | 11,007,898.50          | 5,436,950  | 3,003,700  | 2,038,450  | 1,256,700 | 1,434,103           | 27,025,000 |
| Incidental receipts:  |              |                        |            |            |            |           |                     |            |
| (a) From Assyrians before leaving Iraq . . . . .  | —            | 1,000,000.—            | —          | —          | —          | —         | —                   | 1,000,000  |
| (b) Deductions from wages in respect of maintenance . . . .   | —            | 500,000.—              | 500,000    | 500,000    | 500,000    | —         | —                   | 2,000,000  |
| Total incidental receipts . . . . .   | —            | 1,500,000.—            | 500,000    | 500,000    | 500,000    | —         | —                   | 3,000,000  |
| Net expenditure . . . . .   | 2,847,198.50 | 9,507,898.50           | 4,936,950  | 2,503,700  | 1,538,450  | 1,256,700 | 1,434,103           | 24,025,000 |
| Total expenditure (A + B) . . . . .   | 3,847,198.50 | 19,507,898.50          | 25,936,950 | 22,503,700 | 11,538,450 | 1,256,700 | 1,434,103           | 86,025,000 |

<sup>1</sup> Approximate figure.

Geneva, March 10th, 1936.

LEAGUE OF NATIONS

COMMUNICATION FROM THE ITALIAN GOVERNMENT

ETHIOPIAN ATROCITIES AND MISUSE  
OF THE RED CROSS EMBLEM IN ETHIOPIA

Protest by the Italian Government  
to the League of Nations

[Translation from the Italian.]

MINISTRY FOR FOREIGN AFFAIRS.  
No. 207241/7.

Rome, February 28th, 1936—Year XIV.

To the Secretary-General of the  
League of Nations.

On previous occasions, and lastly by a telegram dated January 16th, 1936, and a note dated January 18th, 1936, I have brought to your notice various cases of violation, by Ethiopian troops, of the rules of the Geneva Conventions and of other international rules and principles.

In confirmation of these previous denunciations—if, indeed, any confirmation were necessary—there have lately occurred fresh cases, and numerous depositions have been made, now quoted hereunder:

A. TORTURING AND KILLING OF PRISONERS.

(GENEVA CONVENTION FOR THE AMELIORATION OF THE CONDITION OF THE WOUNDED AND SICK IN ARMIES IN THE FIELD (July 27th, 1929): Article 2: *the wounded and sick of an army who fall into the hands of the enemy shall be prisoners of war and the general provisions of international law concerning prisoners of war shall be applicable to them*; CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR (July 27th, 1929): Article 2: *Prisoners of war are in the power of the hostile Government, but not of the individuals or formation which captured them. They shall at all times be humanely treated and protected, particularly against acts of violence, from insults and from public curiosity*; and Article 4 of the REGULATIONS ANNEXED TO THE HAGUE CONVENTION OF OCTOBER 18TH, 1907, CONCERNING THE LAWS AND CUSTOMS OF WAR ON LAND.)

1. In a statement, of which the Arabic text and translation are annexed hereto (Appendix I), made at Cairo on oath and in the presence of witnesses by M. Labib Hassan on his return from Ethiopia, where he had gone as dresser to the Egyptian Medical Mission (as may be seen from the list of members of that mission communicated to the Italian Government by the Egyptian Legation at Rome), the said M. Labib Hassan declares that he was present at Daggah Bur at a "fantasia" performed by Ethiopian soldiers round two decapitated corpses of Italian prisoners, and he describes all the insults and maltreatment to which he saw two other Italian prisoners subjected at Bolali in December 1935.

This statement is confirmed by three other members of the aforesaid Egyptian Medical Mission.

2. By a telegram dated January 16th, 1936, I denounced, *inter alia*, the atrocious maltreatment by the Ethiopians of the airman Minniti, as described also in the statement of M. Lippmann, a French officer on leave. Further horrible details were subsequently supplied by an eye-witness, M. Abdel Mohsein el Wishy, another member of the Egyptian Medical Mission to Ethiopia (whose name is also included in the list handed to this Ministry by the Egyptian Legation at Rome), in a statement of which I attach a translation (Appendix II), and of which I will communicate a true copy in the original Arabic. This gentleman described on his own initiative, on oath and in the presence of witnesses—and his statements were confirmed by two other members of the Egyptian Mission—the sanguinary scenes at which he was present in person: how the Italian prisoner had his fingers cut off, how he was emasculated while still alive, how the corpse was then skinned and cut up and the ghastly remains were subsequently borne in triumph to Harrar.

3. In one of the statements made by members of the Egyptian Medical Mission to Ethiopia, to which reference is made below under No. 11 (Appendix XIV), it is affirmed that the Ethiopians cut the throats of the Italian prisoners who were captured.

No honest person can read these statements without shuddering with horror.

The less inhuman treatment that may be extended to some prisoners in other parts of Ethiopia, more frequented by foreign visitors, such as Dessye, cannot diminish but rather serves to aggravate the Ethiopian Government's responsibility for the torture to which other prisoners have been subjected, proving as it does that the Government will not or cannot restrain all the Ethiopian chiefs and troops from following their barbarous instincts.

#### B. EMASCULATION AND MALTREATMENT OF KILLED AND WOUNDED.

(GENEVA CONVENTION FOR THE AMELIORATION, etc., Article 2: *the wounded and sick of an army who fall into the hands of the enemy shall be prisoners of war, and the general provisions of international law concerning prisoners of war shall be applicable to them*; and Article 3: *After each engagement the occupant of the field of battle shall take measures to search for the wounded and dead and to protect them against pillage and maltreatment.*)

4. In the engagement on December 27th, 1935, at Passo Zubala (Northern Front), a number of casualties, privates of the fourth baggage train unit, were emasculated by the Ethiopians, as may be seen from the photograph attached hereto (Appendix III).

5. In an ambush on January 3rd, 1936, above Ghergheda (Northern Front), a casualty, Francesco Pascale, a private in the First Eritrean Blackshirt Battalion, was emasculated by the Ethiopians. I append a photograph of Pascale's corpse (Appendix IV), together with a copy of the medical report on the maltreatment suffered by the said Francesco Pascale and by Private Teodoro Manieri, who was also a casualty in the aforesaid ambush (Appendix V).

6. On January 9th, 1936, in the Makale district, during a reconnaissance, there was found, covered with blood, the arm of a white man, probably an Italian soldier, which had been roughly hacked off above the elbow not more than two days before. I enclose a copy of the relevant report by the officer-commanding the company (Appendix VI).

As an example of this horrible maltreatment of the wounded and killed—following upon the cases previously denounced—I transcribe hereunder a statement made by an Austrian citizen, Engineer Captain Josef Jonke, a former instructor-officer in the Ethiopian army, commanding on the Southern Front, in which he admits the failure of his efforts to restrain the barbarous instincts of the Ethiopian soldiers under his authority:

[*Translation from the German.*]

"From the very first engagements between my troops and the Italians in the Webi Shebeli region—these were small outpost engagements, in which a number of Italian privates were taken prisoner—I saw to my horror my own men returning to the lines with the unmistakable trophies of emasculation. Without the slightest compunction they had carried out that atrocious act on the unhappy victims who had fallen into their hands, while those victims were still alive, and had left them thus mutilated to their fate. My protest to the proper authorities against such barbarous methods was without effect. The Belgian Military Regulations, however, which are also the official Military Regulations of Ethiopia, expressly prescribe the treatment that is customary among civilised peoples towards enemy prisoners, whether wounded or unwounded; and this I, as army instructor, had impressed upon all the troops under my authority. But, like so many other things, this sad occurrence shows that the central Government at Addis Ababa, even assuming its good intentions, is not capable of ensuring order or human progress in the territories within its domain."

C. KILLING AND WOUNDING OF STRETCHER-BEARERS.

(GENEVA CONVENTION FOR THE AMELIORATION, etc., Article 9: *The personnel engaged exclusively in the collection, transport and treatment of the wounded and sick, and in the administration of medical formations and establishments, and chaplains attached to armies, shall be respected and protected under all circumstances. If they fall into the hands of the enemy, they shall not be treated as prisoners of war.*)

7. H.R.H. the Duke of Pistoia, commanding the 1st Blackshirt Division, reported that, on January 2nd, 1936, a number of stretcher-bearers who had gone out from the Italian lines to pick up the wounded were fired on by the enemy. One of them, Private Andrea Billi, was killed; two others, Privates Mario Marri and Luigi Segoni, were wounded. This occurred at the junction of the River Calamino and the River Gavat.

I attach a copy of a report by the officer commanding the Legion, from which it appears that the said stretcher-bearers were shot by Ethiopians posted a few metres away, notwithstanding the fact that they were not only wearing the Red Cross armlet but were carrying flags with the sign of the Geneva Convention (Appendix VII).

D. KILLING OF AN ARMY CHAPLAIN.

(GENEVA CONVENTION FOR THE AMELIORATION, etc., Article 9, reproduced above.)

On January 23rd, 1936, during the battle of Tembien, Father Reginaldo Giuliani, an army chaplain, was killed while he was on his knees tending a wounded man. On examination of the corpse, a bullet-wound was found in the left side and a large wound caused by some cutting weapon which had severed the right clavicle. The chaplain was wearing the Red Cross emblem.

E. MISUSE OF THE EMBLEM OF THE RED CROSS.

(GENEVA CONVENTION FOR THE AMELIORATION, etc., Article 24: *The emblem of the Red Cross on a white ground and the words "Red Cross" or "Geneva Cross" shall not be used either in time of peace or in time of war, except to protect or to indicate the medical formations and establishments and the personnel and material protected by the Convention.*)

8. In a statement made on January 28th, 1936—of which copy is enclosed (Appendix VIII)—Mr. Evelyn Waugh, the English author, summarises the facts observed by him in Ethiopia, more particularly at Harrar and Dessye, concerning the use of Red Cross emblems, which covered, *inter alia*, a wireless station at Harrar and buildings not used for hospitals and supplied with anti-aircraft guns; he noted also, in November 1935, that a pavilion of the Dessye Adventist Mission (the so-called American Hospital) was situated beside the former Italian Consulate, where a detachment of the Imperial Guard was quartered with two guns and a number of anti-aircraft machine-guns.

9. In a statement made in January 1936—copy of which is attached (Appendix IX)—the above-mentioned Austrian citizen, Engineer Captain Josef Jonke, who was instructor-officer in the Ethiopian army and officer commanding on the Southern Front, states on the strength of his own observations that the Red Cross is systematically used by the Ethiopians for military purposes, by order of the Ethiopian authorities themselves, to cover both ammunition-dumps and nests of machine-guns and anti-aircraft defence posts; he states, further, that the Goba Military Hospital served as a central ammunition depot for the Province of Bali.

10. In a statement made before the Royal Consul at Jibuti on January 15th, 1935—copy is attached (Appendix X)—M. Abdel Rahman Abdel Hamid (who appears in the list of members of the Egyptian Committee for Medical Relief for Ethiopia, handed to this Ministry by the Egyptian Legation at Rome) says that the Ethiopian troops habitually take cover in the hospitals and thence fire at aeroplanes.

This statement was recorded by the aforesaid Royal Consul in the presence of two witnesses.

11. In four statements—copies of the Arab text and translation are annexed hereto (Appendices XI, XII, XIII, XIV)—made on January 21st, 1936, at Cairo, in the presence of witnesses, by the dispenser Elias Moqbel and the dressers Labib Salamah, Mohammed Riad, and Sami Georges, on their return from Ethiopia, where they had gone as members of the aforesaid Egyptian Medical Relief Committee (as may be seen from the above-mentioned communication from the Egyptian Legation at Rome), they describe numerous cases of the abusive use of the Red Cross by Ethiopian chiefs and levies, who took refuge in the hospitals and thence fired at Italian aeroplanes (as was done by Ras Nasibu at Daggah Bur on November 11th, 1935), covering with the sign of the Red Cross two schools full of soldiers at Jijiga and also the wireless station at Harrar.

12. In an article published in the Paris *Excelsior* on February 17th, 1936, M. Jean Costantinesco, formerly special correspondent of that newspaper in Ethiopia, writes:

"I can state—having been an eye-witness—that at Harrar all the larger buildings capable of becoming a target or objective in case of bombardment have been flanked by so-called hospitals, the roofs and walls of which are marked with immense red crosses.

"I say 'so-called hospitals'. In many of them there is nothing but a few packets of dressings, a stretcher, a bottle of tincture of iodine. There is not a single patient, either sick or wounded; but often there are cases of arms and cartridges.

"In the European quarter of Harrar alone—consisting of barely ten houses—there are four hospitals and two churches. These buildings conveniently encircle the Gebi (palace) of the Governor, the wireless station, the Empress's residence, and the town hall. Hence it is practically impossible to bomb Harrar without touching either a church or some building protected by the Red Cross.

"I can state further that the Gebi of Prince Makonnen, Duke of Harrar, the Emperor's younger son, was marked with red crosses two months before the Egyptian ambulance hospital was installed in it.

"All this my friends and I observed in the course of our daily strolls through the town.

"If, then, the Ethiopian authorities felt no compunction in adopting this procedure in a town where there were half a score of foreign journalists, why suppose that they should hesitate elsewhere?"

13. M. Pierre Ichac, special correspondent of the Paris *Illustration* in Ethiopia, published in that periodical on January 4th, 1936, an article on the bombing of Dessye on December 6th, 1935, in which he states, *inter alia*, that immediately after the Emperor's arrival at Dessye "machine-guns not previously seen there suddenly appeared in the elevated positions, as at the Irish Hospital and the former Italian Consulate".

14. The Royal Consul at Jibuti reports that M. Roth, photographer to the Associated Press, when passing through that town on his return from Ethiopia towards the end of December 1935, told a number of persons that at Dessye he had seen Red Cross dressers firing at Italian aeroplanes, and added that this had been observed by other foreign journalists.

15. In a number of statements made to the *Bourse Egyptienne*, which that newspaper published on January 13th, 1936, the journalist M. Sven Ahlstrom, special correspondent of the Swedish newspaper *Dagens Nyheter*, on his return from Ethiopia, after having observed that the Ethiopians are putting up a big fight in the international field, employing all means, including false news in particular, stated:

"The emblem of the Red Cross was used until July 4th, 1935, as a sign for drink-shops; it has suddenly become a precious talisman, a buckler for the warriors. What? Bullets and shells cannot pierce this flag? It is no less certain that the warriors have sheltered behind it. The Italians' only mistake, I think, is not to have warned the League of Nations beforehand and had this seen to . . . Once more, let us not forget that it is by working up opinion in her favour that Ethiopia hopes to win."

The emblem of the Red Cross is also used in Ethiopia to indicate houses of ill-fame, as is confirmed by Mr. Waugh and by the Egyptian dressers in the annexed statements (Appendices VIII and XII), and as is known to all visitors to Ethiopia. This custom continued, particularly in the provinces, even after Ethiopia's accession to the Geneva Convention, as may be seen from the above-mentioned statements and from other information communicated to the Italian Government.

16. In various statements which he made to the *Piccolo*, of Trieste, and which that newspaper published on January 23rd, 1936, the British subject, Mr. Frank William Purnell, cinema operator of the *Paramount News*, passing through Trieste on his return from Ethiopia, stated, *inter alia*, that, in December 1935, at Dessye, the Emperor's complete motor caravan was encamped in the immediate neighbourhood of a Red Cross tent, and that he had seen motor-vehicles which, though they bore the emblem of neutrality, were full of arms and soldiers, all equipped with rifles and white brassards with the Red Cross.

17. The Royal Consul at Jibuti reported on February 2nd, 1936, that a responsible person, well known to him, returning from Ethiopia, had told him that, at Jijiga, the Red Cross emblem covers a powerful wireless station, and that the Catholic Mission there has been fitted up as a hospital and a gun mounted in it.

18. The Italian Government has already made known in official *communiqués* the fact that, on January 23rd last, the Italian troops advancing on the Somali front found 27 cases of cartridges on a motor-lorry of the Swedish ambulance, which had been abandoned at Wadara. As stated in the Press, each of these cases contained 50 packets of 15 cartridges each in chargers—*i.e.*,

750 cartridges per case and 20,250 cartridges in all. According to later information supplied by General Headquarters in Somaliland, these cases measure 46 × 28 × 14 cm.; they are wooden, with a lid provided with a hinge and metal hooks for closing them up; they are lined inside with zinc sheets and are provided with two thick rope handles; on the cover is inscribed "1935 — 750 cartouches à balle Mauser 7,9 F.N. sur chargeurs F.M. fusils et carabines" and the serial numbers of the various cases. In front, these cases bear the inscription "G. E. Jibuti"; at the back "Munitions de sûreté", and on the sides "7,9 F.M. fusils carabines". The cartridges in the cases are ball cartridges for Mauser guns and muskets, manufactured by the National Arms and Munitions Factory at Herstal (Belgium); the cartridges are of the pointed-nose variety, and each bears on its base the mark "F.M. 35".

The number of cartridges found on the motor-lorry of the Swedish ambulance—20,000—is far greater than the amount which could be regarded as permissible for the ambulance's normal defence needs. It is, in fact, a case of clear, flagrant misuse of the Red Cross emblem (possibly perpetrated by Ras Desta Damtu or some of his immediate subordinates), which is quite in keeping with the systematic misuse of this emblem as proved by all the instances already quoted.

19. I transmit, lastly, copies of five photographs (Appendices XV, XVI, XVII, XVIII and XIX) taken by Italian airmen on January 4th last near Quoram and in the neighbourhood of Melfa, and on January 17th last in the Calaminò zone and on the Amba Aradam, which show either Red Crosses spread out on the ground by Abyssinian levies when Italian aeroplanes were flying over them in places where there is not one tent even apparently devoted to hospital work, or else Red Crosses placed amid or alongside groups of tukul occupied by Abyssinian levies.

The total evidence of the attached documents and the facts reported above derived from credible witnesses and sources of very varied origin and character, yet all agreeing, proves quite definitely the fact (against which the Italian Government formally protests to all persons of good faith) that, throughout the whole territory of Ethiopia, Abyssinian leaders and troops systematically misuse the Red Cross emblem, transforming it into a veritable arm of military defence and attack. The low level of civilisation of these troops, the inability of primitive peoples to dispense with some guardian emblem in case of danger, and the calculation of the Ethiopian chiefs (for whom this misuse has a twofold advantage, in that it assures immunity and offers grounds for biased propaganda if, in the course of fighting, one of the emblems regarded as sacred throughout the whole civilised world is hit by mistake)—all these considerations explain how an unprecedented phenomenon can occur on so large a scale.

It has been reported to the Italian Government from an excellent source that an Abyssinian official expressed himself in the following terms: "*On est très satisfait en Ethiopie des répercussions qu'ont causées les bombardements aériens. Désormais, les Italiens ne pourront plus se livrer à ces bombardements sans attirer l'attention du monde entier sur eux, et les troupes abyssines étant suivies presque toutes d'ambulances de la Croix-Rouge, ne s'éloigneront pas d'elles pour éviter lesdits bombardements. Nous savons à quoi nous en tenir pour leur aviation.*"

These statements indicate clearly the attitude of the Abyssinian leaders towards the application of the Geneva Convention, to which Ethiopia has only very recently adhered (July 1935). The calculation is so transparent, and the misuse so open and general, that these acts would be grotesque and ludicrous if they did not endanger a moral and legal principle which has been reached with great difficulty and built up by the most noble efforts of the conscience of all civilised peoples.

The above facts and documents prove that not only the spirit of the Geneva Conventions, or one single article thereof, but all the articles are violated by the Abyssinian troops, as was foreseen by all those who, aware of the barbarous state of these peoples, have never been under the illusion that the tardy creation of a Red Cross Society in Ethiopia would be sufficient to eradicate age-old customs and ancestral instincts.

The only clause of the Geneva Conventions which the Abyssinians regard as valid, and clamorously invoke on every occasion, is that which lays down that any persons taking refuge under the sign of the Red Cross should be secure from aerial bombardment.

The Italian Supreme Command has, however, not yet had recourse—as it would have been fully entitled to do—to Article 7 of the Geneva Convention on the treatment of wounded, which lays down that "*la protection due aux formations et établissements sanitaires cessera si l'on en use pour commettre des actes nuisibles à l'ennemi*". In this connection, the report submitted by Surgeon-Major-General Demolder, First Delegate of Belgium, on behalf of the First Commission of the Diplomatic Conference of Geneva in 1929, says: "*Il est évident qu'une formation ne doit pas sortir de son rôle sanitaire; elle le perdrait, par exemple, en abritant des troupes ou en servant de dépôt de munitions ou de matériel militaire*".

The Italian Government will, however, make known to the whole world the conduct of the Ethiopian troops.

Although I intend, through the Italian Red Cross, to protest against the above-mentioned facts to the International Committee of the Red Cross at Geneva, I beg Your Excellency to communicate this note and the documents accompanying it to all States Members of the League of Nations, and I reserve the right to transmit further details and documents which are now being collected, and all the information collected recently concerning dum-dum bullets, which continue to be used on every front by the Abyssinian troops.

(Signed) SUVICH.

Appendix I.

DECAPITATION AND TORTURE OF ITALIAN PRISONERS.

Statement by Four Members of the Egyptian Medical Mission.

شهادة

وازد في يوم ١٠ ديسمبر سنة ١٩٢٥ من الإثني عشر الثاني عشر وكانت تحرير جريدة الجورنالي  
دوريشي حفرة ليبي افن حسن الترحيل والملاحق سابقاً بالبقعة الصحية  
المعروفة بالحبشة وأوضع لي أنا الدكتور فيليب زابور من المرحوم البيزو بحفور الاربعة شجرة  
الخواتم : ألكسندر . ص دادي مدير الدائرة الغربية الشرقية والدكتور فيليب  
زيموني رئيس تحرير الجورنالي دوريشي وويلي سافير محرر جريدة البومس ايجيبسيان  
وشحاته عبيد موطي :

القرارات الآتية المثبتة لعدة قطعة من باق اعضاء البقعة حفرة الخواتم  
اياس مفضل اضراسي وسب سلامه معاون مستشفى حرر ومحمى ربان  
كاتب البقعة المعرفية حرر

الذين صعدوا اشبهات مطابقة من اشخاص درو تقه منهم حفرة اطباء البقعة الغربية  
الانزة بر عزت ومحمى محمد الشقادي واباستر من ربه افن فيليب وذلك في بدلاي  
وقرر ودا جابر ولجيبينا .

وقرر حفرة ليبي افن حسن بعد ان حلق العين ما يأتي :

ازد في يوم ١٠ ديسمبر سنة ١٩٢٥ صدر الي الامر بالانتقال من المركز الصحي سيجيبينا الى المركز  
الصحي بمدينة بدلاي فربيت سيارة نقل مع بعض اشخاص وسافرا من جيبينا وعند النزول  
وصلنا الى دا جابر وتبعه سافرا ١٢٠ كيلومتر وهناك وقفنا الليل ونصباح اليوم  
الذي عند استعدانا للسفر نظرنا جميع غفيرة من الجنود يتقدمون وعند اقترابنا منا رانا قطعاً  
قطعة فأن الجنود لاند يحملون على راس المكب جثتين بدون رأس وودواهم رانا  
بعض الجنود حاملين رأس الجثتين ورافعها على رؤوس الرماح . وكان جنود الجنود  
الذين قدره عدم نجه القبول يسرون بمجران وفرق ويصيحون صيحات وحشية .

فالتنا بعض الاجاش ومنهم عاكه بانة في اليوم السابق أسر الاجاش سياراتين  
ساخته ايطالية وقتلوا وقطعوا رأس اثنتي من الرجال الاربعة الذين لانوا بالسيارتين  
المذكورة وصحا اللذان نظرتهما وان الاثنان الاخرين لا يزالا أسيرين في بدلاي #  
ولبع مرور المكب الكلب واصلنا السفر الى بدلاي حيث يلزم أن تكون هناك  
تأدية الخدمة . وحصل اهاز حشية للاسيرين المذكورين الاربعة واسم احدھا

ليبي حسه البراهي

٢٢٦٦٦٦  
يا فيليب عدم نقل هذين الاسيرين فلان وصيب  
يا فيليب الاربعة عليهم من يرصها الاصل ظهور القادم غداً  
لصحة



كان ما أتذكر أو مدينته وذلك رغماً عن انهما جرحين وقرباً بنخب البنادق وانزال عليهما  
 البنادق حتى فطماها ورطبت به اصحا ورجلها بسلاسل من حديد نظير ما يحصل  
 من ملاد الاجباش ضد اللذين يرتكبون افعال الجرائم . ووقع الاسيران الكاين ولانته  
 وهو صوما دمية ومتمرد من كثرة القرب والدم يسيل من جراحها العديدة بخيمة الاستالة  
 القتالة المعرية محروسة جندي وكان هذا دائماً يفرها بنخب البنادق ولقد الجنود الاجباش  
 كانوا يأتون بالخبز ويتعدوا على الاسيرين بنهالة وبشكل وحشي .

واحتج الأطباء البعثة المعرية حفرة الدائرة كمنه انق حزنه ومخافة محمد السخاوي جملة مرات  
 على هذه المعاملة الخالية من الانسانية ولكن بدون جدوى . وانا شخصياً كنت استغنىم فرقة  
 الوقت الذي يتمكنون وطاعة ملاحظة الحارس قد خففت وأطمم الشهيدين المالكين أي اضع  
 الطعام في افواهها حيث انهما لم يذوقا اي طعام . وانا واعفا البعثة حفرة عذاب  
 الاسيرين الايطاليين وكان بدون ان نعلم على ما عذرتنا حيث كانا مربطين دائماً بالسلاسل  
 والدم تتجمد على وجوهها حتى اصبحا يتنايا اجسام بشرية تتحن لروا صها قلوب اكب التوشين  
 وفي يوم ١٤ ديسمبر وصل الامبراطور فجأة لكي يهدي وسامين الى امرأتين اشتركتا في  
 موقعة حربية . فانه ندر محمد افق السخاوي اعلم الامبراطور موصفاً له سد معاملة الاسيرين  
 الايطاليين وقال له بانها مربطين بايديها وارجلها بالسلاسل وذلك من مدة يومين  
 وبدون ان يذوقا طعاماً ودايماً نظرياً بنخب البنادق ومتمخنين بالجراح . جملة مواضع من  
 اجاورها من ضرب الخناجر ملائحة بصافه مفرزتين وثلاثين باقطع الراحات .

قال الامبراطور رفض التداخل قطعاً لاجل معاملة الاسيرين المذكورين بشكل انسان نوعاً  
 وبعد سفر الامبراطور أخذ الاسيرين المذكورين الى حجر وانا اجهل معبرها لكن حسب  
 الظروف التعينة التي كانا موجودين بها أشك في انهما استحوذوا التنا على قيد الحياة  
 ومخاسبة الاسرى الايطاليين اقول بانى علمت من سواتي سيارة الجنرال وصحب  
 باشا بان لهذا الامر كما علم بان الاسرى الايطاليين يعدمون مجتمع جنوده الاجباش  
 وأمرهم بدم قتل الاسرى ولكن الجنود اشهدوا خناجهم وصاحوا صيحات وحشية  
 قابلين بانهم قد يوافقوا على ذبح كل الايطاليين الذي يقعون بايديهم .  
 وعلى سؤال الدكتور زامبوني اجاب بسبب افق حسن قابلاً :

ليس حسداً بل بالحق

جئت عن بدلي في يوم ١٩ ديسمبر ولا يمكن إخطأ إقرار  
 بشأن الملاقاة القنابل المزعم. إنما يمكن أن أقول أنه  
 في يوم ١٠ ديسمبر خلقت طائرات الاربعة  
 فوق الاستقالة النقالة وربما مشروبات بها طعمنا  
 الاصابي مع ذلك جهلنا جندنا اجسادنا مشحون التجار  
 تحت النخوة واللقن جندنا اخبرنا النار من النادق  
 والمدافع الرشاشة على كافة قرينة من الخيمة.  
 وابتعدت الطائرات بدون أن تصيب الخيمة  
 بأي ضرر رغمًا عن هجوم الاجسادنا لبيد حشد ابراهيم

ممرض بالبصرة الطبية الممرضة بالبصرة

نحن المدققين على هذا ادناه : الياس قنصل اميراني بالبصرة  
 الطبيب الممرضة بالبصرة وليد سلافة معاون مستشفى حرر  
 بالبصرة الطبيب الممرضة بالبصرة محمد رياض جانت البصرة الممرضة بهار  
 أعضاء البصرة الممرضة به أن اقسمنا اليقين نوبه تماماً  
 اقرار حفرة لبيب افق حسن . بان الحادث التي شاهدها  
 بعين عين معلومة للجميع في بدلي وحرر وجميعنا وداجالهم  
 ونحن قد جمعنا شهادات مطابقة بهذه المضمون من اشخاص ذوي ثقة

صحة

المدققين بالبصرة الطبية الممرضة  
 اميراني بالبصرة  
 بقا  
 نحن المدققين على هذا ادناه :  
 وليد سلافة  
 كاتب البصرة  
 الطبي الممرضة بهار

وليد سلافة محرر بجمهورية البوسنة ايحيى ان يحضر  
 وشحاته عميد موظف والدكتور فيليب زاموني رئيس  
 تحرير الجرنال ادم بيتي والدكتور اوجو دادوني مدير الادارة الممرضة الشرقية بحر

قررت باننا نحن شهادة حرة لبيب افندي  
اتي قررها بضمونا

Selon ce que j'ai entendu verbalement  
des auteurs de la deposition ci-dessus:

W. Pappi  
"La Bourse Egyptienne"

~~Labadour~~

Ramboni

Visto al R<sup>o</sup> Consolato d'Italia in Cairo  
per legalizzazione della firma



del Sig. Luigi Pappi  
e Dot. Filippo Ramboni

Cairo 11 de Genais 1926 XIV

Il R<sup>o</sup> Console



Luigi Pappi

N<sup>o</sup> 113 R.P.  
lire oro 0  
P.E. gratuita  
Art. 71 T.G.  
  


Appendix I bis.

[Translation.]

DECAPITATION AND TORTURE OF ITALIAN PRISONERS.

*Statement by Four Members of the Egyptian Medical Mission.*

AFFIDAVIT.

On December 30th, 1935—Year XIV of the Fascist Epoch—M. Labib Hassan, dresser, formerly attached to the Egyptian Medical Mission in Abyssinia, came of his own accord to the editorial offices of the *Giornale d'Oriente*. M. Labib Hassan made the following statements to me, Dr. Filippo Zamboni, son of Albino, deceased, in the presence of four witnesses, Commander Ugo Dadone, Director of the Egitto-Oriente Agency, Dr. Filippo Zamboni, Editor-in-Chief of the *Giornale d'Oriente*, Welly Saphir, Editor of *La Bourse Egyptienne*, and Shiahata Ebeid, employee, these statements being confirmed categorically by other members of the mission, MM. Elias Moqbel, pharmacist, Labib Salamah, assistant in the Harrar Hospital, and Mohammed Riad, secretary of the Egyptian Medical Mission at Harrar, who heard corroboratory statements from reliable persons, including Drs. Mohammed Izzet and Mohammed Mahmud Sakkawi, of the Egyptian Mission, and Head Dresser Farid Salib, at Bolali, Harrar, Daggah Bur, and Jijiga.

M. Hassan made the following declaration on oath:

" On December 9th, 1935, I was ordered to proceed from Jijiga Hospital to Bolali Hospital. I left Jijiga with other persons in a motor-lorry, reaching Daggah Bur, 120 kilometres away, towards dusk.

" There we passed the night. On the following morning, when preparing to leave, we saw a crowd of soldiers advancing. When they drew near, we saw with horror that two headless corpses were being borne in front of the procession. At a short distance came other soldiers carrying the heads of the two corpses stuck on spears.

" The soldiers—they must, I think, have been about two thousand strong—proceeded on their way, firing off their guns and emitting savage cries.

" I questioned some Abyssinians, and learnt that, on the previous day, the Abyssinians had captured two Italian tanks and their four occupants. Two—those whom I had seen—had been killed and decapitated, while the other two were still prisoners at Bolali.

(*In the margin.*) The reason why the two other prisoners had not been killed was that Wehib Pasha asked that they should be kept alive in order that they might be shown to the Emperor, who was due to arrive on the following day.

" After the ghastly procession had passed by, we continued our journey to Bolali, where I was to take up my duties.

" The two Italian prisoners (one of whom, if I am not mistaken, was called Aumento), though wounded, had been brutally beaten with rifle-butts, had been covered with spittle, and had been closely bound hand and foot with iron shackles, such as those used in Abyssinia on the worst criminals. There being no other place available, the two wretches, whose faces were all swollen with the blows they had received, and who were bleeding profusely from numerous wounds, were placed under a tent of the Egyptian ambulance, under the guard of a soldier who continually struck them with the butt of his rifle. Other Abyssinian soldiers also came to the tent and subjected the two prisoners to degrading and savage treatment.

" Drs. Mohammed Izzet and Mohammed Mahmud Sakkawi, of the Egyptian mission, protested more than once against such inhuman treatment, but without result. I personally availed myself of such times as the guard's attention was diverted elsewhere to give the two poor wretches something to eat, because they were not receiving any nourishment.

" Together with the other members of the mission, I was a helpless witness of the sufferings of the two Italian prisoners, who, still in their shackles, with clotted blood on their faces, were now nothing more than two human wrecks, whose aspect should have softened even the most barbarian heart.

" On December 13th, the Emperor suddenly arrived to present medals to two women who had taken part in a battle. Dr. Mohammed Sakkawi, of the Egyptian Mission, described to the Emperor the inhuman treatment that had been meted out to the Italian prisoners, adding that for two days they had been bound foot and hand in iron shackles, kept without food, continually struck with rifle-butts, their skin cut in several places by blows, spat upon, vilified and insulted in the most atrocious manner. The Emperor definitely refused to take any action to ensure that the two prisoners should receive anything approaching humane treatment.

" After the Emperor left, the prisoners were taken to Harrar. I do not know what became of them; but, in view of the appalling state they were in when they left, I doubt whether they can have survived.

" With regard to the Italian prisoners, I should add that I heard from General Wehib Pasha's chauffeur that the general, knowing that Italian prisoners were being massacred, assembled his Abyssinian soldiers and ordered them to refrain from killing prisoners. But the soldiers, with

savage cries, drew their daggers, crying out that they would continue to cut the throats of any Italians that fell into their hands."

In reply to Dr. Filippo Zamboni, Labib Hassan said:

"I left Bolali on December 19th, and cannot say anything about the alleged bombardment. I can say, however, that, on the 10th, Italian aeroplanes flew over the ambulance and scattered leaflets intended to reassure the population. Although numbers of Abyssinian levies took refuge under the tent and near by and opened rifle and machine-gun fire, the aircraft left without doing any damage to the tent, notwithstanding the attack of the Abyssinians."

(Signed) LABIB HASSAN IBRAHIM,  
*Dresser of the Egyptian Medical Mission  
to Ethiopia.*

We, the undersigned, Elias Moqbel, dispenser, Labib Salamah, assistant in the dressing-station, and Mohammed Riad, secretary, members of the Medical Mission to Ethiopia, fully confirm on oath the statement of M. Labib Hassan. The facts to which he testifies as an eye-witness are known to all at Bolali, Harrar, Jijiga, and Daggah Bur, and we have collected corroborating evidence from trustworthy persons.

(Signed) LABIB SALAHAM.  
ELIAS MOQBEL.  
MOHAMMED RIAD.

We, the undersigned, Welly Saphir, Editor of the *Bourse Egyptienne* in Egypt, Shiahata Abeid, clerk, Dr. Filippo Zamboni, Editor-in-Chief of the *Giornale d'Oriente*, and Commander Ugo Dadone, Director of the *Egitto-Oriente* Agency, declare that we have heard the testimony of M. Labib Hassan given in our presence. There follows a declaration in French by M. W. Saphir. Then follow the signatures of Ugo Dadone and Filippo Zamboni.

*There follows a statement in French by M. W. Saphir:*

"Selon ce que j'ai entendu verbalement des auteurs de la déposition ci-dessus."

*Then follow the signatures of Ugo Dadone and Filippo Zamboni.*

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## Appendix II.

[Translation.]

### TORTURE AND DECAPITATION OF AIRMAN MINNITI.

*Statement by Three Members of the Egyptian Medical Mission.*

#### AFFIDAVIT.

On February 15th, 1936—Year XIV of the Fascist Epoch—Abdel Mohsein El Wishy, an Egyptian citizen living at Cairo, formerly attached to the Egyptian Medical Mission in Abyssinia as assistant dispenser, came of his own accord to the editorial offices of the *Giornale d'Oriente* and made the following statements to me, Dr. Filippo Zamboni, son of Albino, deceased, in the presence of four witnesses, Cav. Ing. Latino Tozzi, Prof. Arduino Albanese, Prof. Pier Luigi Malesci, and Subhi Wehedah, those statements being confirmed categorically by the other members of the Mission, MM. Kamel Ahmed and Labib Salamah, who have heard corroboratory statements from reliable persons in Ethiopia.

Abdel Mohsein Wishy made the following declaration on oath:

"On December 24th, at about 4 p.m., coming out of the Egyptian ambulance tent at Bolali, I saw a group of Abyssinian levies going by under the command of Sergeant Manghestu, dragging along a man in aviator's uniform, the man's hands being tied behind his back. As I had to go to fetch water in the neighbourhood, at Bir, I set out following the same road as the Abyssinians. A little further on they stopped and, after taking off the airman's overalls, placed shackles on his legs as well and bound him to a tree.

"Having been called up by Sergeant Manghestu, who asked me for a cigarette, I approached, and, out of curiosity, stopped to look on, though I certainly did not foresee the horror of the spectacle I was to witness.

"While the sergeant sat on the ground smoking the cigarette I had given him, the soldiers unbound the prisoner's hands and, holding him fast, cut off his fingers. Manghestu, having finished his cigarette, approached the unfortunate prisoner, who was shrieking with pain, replaced the iron shackles on his bloody wrists, took off his coat and shirt, and spat in his face. One of the soldiers cut off a tuft of hair from the back of his head, as the Abyssinians do to malefactors, and handed it to Manghestu. Thereupon the airman's feet were unshackled and his trousers were taken off. Being narrow at the bottom, they were slit with a knife. He was thus left completely naked. A soldier replaced the irons on the man's feet, and, kneeling, pressing his head against the wretch's belly to hold him fast, cut off his genital organs.

"The airman gave a heartrending shriek, while the blood gushed out from the horrible wound.

"At this point I, who had been glued to the spot by horror, began to run towards the ambulance tent. There I met the dresser Mohammed Hassan, to whom, as soon as I was fit to do so, I described, my voice hoarse with emotion, the appalling spectacle I had witnessed. We both returned to the spot to fetch the leather bottle which I had left behind me in my flight.

"But a still more horrible scene awaited us. The poor wretch, now a corpse, had been unbound and set on the ground, where he lay bathed in a pool of blood, while the sergeant was busy flaying the skin off the victim's chest. Aghast, but overcoming the fear which the Ethiopian levies inspired in us, we asked Manghestu why he was still hacking at a corpse. He replied that with the dead man's skin he intended to make a cigarette-case which he would use only on great occasions.

"The horrible operation completed, the body was cut into pieces. The head and feet were stuck on bayonets, while an attempt was made to burn the other wretched remains with petrol taken from a camp of Somali camel-drivers nearby. Then the levies, one of whom carried stuck on his bayonet the airman's head, two others the feet from which the shoes had been filched, another the clothes, and Manghestu finally the genital organs, got into a lorry that was leaving for Daggah Bur, Jijiga and Harrar.

"On the following day, when I took the medical reports to Wehib Pasha, I recounted the horrible scene I had witnessed. He, it must be admitted, showed great annoyance, but advised me to hold my tongue.

"My companion Mohammed Hassan also told the story to Dr. Mahmud Izzet, who ordered him in future to keep within hospital bounds.

"Three days later, Manghestu returned to Bolali. He said that he had had most wonderful receptions at Diredawa and Harrar when he had arrived with the Italian airman's head and genitals. He added that at Harrar a great procession had been formed and had proceeded to the palace of the Provincial Governor to show him the ghastly trophies.

"It was on the fourth day, if I am not mistaken, that Italian aeroplanes made an incursion and dropped leaflets signed by General Graziani which were worded roughly as follows: 'You have murdered an Italian airman, violating the principles of humanity according to which prisoners are sacred. You shall be punished.'

"I then learnt that the airman's name was Minniti.

"Shortly afterwards the Italian aeroplanes did, in fact, bomb the region. The ambulance, however, did not suffer any damage. The nearest bomb fell at a distance of 3 km. from our tent.

"A few days later, at the request of Dr. Sakkawi—as the zone was dangerous, owing to the proximity of Abyssinian levies, who were the object of the Italian air attacks—the ambulance left Bolali for Jijiga and Harrar. In the latter town we met Dr. Abdel Hamid Said, the representative of the Egyptian Committee for the Defence of Abyssinia."

(Signed) ABDEL MOHSEIN EL WISHY.

We, the undersigned, Kamel Ahmed and Labib Salamah, members of the Egyptian Mission, fully confirm on oath the statements made by Abdel Mohsein Wishy. Concerning the facts of which he was an eye-witness, we have collected corroboratory evidence from trustworthy persons in Ethiopia.

(Signed) KAMEL AHMED.  
LABIB SALAMAH.

We, the undersigned, Cav. Engineer Latino Tozzi Condivi, Prof. Arduino Albanese, Prof. Pier Luigi Malesci, Subhi Wehedah, state that we have heard the evidence of Abdel Mohsein Wishy given in our presence.

(Signed) LATINO TOZZI CONDIVI.  
ARDUINO ALBANESE.  
PIER LUIGI MALESCI.  
SUBHI WEHEDAH.

(Signed) FILIPPO ZAMBONI.

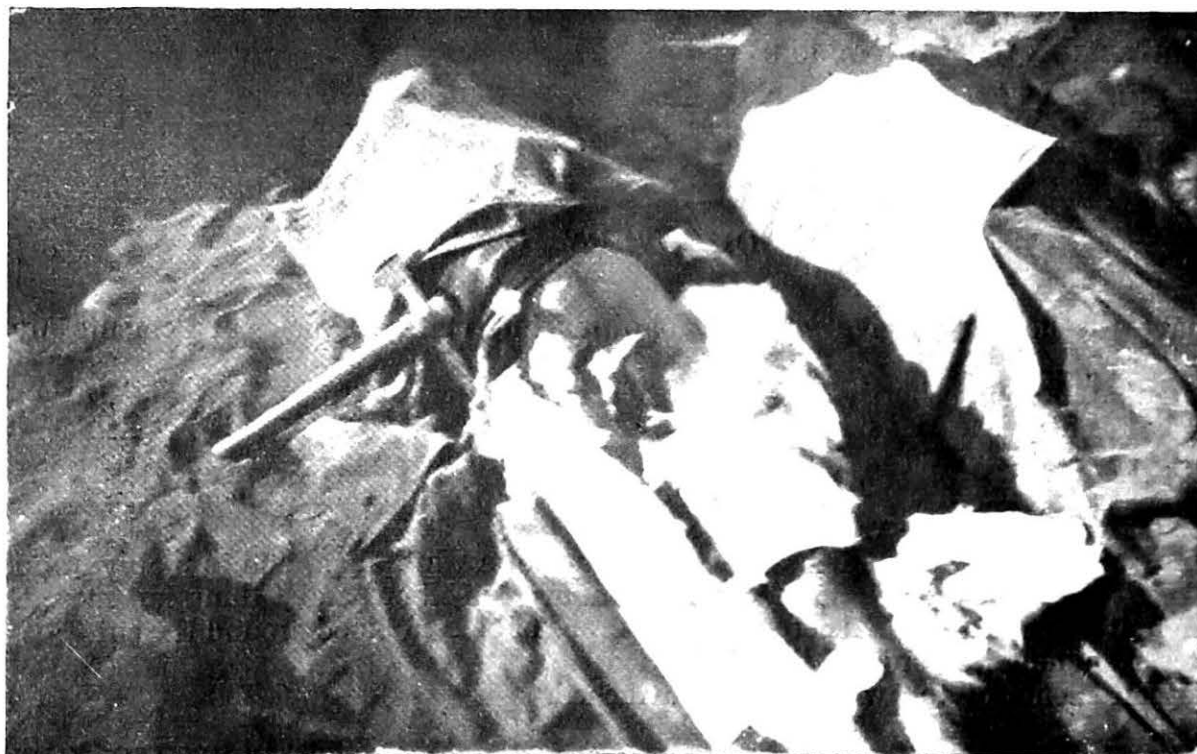
**Appendix III.**



Corpse of one of the Italian soldiers killed on December 27th, 1935, at Passo Zabala and castrated by the Abyssinians.

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**Appendix IV.**



Corpse of Militiaman Pascale Francesco, killed on January 3rd, 1936, on the Gherghedà and castrated by the Abyssinians.

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Appendix V.

HEADQUARTERS 1ST ERITREAN  
BLACKSHIRT BATTALION.  
*Medical Bureau.*

Abarò Zone, January 3rd, 1936—XIV.

SUBJECT: MEDICAL REPORT ON THE MUTILATIONS INFLICTED BY THE ENEMY  
ON THE VICTIMS OF THE AMBUSCADE OF JANUARY 3RD, 1936—XIV, AT 8.20 A.M.

Blackshirt Francesco PASCALE, son of Giuseppe and of Arcangela De Stefano, born at Abriola on June 2nd, 1910. Served in the 1st Company, 1st Battalion Blackshirts. Shows wound made with a pointed weapon in the left eye, the eyeball having been gouged out. Gunshot wound in the left breast with exit at the back of the ribs. Total emasculation. Wound made by a cutting weapon in the left sternocleidomastoid region to a depth of about 3 cm.

Blackshirt Teodoro MANIERI, son of Antonio and of Donata Labrione, born on September 24th, 1905, at Venosa (Potenza). Served in the 1st Company, 1st Battalion Blackshirts. Shows three gunshot wounds in the right half of the thorax, two of which have no exit, the other having its exit in the left medial axillary region. Wound made by a pointed and cutting arm in the direction of the base of the heart, penetrating the cavity. Another wound made by a pointed cutting arm in the manubrium of the sternum. Attempted emasculation with removal of the skin of the penis and scrotum.

In addition to the above-mentioned wounds, all the bodies showed traces of bruises and various contusions due to the bestial ferocity of the attackers.

C. M. G. DEL SECCO,  
*Medical Officer.*

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Appendix VI.

SIXTH ERITREAN NATIVE BATTALION.  
*First Company.*

Makale Area, January 10th, 1936—XIV.

SUBJECT: DISCOVERY OF AN ARM.

I have the honour to give you the following information which supplements my verbal communication:

Yesterday morning, shortly before we reached the place known as Adi Hotzà, Askari Mussa Nur Cahasai came to me. He had been sent by Lieut. Serafini, who, with his own detachment, was preceding the company and taking the necessary precautionary measures.

Mussa Nur Cahasai was holding in his hand a human arm, and told me he had found it in a field while he was carrying out his reconnaissance duties.

After examining it, I found that it was the arm of a white man, and probably of one of our nationals. It had been cut off, but not cleanly, above the elbow, and I think not more than two days before it was discovered. There were still drops of clotted blood around the cut.

After examining it, I ordered it to be buried.

The statements of the witnesses are attached.

(Signed) LIONELLO QUAGLIA,  
*Captain Commanding  
Company.*

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Appendix VII.

FIRST BLACKSHIRT DIVISION "23 MARZO".

*Headquarters of the 202nd Legion.*

Calaminò Zone, February 3rd, 1936—XIV.

REPORT ON THE WOUNDING OF STRETCHER-BEARERS.

On January 20th, 1936—XIV, at dawn, the positions of this Legion were again attacked by strong enemy detachments coming from the Zalcabà plateau *via* the Gabat valley, who were endeavouring to conquer the heights to the left of the Calaminò, which were occupied by this Legion, their probable objective being the plain in the direction of Makale.

Some of our men belonging to the advanced troops, including Group-Leader Vincenzo Crispo, were wounded. During a lull in the fighting, headquarters ordered stretcher-bearers to be sent to pick up men who were too badly wounded to be able to get back to our positions.

At 8 a.m., Blackshirt Stretcher-bearer Andrea Billi, son of Pasquale, deceased, and other stretcher-bearers who had gone down, all wearing the Red Cross brassard, were fired on, the snipers taking accurate aim, and Billi was killed at 8.10 on January 20th, 1936.

The undersigned Commander, in view of the necessity of picking up the wounded and at the same time avoiding exposing the stretcher-bearers to the risk of being fired at by the enemy soldiers, who have no respect for international emblems, then ordered two squads of stretcher-bearers, each carrying the regulation white flag with the Red Cross on it, to be sent to their assistance. These squads were also *deliberately* fired on by enemy snipers posted a very short distance away from the wounded men. Blackshirt Mario Marri, son of Cipriano, deceased, belonging to the 202nd company M.P., was wounded at 9.55, and Luigi Segoni, son of Pietro, of the same company, at 10.05.

Having seen that the enemy showed no respect for internationally recognised emblems, this headquarters, which was firmly resolved to assist and pick up the wounded, as was its duty, ordered a protective curtain of fire to be formed, so as to allow this humanitarian task to be carried out. The fact that the enemy could not have failed to recognise the Red Cross emblems, which were clearly displayed by the stretcher-bearers, is proved by the evidence of Blackshirt Mario Marri, who stated that he was shot by an Ethiopian dressed in khaki and posted not more than 20 metres away from him. This statement is confirmed by all the men who were in the vicinity. Similar statements have been made in other cases by men who took part in the fighting and assisted in picking up the wounded.

The written evidence of Group-Leader Amerigo Morbidelli and Blackshirts Giuseppe Gildoni, Paolo Cassarino, Agostino Ferrara, Mario Marri, and Chief Squadron-Leader Umberto Abbatecola is attached.

(Signed) Alberto PIROLI,

*Consul Commanding the 202nd Legion.*

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Appendix VIII.

MISUSE OF THE RED CROSS EMBLEM.

STATEMENT BY MR. EVELYN WAUGH.

[Original text.]

Rome, January 28th, 1936.

I was in Abyssinia from August 20th until December 9th, 1935, acting as special correspondent for *The Daily Mail*. Movements of correspondents were rigidly restricted and I am only able to speak from personal experience of conditions in Addis Ababa, Harrar province and Wallo province.

In Addis Ababa I saw no abuse of the Red Cross sign and I believe that its correct use is scrupulously observed. This is not true of the provinces. I was in Harrar at the end of October. There were two old-established mission hospitals in the town—French and Swedish—but no Red Cross Ambulance unit. Certainly four—I think, but am not prepared to swear to more—Government buildings bore the Red Cross. These were the Royal Palace (ghebbi), the Treasury, the

Law Courts, and an iron building attached to the headquarters of the Belgian military mission. There was also a Red Cross painted on the roof of the wireless station (old ghebbi) which had been lightly washed over. It would have been visible, I think, from the air, and in any case could have been scrubbed clear in a very short time. I was refused admission to all these buildings; enquiries made through my interpreter of the guards and citizens of the town revealed that none of the buildings mentioned above housed doctors, nurses or ambulance personnel, or contained any serious medical preparations. The house at the Belgian barracks was said to contain money subscribed for the Red Cross Fund.

I was at Dessye at the end of November. There were two properly constituted hospitals there: a French mission outside the town which was untouched in the subsequent bombardment, and the Adventist mission in, but at the extremity of, the town, where a ward was destroyed by fire. This lay next to the former Italian Consulate, where a detachment of the Imperial Guards was stationed with two pieces of artillery and some anti-aircraft machine-guns mounted on lorries. A third building in the city flew the Red Cross; this was the Governor's private residence (not the Crown Prince's ghebbi). Two anti-aircraft guns were mounted on the verandah. An Irish transport officer quartered in this house, working for the Red Cross, protested about the presence of these guns and there was some talk of moving them. Whether it had been done before the attack on December 6th, I cannot say.

On November 28th, at Dessye, I witnessed a review of troops leaving for the Northern Front. This included a native ambulance unit of which every man wore a Red Cross brassard on the arm and carried a brand-new rifle.

It may be noted that the Abyssinians have always regarded the Red Cross with great familiarity; it is the sign on brothels throughout the country; it is used as a charm on saddle-cloths (I have seen photographs in the European papers of military mules bearing this red cross described as ambulance transports); it is used on all pharmacies and chemist shops. Thus it is natural that it should have no sanctity in the Abyssinian mind.

(Signed) EVELYN WAUGH.

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## Appendix IX.

### MISUSE OF THE RED CROSS EMBLEM.

*Statement by Captain Josef Jonke.*

[*Translation from the German.*]

What I have been in a position to ascertain by personal experience and observation and what I desire to affirm publicly is that the Red Cross—to whose benefits the Abyssinian Government only became entitled through accession to the Geneva Convention on the outbreak of hostilities—has been systematically misused for military purposes:

The general instructions which we received from the higher military authorities on the outbreak of the war were to the effect that the Red Cross was to be used for purposes of protection on munition dumps, and, if necessary, elsewhere. The result was that, particularly after their first important reverses, the Abyssinians repeatedly misused the Red Cross flag for camouflage purposes. The Red Cross was even used to protect anti-aircraft gun emplacements. If Italian planes happened to fly over such camouflaged positions without themselves firing a shot, they were subjected to very heavy fire. As a specific example, I may refer to the following incident which took place on the Webbe-Shibeli front at the end of November. We were on the front there and had fortified our positions. Word came from the Provincial Governor that particular attention was to be paid to the construction of emplacements for anti-aircraft guns and machine-guns. For this purpose he recommended us, among other things, to camouflage the positions with the Red Cross emblem. One day, when Italian reconnaissance aeroplanes were quietly flying over us, they were fired upon from the camouflaged positions.

Another example. The military hospital at Goba, which was erected on the outbreak of hostilities, was used as the chief munitions depot for the Province of Bali, as I was able to see for myself. During the time I was in the southern war area, there was never any question of this hospital being used to receive wounded soldiers, as it was much too far away from the front. Here, too, there was thus a deliberate misuse of the Red Cross for specifically military purposes.

In view of these facts it becomes necessary to raise the question whether the parties to the valuable Geneva Red Cross Convention are justified in admitting to their number States in which the mentality of the people is such that they are unable to carry out the humanitarian aims of

the Red Cross. A still further question forces itself upon everyone who has personal experience of the abuse of the Red Cross in Abyssinia: Is it not perhaps a mistake for European peoples, who are acting with the greatest goodwill and are animated by the noblest humanitarian motives, to place themselves unselfishly at the disposal of a State which has neither the power nor the will honourably to abide by the principles of an institution such as the Geneva Red Cross?

(Signed) JONKE, Engineer.

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Appendix X.

MISUSE OF THE RED CROSS EMBLEM.

STATEMENT BY ABDEL RAHMAN ABDEL HAMID, OF THE EGYPTIAN MEDICAL MISSION.

[Translation from the Italian.]

1. During the months I spent in Ethiopia as a volunteer in the Egyptian Medical Mission, the Mission encountered nothing but difficulties and obstacles in its relations with the Ethiopians. We received no help, no promises were kept, and we were made to go without everything. We even lost drugs and medical equipment, which the Ethiopians arbitrarily appropriated to divert them elsewhere.

2. The other missions also had to cope with these unsatisfactory conditions, and I marvel that they can still hold out and remain in the midst of such terrible people as these Ethiopians, who are liars and thieves and who ill-treat the whites indiscriminately, whereas they should at least extend proper treatment to the members of the Red Cross, who are in Ethiopia for humanitarian purposes.

3. To judge from what I have seen, the Ethiopian armies are themselves the cause of the bombing by the Italian Air Force of places in which there are tents or hospitals bearing the Red Cross or the Red Crescent. Indeed, the Ethiopian troops are in the habit of taking cover in the vicinity of such places, whence they fire on the aeroplanes, with the result that the latter bomb the points from which the shots are fired.

In this manner, besides making an improper use of the Red Cross emblem, which they place over everything, the Ethiopians convert the Red Cross stations themselves into armed camps.

Naturally, this is risky and dangerous for the white sick attendants and doctors who work in these stations, and they have protested; but the Ethiopians dismiss their complaints with a laugh, take no account whatever of them and continue their malpractices with utter indifference.

Jibuti, January 15th, 1936.

(Signed) ABDEL RAHMAN ABDEL HAMID.

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Appendix XI.

MISUSE OF THE RED CROSS EMBLEM.

Statement by Four Members of the Egyptian Medical Mission.

١٩٢٢-١-٢١

الجمعية المصرية للطب

كانت الجمعية مكونة من أربعة مستشفيات اولاً في مصر في بيت  
 اب اعلان - دونه حرم ايجيه كورنيل فور. والثانية في جيبوتي  
 والرابعة في اللايبه والثالثة في ديها نور فطاه المرحوم دكتور رهنوره  
 والجمعية البريكية والاربعاء في بروكس الامم في مصر  
 استود دار انا اباس مقبل اكرم في بالبيته الطيبه بانه  
 البعثه الموجوده في جيبوتي التي كانت استود انر حينما ينقذ به ارحابك  
 طائفة من طائرات الالمانه للقرنونه لمنسنتها كافر ارحابك  
 اي ارحابك الموجوده في استود بلتيه ارحابك في استود ارحابك  
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معهد الحديث  
محمود يا صبر

۱- اطمنان قطره کله  
در صفاخانه نظام الیادیه اولاد هیئت انجمن هیئت اورد

دش بوم انزوب ۱۹۲۰ هجری خورشیدی الطائرات فریادیه برادران  
فریادیه خیر انبار و کانه جری الیادیه هیئت انجمن هیئت اورد

دلجی اول استثنی الیادیه کرب بیکه ای کانه ساکتور  
کوره و الحیرامه ستور کوره و کوره و کانه جنسیه  
اخو بزیغ و الیادیه کوره ایله بقطره فائیل و کانه کوره

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حضرت الیادیه  
محمد یاسه

ایضاً کوره ای کوره ای

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محمد زین خندان زنگنه ۲۲ اکتوبر ۱۹۱۷ء  
 زین میرزا علیا افشار و بیگمہ لائبرٹری و کیمبرلہ لائبرٹری  
 کا حلہ سے ان کے لیے قنادیہ میں کاروانی نقدیہ سے  
 اکتوبر ۱۹۱۷ء کو لکھی گئی ہے۔ لکھی گئی ہے  
 سرینہ خانہ سے لکھی گئی ہے۔ لکھی گئی ہے  
 حضرت مولانا محمد علی صاحب مدظلہ العالی  
 حضرت مولانا محمد علی صاحب مدظلہ العالی  
 لکھی گئی ہے

بیت المقدس اور ماہ کو بند در اور دادنی و اکثر بیگمہ  
 زائیدی و علیہ الرحمہ انہما لکھی گئی ہے  
 اتنا کہ ایک انہما قبول و مراختہ ریاضہ و بیگمہ  
 ایک انہما لکھی گئی ہے بالمشورہ  
 کتب خانہ لکھی گئی ہے

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*Handwritten signature*



Visto al R<sup>o</sup> Consolato d'Italia in Cairo  
per legalizzazione della firma

del Sigg. *Comm. Naga Sadone*  
*e del Dott. Filippo Lamboni*  
Cairo 11 *25* *Gen* 1936 *XIV*



Il R<sup>o</sup> Console

*[Handwritten signature]*

N<sup>o</sup> 319 R. P.



lire or<sup>o</sup> *Graffis:*  
P. E. \_\_\_\_\_  
Art. 1 T. C.

Appendix XI bis.

MISUSE OF THE RED CROSS EMBLEM.

*Statement by Four Members of the Egyptian Medical Mission.*

[Translation.]

Cairo, January 21st, 1936.

THE EGYPTIAN MEDICAL MISSION IN ETHIOPIA.

The Egyptian Medical Mission had equipped four ambulances, the first of which was at Harrar, in the palace of the Emperor's son, the Duke of Harrar; the second at Jijiga, in the Church of the Maltese Fathers; the third at Daggah Bur, where the late Dr. Hackman and the American mission were stationed; the fourth at Ballei Gara, at the front.

I, the undersigned, Elias Moqbel, dispenser, of the Egyptian Medical Mission, hereby declare that, when the Ethiopians saw the Italian aircraft flying over the area, they took refuge in the convent where the ambulance itself had its headquarters. They took cover, in their military uniforms, among the trees and fired on the machines themselves. The members of the Egyptian mission protested against this act to Ras Nasibu and General Wehib Pasha, drawing their attention to the fact that such acts violated the principles of the Red Cross, since the Italian machines, finding that the shots came from the ambulance, might imagine that this was a military shelter.

On November 11th, 1935, the machines bombed Daggah Bur, which was at the front. At that time, Ras Nasibu was at Daggah Bur and took shelter in the ambulance of the American mission, in charge of Dr. Hackman. This mission consisted of the doctor himself, two British missionaries, Snoks and Dokkens (?), Dr. Amin Boctor Raphael, and the head dresser, Georges Sami, the two last-named of Egyptian nationality. There were no other Egyptians beyond these two in the ambulance. When Ras Nasibu reached the ambulance, the Italian aeroplanes dived at once over him and over the ambulance. He immediately fired against them from the ambulance enclosure, with a machine-gun mounted on his motor-car. Dr. Hackman grew angry and reproved him, pointing out that his action was incompatible with the principles of the International Red Cross. By firing against the Italian machines, he was imperilling the lives of all the members of the mission. Thus the aeroplanes could have dropped their bombs on any point of the Red Cross ambulance and no protest would have been possible, since they had just been fired at by the machine-guns posted in the ambulance enclosure.

(Signed) LABIB SALAMAH.

The following was present with me:

(Signed) SAMI GEORGES.

The following were present at the conversation:

(Signed) MOHAMMED RIAD.  
ELIAS MOQBEL (Dispenser).

The undersigned, Comm. Ugo Dadone, Dr. Filippo Zamboni and Abd Er-Rahman efendi Er-Rafii declare that they were present at the recording of the above statement by Elias efendi Moqbel, Mohammed efendi Riad, Labib efendi Salamah and Elias efendi Georges and that Subhi Wehedah has drawn up the present document, which is in conformity with their authentic statements.

Certified as above: SUBHI.

(Signed) U. DADONE.  
F. ZAMBONI.  
ABD ER-RAHMAN.

Appendix XII.

MISUSE OF THE RED CROSS EMBLEM.

Statement by Four Members of the Egyptian Medical Mission.

تمت جميعنا كما علمنا على اننا نحن اعضاء اللجنة الطبية  
المدنية انا و دكتور محمد كليمه ابي سنشيه و دكتور

م قطعه الطائرات اذ كاننا في مصر المستعملة  
في دكتور

و زحمت الطائرات اذ كاننا في مصر المستعملة  
في دكتور و دكتور انا و دكتور محمد كليمه ابي سنشيه  
الذي نسيت في الحبيب من عربى الولاى الى بلاد  
والا طويلا

رأينا في جميعنا اننا اعضاء اللجنة الطبية  
المدنية انا و دكتور محمد كليمه ابي سنشيه  
و دكتور انا و دكتور محمد كليمه ابي سنشيه  
محمد كليمه ابي سنشيه  
دكتور محمد كليمه ابي سنشيه  
دكتور محمد كليمه ابي سنشيه



مردم مملکت ایتالیاء علی تأکدنامه انه ابرو حکایتہ اذا  
ارادوا التمسوا علی مملکت ایتالیاء فتستوا علیہ  
الامر من غیر انہ الحکامہ المعلقہ علیہ من لزمہ بحکم  
منہ

دی هر رکات ہماره المثنی السویہ  
التابۃ للصلیب الراجحہ تحتوی فی الدرہ اورد علی  
مخطوطہ التفرات الی سکتی التابۃ للتکررہ دکانہ  
عمال لزمہ المخطوۃ حیدرآباد علیہ الی ابرو حکایتہ از عظم

ایسکریٹری ابرو  
مخدومہ غانہ شتی  
شہین

بقرہ الموقوفہ ادناہ کورسدر دادنی ابرو دکور فیلیب  
زاسون دعو ابرو عمده البرانس اندس الام جہودا الختیت الی ابرو  
انتارہ الیک انتہا نقل و کمر انتہا رباہہ دلہیب افسد سکوم  
د الیک انتہا پورج بالتصویرات املوہ دانہ ابرو ابرو  
کتبہ خوبہ

*Handwritten signature*

*Handwritten signature*

*Handwritten signature*



Visto al R<sup>o</sup> Consolato d'Italia in Cairo  
per legalizzazione della firma

del Sig. *Comandante M. G. Pastore*  
*e Dott. Filippo Faubou*

Cairo li *25 Gennaio* 1926 *XIV*

1 R<sup>o</sup> Console



N<sup>o</sup> 318 R. P.



lire 0  
P. E. *C* *Gratis*  
Art. *71* T. C.

Appendix XII bis.

[Translation.]

MISUSE OF THE RED CROSS EMBLEM.

*Declaration by Four Members of the Egyptian Medical Mission.*

At Jijiga the Egyptian ambulance displayed the emblem of the Red Cross and the Egyptian flag.

At Daggah Bur there was no Egyptian ambulance.<sup>1</sup>

The Italian machines never bombarded the ambulances at Daggah Bur.

The Italian machines which flew over Daggah Bur were two in number. They dropped proclamations in French and Abyssinian calling upon the natives to remain calm.

At Jijiga we observed that the Red Cross was displayed on two schools full of armed soldiers.

At Addis Ababa itself we observed that the Red Cross was displayed on brothels. We found that the Abyssinians, when seeking a brothel, look for the Red Cross emblem in order to make sure that the house in question is a house of ill-fame.

At Harrar, the building occupied by the Swedish ambulance belonging to the International Red Cross contained the Government telegraph station on the first floor. The employees of the station wore an armlet with the Red Cross badge.

(Signed) ELIAS MOQBEL (Dispenser).  
MOHAMMED RIAD.  
LABIB SALAMAH.  
SAMI GEORGES.

[Here follows a declaration similar to that at the end of document XI.]

<sup>1</sup> The ambulance at Daggah Bur was Ethiopian, although served by foreign staff, which was partly Egyptian. (Note by the Italian Ministry for Foreign Affairs.)



اترت ماہ السنہ کانت صلی علیہ وسلم  
 الحاکم الذی وجہت بہ القلم . وقد نقلہ لکتر  
 لہ ذلک ای اور سی بابا جیت قوی  
 محمد ایہ لکھی  
 ایدیشن برزنجی

بقرہ المرقومہ ادناہ کو بندہ اور اور ای دیکھ لکھ رہے ہیں  
 و علی الہدیہ اذی براس ارم علیہ ذلک ایہ ما صرح انشاء  
 ایسی اقدی علی دسر انڈی رہا ہوا  
 ایہ ہوا ایہ ہوا ایہ ہوا  
 ایہ ہوا ایہ ہوا

محمد ایہ لکھی

محمد ایہ لکھی

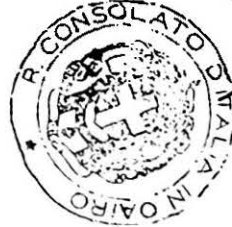
Muhammad



Visto al R<sup>o</sup> Consolato d'Italia in Cairo  
per legalizzazione della firma

del Sig. *Comm. Abdo Gadoue*  
*e del Dott. Filippo Tamburini*  
il 25 gennaio 1936

Il R<sup>o</sup> Consolo



*[Signature]*

Appendix XIII bis.

[Translation.]

THE INCIDENT OF DR. HACKMAN.

*Declaration by Four Members of the Egyptian Medical Mission.*

On December 1st, Dr. Hackman arrived at Jijiga in a motor-car with a large bomb. He wished to ask Wehib Pasha, who was in the district at the time, for permission to take the bomb to pieces in his presence.

Wehib Pasha refused the invitation and had the bomb buried at a depth of five metres. Dr. Hackman then returned to Daggah Bur. On the way he found, at a considerable distance from the ambulance and in the neighbourhood of the Daggah Bur encampment, a bomb which he took with him for the purpose of taking it to pieces in his tent. Although his Abyssinian friends attempted to dissuade him, Dr. Hackman took the bomb to pieces. While he was attempting to reassemble it, it exploded with great violence, hurling the tent to a distance of ten metres; Dr. Hackman himself was thrown five metres.

We then ran up to his assistance. He had a broken arm and a terrible wound in the abdomen, through which his intestines were protruding. The hospital dresser, Sami Georges, administered first aid.

I wish to state that the ambulance was at a distance of one kilometre from the place where the doctor found the bomb. The doctor was taken to Addis Ababa, where he died soon afterwards.

(Signed) SAMI GEORGES.  
MOHAMMED RIAD.  
ELIAS MOQBEL.  
LABIB SALAMAH.

[Here follows a declaration similar to that at the end of document XI.]

Appendix XIV.

SLAUGHTER OF ITALIAN PRISONERS.

Declaration by Four Members of the Egyptian Medical Mission.

قد لاحظت انه اقامت في المستشفى انه السبب الرئيسي  
 على كثير من المرضى والجلد ذاته نفسى الوزير اذ اكرامها به لم  
 يمسوا ولا حذية ولو امكنه الزيارة والكتابة و بنا كونه  
 المحكمة بول في اثناء مرضهم  
 كما ان الاطباء في الحكومة اسراهم في اوكيانية  
 ولو امكنهم فيهم برف رأيتنا ضباطهم في اوكيانية  
 الصدق والسبب في ذلك اننا ارايب الى كانوا في اوكيانية  
 فقد علمنا ان المستشفى لم يقموا في السنة اكثر من جند ذاته  
 الاطباء اكثر من جنوبيه اشبه  
 كانت حالتنا غير مرضية ونحن لم نعد في المستشفى اذ  
 في الحالة التي قورناج ابي فضل زويج  
 محمد رياحه  
 فير المحققة اذ اننا كونه در دادى اذ هو اذ كور فيليب زابري  
 في اوكيانية الاضراسى انهم حفروا الجثث التي لم اتم اعداده لكي تفر  
 فيل زابري رياحه ولييب اضراسى كورم والبيك اضراسى لا يور  
 بالشمس في اعمده ذاته هي في حية كين في اوكيانية اوكيانية  
 محمد رياحه



visto al RE Consolato d'Italia in Cairo  
per legalizzazione della firma

del Sig. *Comm. Men Dabone*  
*Dot. Filippo Sambon*  
Cairo il *25 gennaio 1908* *6217*



*S. Sambon*

Appendix XIV bis.

[Translation.]

SLAUGHTER OF ITALIAN PRISONERS.

*Declaration by Four Members of the Egyptian Medical Mission.*

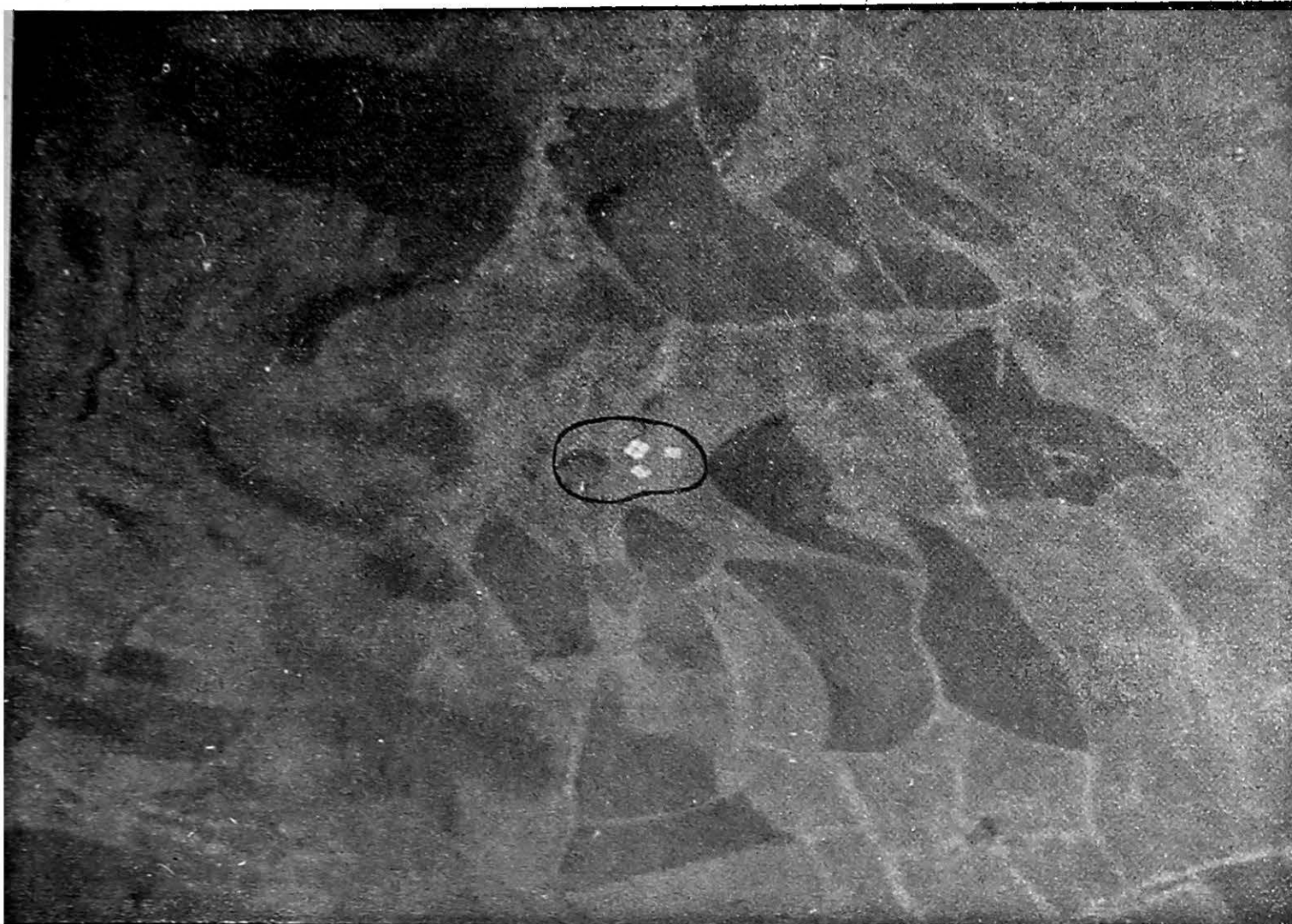
During my stay in Abyssinia, I observed that the Abyssinians were barbarous and ignorant people. Even the Ministers and notables go about barefoot, are illiterate and eat raw meat, even when they are ill.

*The Abyssinians slaughter the Italian prisoners whom they capture. We saw Abyssinian officers begging for alms and cigarettes, owing to the scanty pay they receive. We learnt that the Abyssinian soldier does not receive more than £1 as pay in twelve months. Officers only receive £2. We did not like being in Abyssinia. We came back because we were ill-treated.*

(Signed) LABIB SALAMAH.

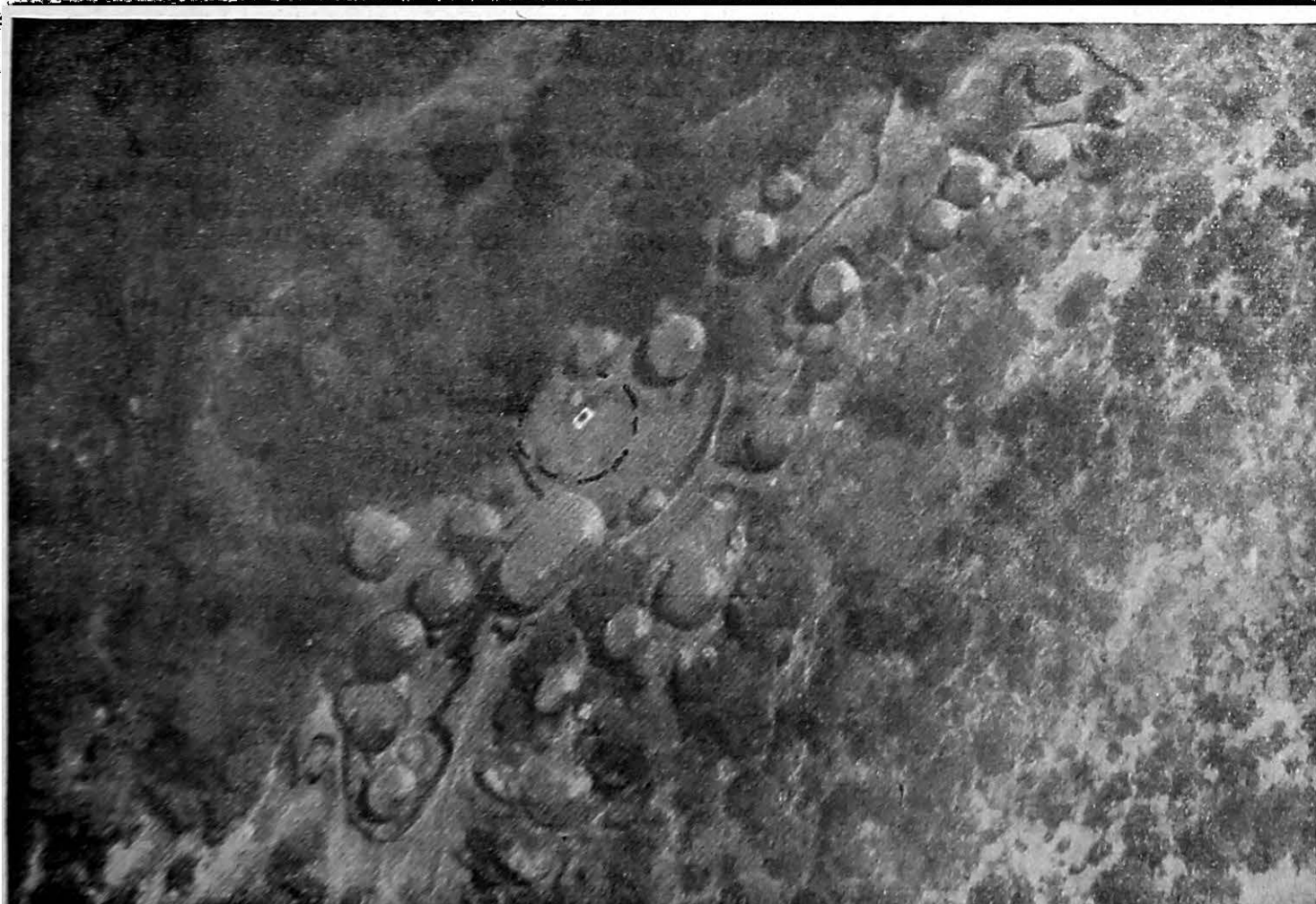
[Here follows a declaration similar to that at the end of document XI.]

Appendix XV.



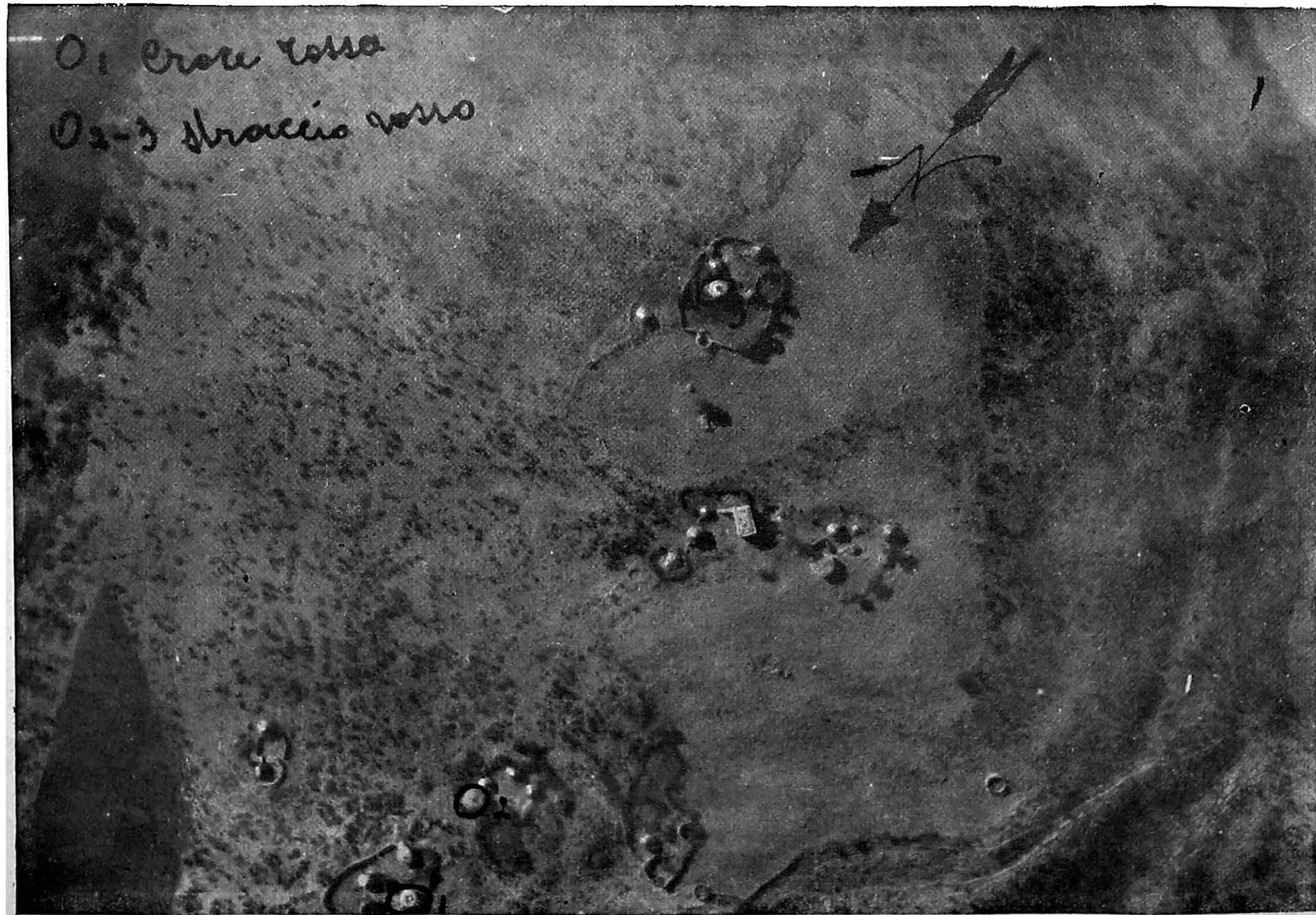
White sheets with Red Cross in centre, laid out on the ground when an Italian aeroplane flew overhead: within the circle drawn on the photograph were groups of armed Abyssinians. (*Quoram Zone*; reconnaissance of January 4th, 1936.)

Appendix XVI.



White and red sheet laid out in the midst of a group of tukul. (Vicinity of Malfa; reconnaissance of January 4th, 1936.)





Red Cross (O 1) and red rags (O 2 and O 3) placed amid groups of tucul.  
(Hill 2257 in the Calaminò Zone; reconnaissance of January 17th, 1936.)

Appendix XVIII.



→ White sheets with red cross, set out on the ground, there being no hospital unit present.  
○ Tents.  
(Amba Aradam; reconnaissance of January 17th, 1936.)

Appendix XIX.



White sheets with Red Cross, set out on the ground, there being no hospital unit present.  
(Amba Aradam; reconnaissance of January 17th, 1936.)

Geneva, March 19th, 1936

LEAGUE OF NATIONS

**COMMUNICATION FROM THE ITALIAN GOVERNMENT**

[Translation from the Italian.]

*Note by the Italian Government. —*  
The Italian Government very much  
regret that they should be obliged to  
make public such revolting documents.  
These documents, however, give the  
measure of Abyssinian barbarity.

**ABYSSINIAN ATROCITIES COMMITTED  
AGAINST ITALIAN WORKMEN**

**PROTEST BY THE ITALIAN GOVERNMENT  
TO THE LEAGUE OF NATIONS**

No. 208481/9.

Rome, March 9th, 1936 — Year XIV.

Sir,

In the early hours of February 13th last, in the zone between the Marib and the village of Darò Taclé, an Abyssinian band consisting of about 600 men was detached from a group of about 2,000 men coming from the Arbaté zone and made a surprise attack on No. 1 Road-builders' Labour Camp of Gondrand and Co., situated at Utok Emni in the neighbourhood of Mai Lalhala.

The labour camp, which was under the direction of Engineers Cesare Rocca and Roberto Di Colloredo Mels, was overwhelmed, pillaged and destroyed; sixty-eight persons (including one woman, the wife of Engineer Rocca) were killed and some of them horribly mutilated. I transmit a list of the names of the killed and twenty-seven photographs illustrating the worst brutalities perpetrated by the Abyssinians.

The Italian Government is quite aware that military operations have necessarily a character of their own, and it certainly does not desire to constitute a museum of horrors by selecting certain isolated episodes.

The present instance, however, *is not one of military operations*; it is a case:

- (1) Of savage and bloodthirsty aggression against non-combatant workmen;
- (2) Of bestial attacks on wounded men and corpses, some of whom were totally or partially castrated (by cutting or pulling off the genital organs) or subjected to other horrible mutilations such as evisceration, the cutting-off of hands or the gouging-out of eyes;
- (3) Of the employment, as reported on many previous occasions, of dum-dum bullets with the shocking effects of bursting and gashing shown in the attached photographs.

This attack reproduces all the typical characteristics of the various ferocious onslaughts by Abyssinians in the last forty years against all the colonies bordering on Ethiopia.

It also shows the dangers and treatment to which even workmen engaged on work of benefit to the community are exposed at the hands of the Abyssinians.

We have here, in fact, a series of systematic and barbarous crimes which not only arouse irrepressible horror, but bear witness to the uncivilised condition of Ethiopia.

I would request you to be good enough to bring this note, and the documents accompanying it, to the notice of all States Members of the League of Nations.

(Signed) SUVICH.

LIST OF MANAGERS AND WORKMEN OF THE "SOCIETÀ ANONIMA NAZIONALE GONDRAND" KILLED ON THE MORNING OF FEBRUARY 13TH, 1936, DURING THE SURPRISE ATTACK ON THE MAI LALHALA WORKSHOP.

1. Engineer Cesare Rocca, son of the late Mosè, born at Milan and residing at Fornazza (Novara).
2. Lidia Rocca-Maffioli (wife of Engineer Cesare Rocca).
3. Engineer Roberto Di Colloredo Mels, son of Cesare, of Udine (in charge of the workshop).
4. Rag. Saverio Blanca, son of the late Pasquale (accountant), born at Palermo, residing at Turin.
5. Geom. Francesco Salvini, son of Achille, born at Catania and residing at Messina (surveyor of works).
6. Alcide Albieri Vallidoro, son of Luigi, of Copparo (Ferrara).
7. Enea Armigeri, of Loiano (Bologna).
8. Luigi Barbierato, son of Giuseppe Luigi, of S. Martino di Venezze (Rovigo).
9. Giovanni Bello, son of the late Giulio, of Pergine (Trento).
10. Luigi Bendotti, son of Evaristo, of Pieve Vergonto (Novara).
11. Angelo Bertani, of Montecchio (Reggio Emilia).
12. Giovanni Bisquolo, son of Angelo, of Brignano di Rovigo.
13. Ferrino Boccaletti, son of Alfredo, of Novellara (Reggio Emilia).
14. Sante Bombonato, son of the late Artebano, of Rovigo.
15. Giuseppe Dazzo, son of Francesco, of Malo (Vicenza).
16. Giuseppe Borzoni, son of Giovanni, of Gravelona Toce (Novara).
17. Cirillo Alessandro Bozzo, son of the late Giuseppe, of Rovigo.
18. Severino Brigo, son of Luigi, of Ornavasso (Novara).
19. Alfonso Buonanno, son of Salvatore, of Albanova (Naples).
20. Francesco Calzolari, son of Luigi, of Loiano (Bologna).
21. Donato Teod. Campanaro, son of Michele, of Castelluccio Valmaggiore (Foggia).
22. Mario Carinti, of Tossignano (Bologna).
23. Antonio Caruso, son of the late Pasquale, of Sannicandro Verg. (Foggia).
24. Giordano Cecchini, son of Celso, of Castiglione Cervia (Ravenna).
25. Augusto Chiesi, son of Pietro, of Castelnuovo di Sotto (Reggio Emilia).
26. Luigi Caini, son of the late Giuseppe, of Russi (Ravenna).
27. Giuseppe Cornacchia, son of Anselmo, of Riolo Bagni (Ravenna).
28. Ennio Corradini, son of the late Giuseppe, of Novellara (Reggio Emilia).
29. Antonio di Salvo, son of Aquilino, of Marzano Appio (Naples).
30. Bernardo di Salvo, son of Raffaele, of Conca di Campania (Naples).
31. Fausto Falciola, son of Pasquale, of Baveno (Novara).
32. Miore Gombia, son of the late Riccardo, of Montecchio (Reggio Emilia).
33. Angelo Ferrari, son of Lino, of Novellara (Reggio Emilia).
34. Aurelio Galli, son of Francesco, of Rovereto (Trento).
35. Alfredo Gandolfi, son of the late Primo, of Castello di Serravalle (Bologna).
36. Giovanni Gelosini, son of the late Formenzio, of Novellara (Reggio Emilia).
37. Pietro Gentilini, son of Pasquale, of Tossignano (Bologna).
38. Corrado Cerra, of Riolo Bagni (Ravenna).
39. Antonio Giannone, son of Vito, of Calimera (Lecce).
40. Pasquale Lepore, son of the late Vincenzo, of Conca di Campania (Naples).
41. Primo Losi, son of Antonio, of Novellara (Reggio Emilia).
42. Arrigo Lucchini, son of the late Giovanni, of Mezzocorona (Trento).
43. Servilio Mantovani, son of the late Natale, of Copparo-Gradizza (Ferrara).
44. Bruno Manzini, son of Ettore, of Castello di Serravalle (Bologna).
45. Antonio Morgillo, son of the late Nicola, of Ariezzo di S. Felice Cammello (Naples).
46. Antonio Niguirito, son of the late Domenico, of Rovereto (Trento).
47. Antonio Pagliaro, son of Emanuele, of Formicola (Naples).

48. Antonio Piccoli, son of Vittorio, of Novellara (Reggio Emilia).
49. Giuseppe Pizzo, son of the late Francesco, of Trento.
50. Enrico Giacomo Radaelli, son of Luigi, of Ornavasso (Novara).
51. Nestore Righi, son of the late Achille, of Castelnuovo di Sotto (Reggio Emilia).
52. Pietro Ruggero, son of Francesco, of Brindisi.
53. Alessandro Scaglia, son of Pietro, of Fornazza (Novara).
54. Primo Scandellari, son of Antonio, of Camugnano (Bologna).
55. Domenico Schiripa, son of Giuseppe, of Bovalino (Reggio Calabria).
56. Biagio Spagnolo, son of the late Antonio, of Francolise (Naples).
57. Salvatore Sperti, son of Michele, of Brindisi.
58. Vincenzo Tartaglia, son of the late Angelo, of Trento.
59. Attilio Tori, son of Giuseppe, of Domodossola (Novara).
60. Almerindo Turzo, son of the late Alfonso, of Castellucchio Valmaggiore (Foggia).
61. Augusto Vanelli, son of Flaminio, of Castello Serravalle (Bologna).
62. Giovanni Vecchi, of Montecchio (Reggio Emilia).
63. Salvatore Venticinque, son of Giovanni, of Francolise (Naples).

OFFICIALS PRESENT FOR VARIOUS REASONS WHO WERE ALSO KILLED.

64. Sergeant Riccardo Vaccari.
  65. Sub-Officer Cadet Carabineer Nicola Litto.
  66. Michele Porcelli, driver of the mail van.
  67. Giovanni Desta, chauffeur in the medical service.
  68. Giovanni Viscenda, son of Angelo.
-



*Figure 1.* — PARTIAL CASTRATION AND WOUNDS MADE WITH A CUTTING INSTRUMENT.

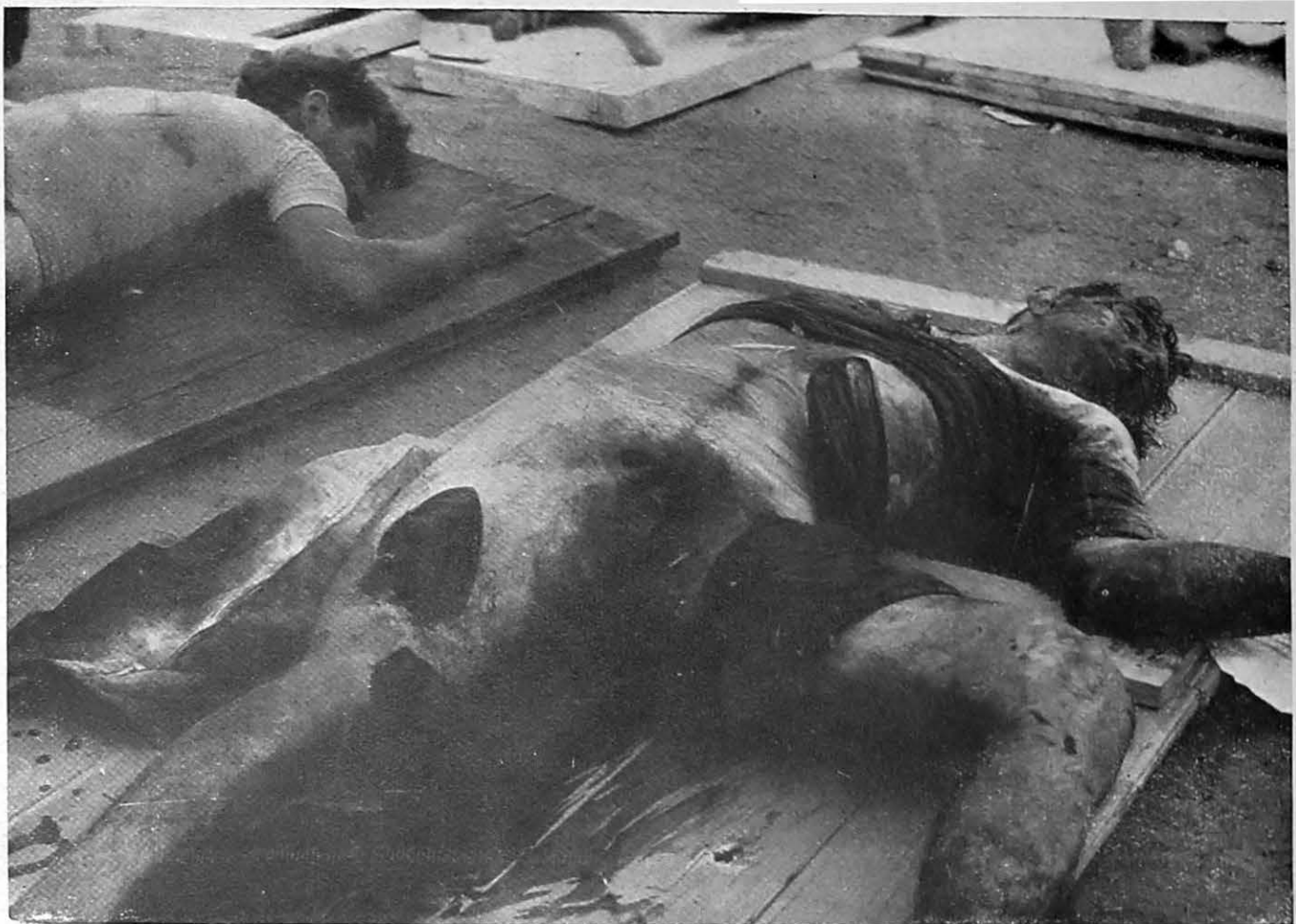


*Figure 2.* — TOTAL CASTRATION.





*Figure 3.* — TOTAL CASTRATION.



*Figure 4.* — CASTRATION BY PULLING OF THE GENITAL PARTS  
AND DUM-DUM BULLET WOUND:



*Figure 5.* — TOTAL CASTRATION AND CRANIUM BURST BY DUM-DUM BULLETS.



*Figure 6.* — TOTAL CASTRATION.  
(Closer view of Figure 5.)



*Figure 7.* — CRANIUM BURST BY DUM-DUM BULLET.  
(Closer view of Figure 5.)

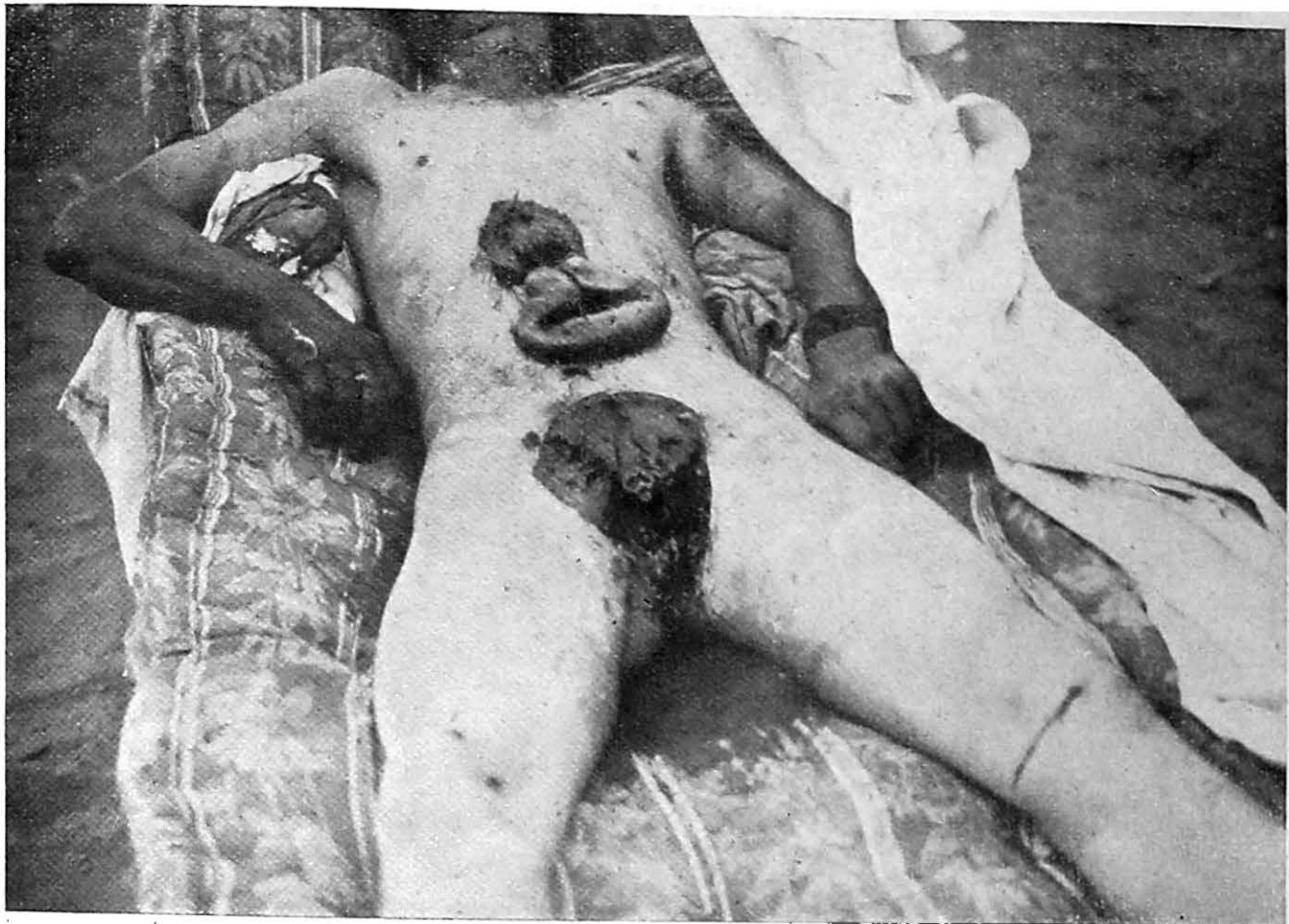


Figure 8. — TOTAL CASTRATION AND EVISCERATION.



Figure 9. — TOTAL CASTRATION.



*Figure 10.* — EXAMPLES OF CASTRATION.

(In the case of the corpse on the left, the testicles have remained in place, but have been extroverted.)



*Figure 11.* — PARTIAL CASTRATION.

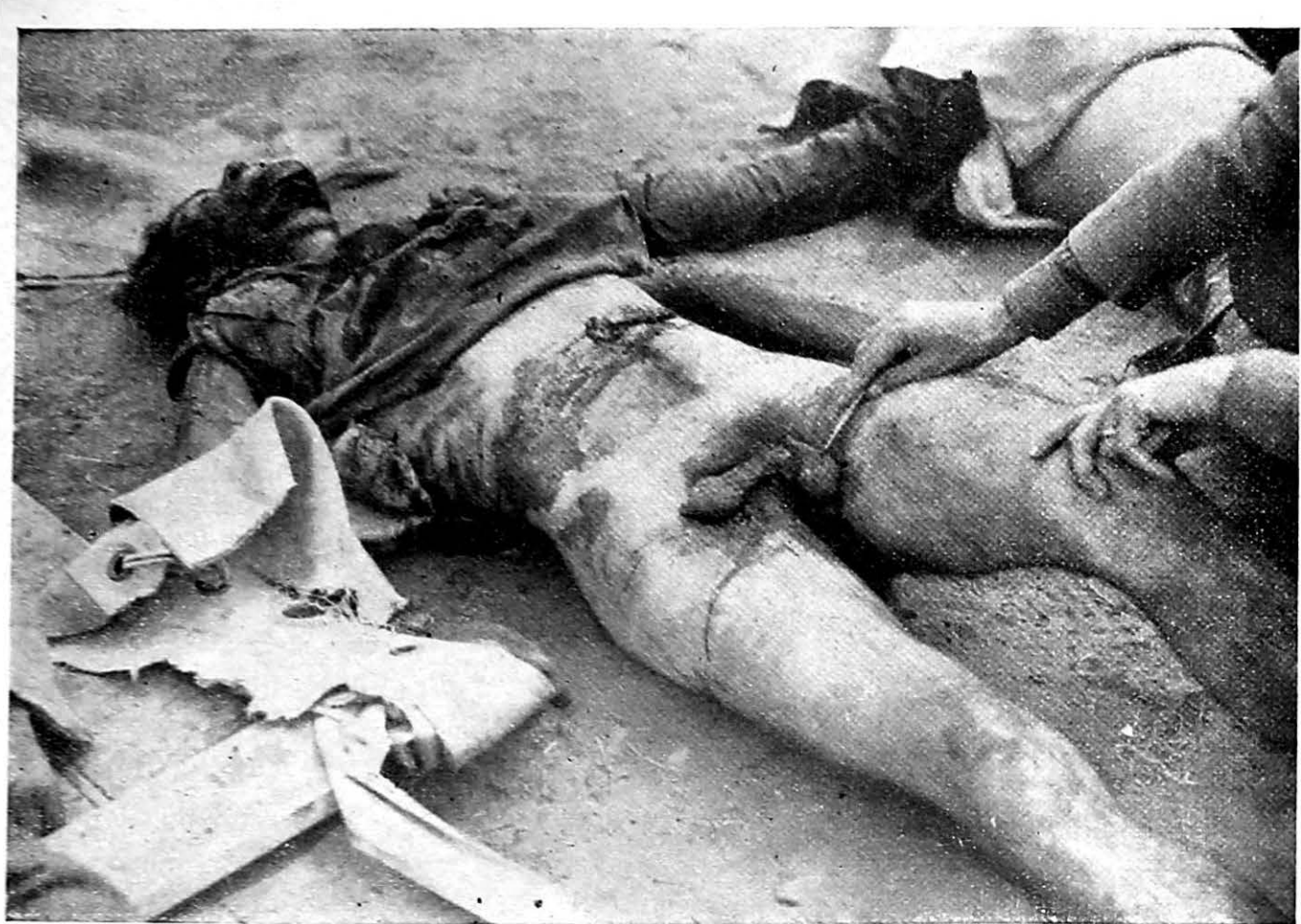
(The extroverted testicles remain in place;  
the penis, with the skin of the scrotum, was found on the ground near the corpse.)



*Figure 12.* — PARTIAL CASTRATION.  
(The penis and the skin of the scrotum have been taken away.)



*Figure 13.* — PARTIAL CASTRATION, AND WOUND IN THE REGION OF THE LEFT ARMPIT.  
PRODUCED BY A DUM-DUM BULLET.



*Figure 14.* — PARTIAL CASTRATION AND MUTILATIONS.

(The penis is missing; the omentum is protruding from a wound in the epigastrium; huge wound in the supra-thyroid region caused by a cutting instrument probably after death.)



*Figure 15.* — PARTIAL CASTRATION.

(The testicles have been taken away. The skin of the penis has been torn in the process and can be seen hanging around the extremity.)



*Figure 16.* — LEFT HAND CUT OFF AFTER DEATH.  
(The hand is placed beside the head.)





*Figure 17.* — MUTILATION OF THE LEFT HAND.



*Figure 18.* — WORKMAN WHOSE EYES HAVE BEEN GOUGED OUT.



*Figure 19.* — WOUND MADE BY CUTTING INSTRUMENT IN THE LEFT TEMPORAL REGION AND BRUISED WOUNDS ON THE SCALP PRODUCED BY BEATING.



*Figure 20.* — HEAD CHOPPED TO BITS.

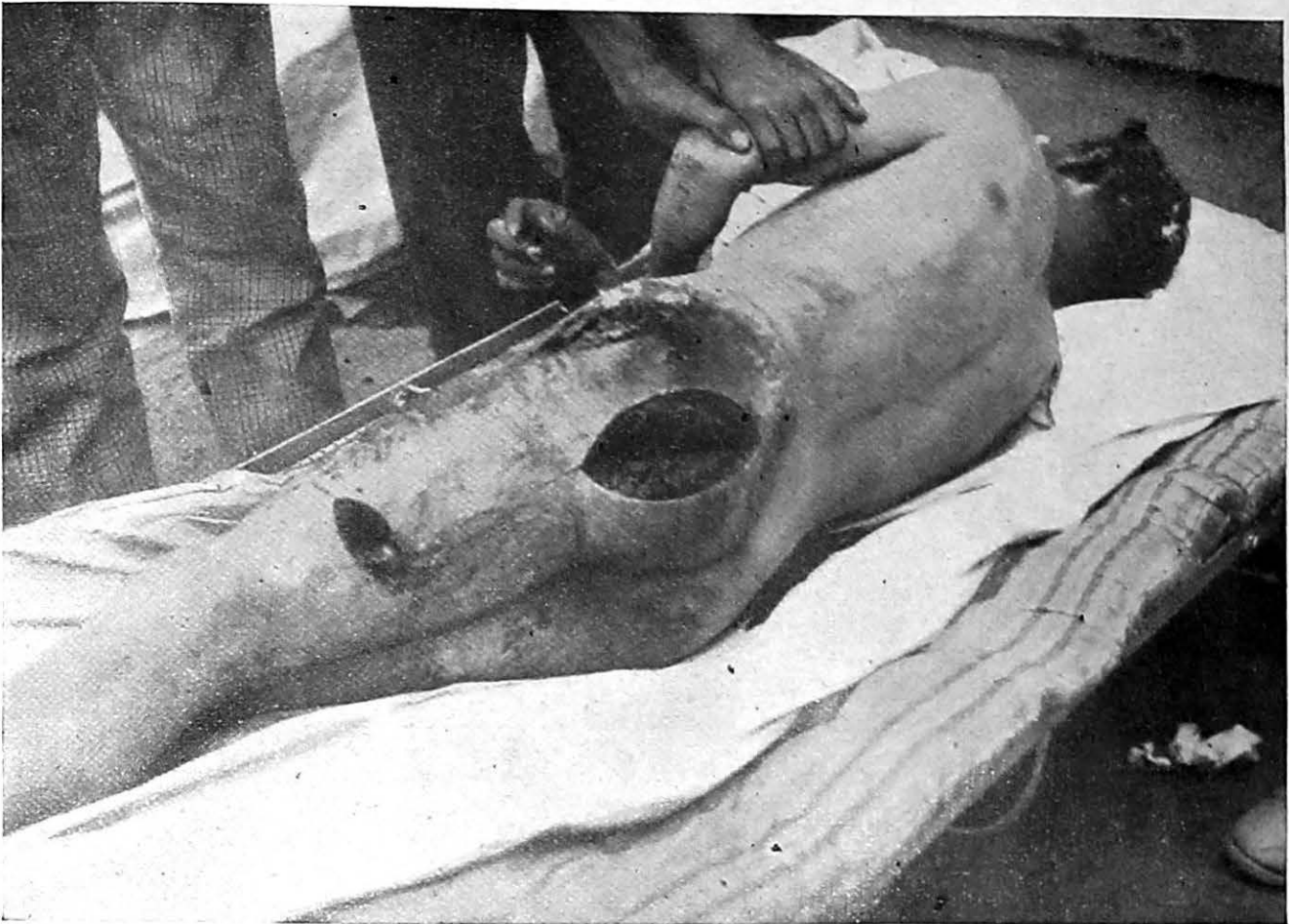


*Figure 21.* — BURSTING CAUSED BY DUM-DUM BULLET.



*Figure 22.* — BURSTING CAUSED BY DUM-DUM BULLET.

(Small entry wound in the left mesogastric region; the region of exit shows that the whole lumbar region has been blown to pieces and the viscera forced out.)



*Figure 23.* — WOUND CAUSED BY DUM-DUM BULLET.  
(with complicated fracture of the left trochanteric region in the lower third of the left thigh)  
AND A GAPING WOUND CAUSED BY A CUTTING INSTRUMENT IN THE LEFT BUTTOCK.



*Figure 24.* — WOUND CAUSED BY DUM-DUM BULLETS.  
(Both in the right arm and in the right half of the thorax and the region of the lungs.)



*Figure 25.* — WOUNDS CAUSED BY DUM-DUM BULLETS.



*Figure 26.* — WOUNDS CAUSED BY DUM-DUM BULLETS.

(Huge hole in the right side of the thorax and in the right arm, with complicated fracture of the humerus and two ribs.)



*Figure 27.* — WOUNDS CAUSED BY DUM-DUM BULLETS.

(Gash in face with compound fracture of the cheekbone, the soft parts of the nose having been blown away.)

Geneva, May 9th, 1936.

LEAGUE OF NATIONS

**DISPUTE BETWEEN ETHIOPIA AND ITALY**

**COMMUNICATION FROM THE ETHIOPIAN DELEGATION**

[*Translation.*]

*To the Secretary-General.*

Paris, May 2nd, 1936.

I beg you to bring the following declaration, together with the documents attached thereto, to the knowledge of the Council and of all the Members of the League of Nations.

I. At the close of the tenth public meeting of the Council at Geneva on Monday, April 20th, 1936, the Ethiopian delegation stated that it would reply subsequently in writing to the Italian representative's speech on the subject of the use of poison gases and the violation of the laws of war.

The Ethiopian delegation has now received documents and photographs from its Government, which were sent on April 14th, 1936, and accordingly did not reach the Ethiopian delegation before May 2nd, 1936. These documents and photographs constitute the reply which the Ethiopian delegation announced as forthcoming at Geneva on April 20th.

II. The first document is a collection of written statements made on oath in February-March and April 1936 by various members of the Egyptian Medical Mission in Abyssinia. It appears from this collection, not only that the Italian allegations of breaches by the Ethiopian Government of the laws of war are at variance with the truth, but also that the Italian Government has endeavoured to obtain false evidence against the Ethiopian authorities for money. The details contained in this first document leave no room for any doubt in the matter.

III. The second document is a report dated March 17th, 1936, signed by Count Carl Gustaf von Rosen, on the bombardment of the aeroplane of the Swedish Red Cross at Qoram on March 17th, 1936.

IV. The third document is a statement dated April 9th, 1936, by Doctor Schuppler, Head of Ambulance No. 3, on the use of poison gases.

V. The fourth document is a report dated April 11th, 1936, on the use of poison gases, signed by Mr. Walter M. Holmes, correspondent of the Nordisk Telegraph Agency, Copenhagen, and *The Times*, of London.

VI. The fifth document is a report dated March 13th, 1936, signed by Prince Ismail Daoud, Head of the Egyptian Red Crescent, on the accusations with regard to atrocities said to have been inflicted on Italian prisoners as reported in the Paris Press of February 6th, 1936.

VII. The sixth document is a report dated April 10th, 1936, on the use of poison gases, signed by Dr. John M. Melly, Head of the British Red Cross Ambulance in Ethiopia.

VIII. The seventh document is a report dated March 19th, 1936, on the use of poison gases, sent to the International Red Cross in Addis Ababa by Messrs. Gunnar Ulland and Vale, doctors attached to the Norwegian Red Cross at Irga Alem, together with an extract from a letter dated March 20th, 1936, from Mr. Smith.

IX. The eighth document, dated April 10th, 1936, is a list of places bombed with poison gases, with the dates of the bombing, during the period December 22nd, 1935-April 7th, 1936. The document reproduces the figures showing the consignments of poison gases to East Africa through the Suez Canal.

X. The ninth document is a series of 32 (thirty-two) photographs showing the effects of the bombing of No. 1 Ambulance of the British Red Cross at Qoram on March 4th, 1936.

XI. The tenth and last document is a series of five photographs taken on March 19th, 1936, showing the effects of the poison gases on the victims at Irga Alem.

(Signed) **WOLDE MARIAM,**  
*Ethiopian Minister.*

Appendix 1.

WE KNOW OF NO ABYSSINIAN ATROCITIES: REAL FACTS FOR HISTORY.

WRITTEN DECLARATION ON OATH FROM MEMBERS OF THE EGYPTIAN MEDICAL MISSION  
FOR ABYSSINIA.

1935-1936.

The Italian Government has recently published a pamphlet on so-called Abyssinian atrocities during the present Italo-Ethiopian war.

The pamphlet embodies certain documents said to have been received by the Italian authorities from certain medical attendants formerly attached to the Egyptian Medical Mission in Abyssinia, as well as photographs, etc.

On reading this pamphlet, the Egyptian Medical Committee hastened to open an enquiry, the findings of which are herein published for the information of world public opinion.

Naturally, it is not the intention of the Egyptian Medical Mission to take the side of one of the belligerent parties against the other, since its sole object has always been to give medical aid to both parties alike whenever possible. But, since the documents contained in the Italian pamphlet are attributed to persons attached to the Egyptian Medical Mission, it is considered only fair and just to publish the following documents embodying declarations on oath by several medical attendants, including those mentioned in the Italian pamphlet.

It must be pointed out in particular, however, that neither the medical attendant named Abdel Mohsen el Wishy nor the other ex-medical attendants whose names are mentioned in the Italian pamphlet ever went to Bolaly, where it was alleged that an Italian air officer was killed by the Abyssinians. There are official documents in the Committee for Medical Aid to Abyssinia as well as in the Ethiopian Red Cross Unit, the Egyptian Consulate in Addis Ababa and the Egyptian Ministry for Foreign Affairs to prove that they never moved from Harrar.

It is equally important to point out that Elias Mokbel, Syrian by nationality, whose name is mentioned in the Italian pamphlet, was dismissed by the Egyptian Medical Mission on account of false pretence. In his application for service with the Egyptian Medical Mission, he stated that he was a dispenser by profession. He was actually appointed as such on condition that he should produce his diploma later. But having failed to do so, since he was actually not in possession of a diploma, as revealed by the subsequent enquiries made by the Egyptian Medical Mission in the Egyptian Ministry of Health, he was dismissed. In revenge, he gave false information to the Italian authorities.

On the other hand, the medical attendants who gave false information to the Italian authorities were also dismissed on account of their bad behaviour while at Harrar (see Abdel Aziz Hafez's letter published herein below). On their return to Egypt, they submitted a petition to the Egyptian Committee for Medical Aid to Abyssinia requesting that they should be given a certain sum of money as compensation, but their request was refused.

Particular attention must also be invited to the fact that Mohamed Riad and Mahmoud Aly Ibrahim, whose names are mentioned in the Italian pamphlet, have given declarations on oath (published herein) to the effect that they were offered to be paid money by the Italians in return for giving false information.

In conclusion, it is to be hoped that the following documents will bring real facts to light in justice to history.

HAMED EL MELIGY,

*The Secretary to the Egyptian Medical Aid  
Committee to Abyssinia.*

# نحن نعرف لا فظائع للاحباش وقائع حقيقية للتاريخ

تصريحات كتابية مصحوبة باليمين

من المرضين السابقين  
في البعثة الطبية المصرية بالحبشة

١٩٣٥ - ١٩٣٦

اذاعت الحكومة الايطالية اخيراً مذكرة بما اطلقت عليه اسم الفظائع الحبشية خلال الحرب القائمة بين الايطاليين والاحباش . وقد تضمنت هذه المذكرة بعض وثائق قيل ان السلطات الايطالية قد تسلمتها من فريق من المرضين السابقين في البعثة الطبية المصرية بالحبشة كما تضمنت بعض الصور الفوتوغرافية وغيرها . ولقد أسرعت اللجنة المصرية للمساعدة الطبية . بعد اطلاعها على المذكرة الايطالية في البحث عن سر هذه الوثائق وانتهت من هذا البحث إلى ما نذيعه في هذا الكتاب لاستنارة الرأي العام العالمي .

ولسنا في حاجة لأن نقول أن اللجنة المصرية للمساعدة الطبية لا تقصد بنشر هذا الكتاب أن تؤيد فريقاً من المتحاربين ضد الآخر . فان الغاية التي تعمل اللجنة لها منذ تأليفها هي تقديم كل ما يمكن من المساعدات الطبية للفريقين على قدم المساواة ما استطاعت إلى ذلك سبيلاً .

على أنه لما كانت الوثائق التي تضمنتها المذكرة الايطالية نسبت إلى بعض الذين انضموا إلى البعثة الطبية المصرية فقد أصبح من العدل والانصاف نشر الوثائق الآتية المتضمنة اقرارات عديدة مصحوبة باليمين اعطيت كتابة من كثير من المرضين وبينهم هؤلاء الذين ذُكرت اسماؤهم في المذكرة الايطالية .

وإنه لمن الضروري أن نذكر هنا - بصفة خاصة - أن المرض عبد المحسن الويشي وغيره من المرضين السابقين المذكورة اسماؤهم في مذكرة الحكومة الايطالية لم يذهبوا مطلقاً إلى بلدة ( بوللى ) التي قيل أن الضابط الطيار الايطالي قد قتل فيها بأيدي الاحباش .

وهناك وثائق رسمية موجودة في لجنة المساعدة الطبية للحبشة وفي مركز الصليب الاحمر الاثيوبي ثم في القنصلية المصرية في أديس أبابا ثم في وزارة الخارجية المصرية وجميع هذه الوثائق تؤيد أن هؤلاء المرضين لم يغادروا مدينة هرر منذ دخولهم اليها إلى يوم عودتهم منها إلى مصر . ولا يقل عن ذلك أهمية أن الياس مقبل - اللبناني الجنس - المذكور في وثائق الحكومة الايطالية قد فصلته اللجنة بسبب ادعائه الكاذب . فقد كتب في طلب التحاقه بالبعثة الطبية المصرية أنه ( صيدلى قانونى ) فعين فيها فعلاً على شريطة أن يبرز اجازته ( الدباوم ) في بعد . ولما لم يف بهذا الشرط : لأنه لم يكن في الواقع يحمل هذه الاجازة العلمية - لما تبين من الاستعلامات التي أجرتها اللجنة في وراة الصحة المصرية - فقد عزل من وظيفته واعيد من الحبشة إلى مصر فدفعته الرغبة في الانتقام إلى تقديم معلومات كاذبة إلى السلطات الايطالية .

ومن جهة أخرى فان المرضين الذين اعطوا مثل معلوماته الكاذبة إلى السلطات الايطالية قد عزلتهم البعثة المصرية أيضاً لسوء أخلاقهم وسلوكهم في أثناء اقامتهم في هرر ( انظر كتاب عبد العزيز حافظ المنشور في هذه الوثائق ) فلما أن عادوا إلى مصر قدموا طلباً إلى لجنة المساعدة الطبية للحبشة يرجون فيه أن يمنحوا مبلغاً من المال على سبيل المكافأة ولكن رجاءهم قد رفض ( انظر كتاب عبد المحسن الويشي في هذه الوثائق ) .

وما يسترعى النظر أن محمد رياض . ومحمود علي ابراهيم ممن ذُكرت اسماؤهم في الوثائق الايطالية قد اعطوا بيانات مصحوبة بايمان ( وهي منشورة في هذا الكتاب ) بأن الايطاليين قد عرضوا عليهم بعض المال مقابل ادلائهم بما طالبوهم به من معلومات كاذبة .

هذه كلبة موجزة أرجو أن تكشف مع الوثائق المنشورة في هذا الكتاب حقيقة الامور تقريراً للواقع وانصافاً للتاريخ .

حامد المليجي

سكرتير لجنة المساعدة الطبية للحبشة



A NOTE FROM H.H. NABIL ISMAIL DAUD TO THE PRESIDENT  
OF THE ABYSSINIAN RED CROSS SOCIETY.

Addis Ababa, March 13th, 1936.

Your Excellency,

I read with deep regret in the *Echo de Paris* of February 6th, 1936, a message from its special correspondent in Cairo entitled "Certain Details about the Treatment accorded to Italian Captives". These details were fabricated by some medical attendants who were previously attached to the Egyptian Medical Mission in Abyssinia.

In my capacity as President of the Egyptian Medical Mission, I can emphasise that these asserted details are nothing but mere imagination and, further, do not stand to reason or test.

It is true that Labib Hassan Ibrahim went to Bolaly on December 10th, 1935, to serve as a cook in the mobile Egyptian Hospital which was in charge of Dr. Mohamed Ezzet and Dr. Mahmoud Mustapha el Sakhawy. But it must be mentioned that, when I went myself on December 13th to Bolaly to inspect the said mobile hospital, the two medical officers referred to bitterly complained to me of his bad conduct and behaviour, and so I had to take him (Labib Hassan Ibrahim) with me to send him back to Egypt. On December 15th, he was actually sent to Harrar and from there he was sent to Djibouti whence he sailed for Egypt aboard the s.s. *d'Artaignan*.

Since I spent the night of December 12th/13th in the camp of General Wahib Pasha, at Daghabur, and since I and General Wahib Pasha left together early in the morning of December 13th for Bolaly, I can emphatically state that there was not a single Italian captive in the said two places. Nor did I have the honour to be received in audience by H.M. the Emperor, who then had not yet returned to the front in the southern field of war since November 21st, on which date he left by air for Jijiga, but not any farther.

Again, the Italian aeroplanes did not fly over the mobile hospital at Bolaly on December 10th, as alleged by Labib Hassan Ibrahim. But the Italian aeroplanes flew over Bolaly on December 30th and 31st and dropped bombs and not circulars. Dr. Mohamed Ezzet's report, which I have now before me, fully confirms my personal memoirs in this connection. Had Labib Hassan Ibrahim showed energy and enthusiasm in carrying out his duty as a cook as much as he showed in describing imaginary barbarous scenes, he would have now still been working as a cook and receiving the monthly salary of £E6.

As regards the assistant dispenser, Elias Mokbel Effendi, he arrived in Addis Ababa on October 21st and remained there—without moving to anywhere else—until November 17th, on which date he, together with Dr. Riad Saleh and the late Dr. Sawy, left for Jijiga, arriving on November 21st or 22nd. Elias Mokbel Effendi did not move from Jijiga until he left for Egypt on December 22nd aboard the same ship as that on which Labib Hassan Ibrahim sailed for Egypt.

Therefore it was impossible for him to eye-witness what was attributed to have been done by the Digazmatch Nassibo on November 11th at Daghabur. Dr. Amin Raphael, who was in this locality at that time with the late Dr. Hockman, can confirm my statement referred to above.

I visited Jijiga three times. In the second visit, in particular, I went round the whole town and entered, myself, into many houses to see whether anybody was suffering from smallpox. I can emphasise that I did not see the Red Cross emblem except on our hospital, which was accommodated in the Maltese Fathers' Mission, and on another small hospital which was established before the war. Even the Makonnen School, which was placed at our disposal as a precautionary measure against the increase in the number of the wounded, was devoid of any Red Cross emblem. Therefore it is to be asked with astonishment: Where were these houses of ill-fame which were protected by the Red Cross emblem in Jijiga? I did not see anything of the kind, although, according to an old custom, native wine shops and public-houses should have a white screen bearing something like a Geneva cross hung at the entrance, in order to be distinguished from other places.

All the newspaper correspondents who visited Harrar know that the telegraph office lies in the upper storey of an old palace belonging to Ras Makonnen, father of H.M. the Emperor, which is situated in the centre of the town, although the Swedish Medical Mission, consisting of a hospital, a school and a house for the accommodation of its headmaster, lies outside the town at a distance of one kilometre on the road leading to Jijiga. It is to be asked again: Why do the telegraph officials wear a Red Cross emblem on their arms? Do they do so in order to mislead the aeroplanes?

If the Abyssinians kill the captives falling in their hands, as asserted by Elias Mokbel Effendi, I declare most emphatically that neither myself nor himself ever saw them do so. And if the officers or soldiers accepted the cigarettes which we presented to them as a sign of sympathy and cordiality, there can be no doubt that they did not themselves ask for these cigarettes. Nor do I know what salaries are paid to officers and soldiers—a thing which does not concern us. But all I can say is that these salaries are sufficient to meet their needs.

(Signed) ISMAIL DAUD.

## مذكرة أرسلها

حضرة صاحب المجد النبيل اسماعيل داود

الى سعادة ييلا ثن جيتا هيروى رئيس جمعية الصليب الاحمر الحبشية

اديس ابابا فى ١٢ مارس سنة ١٩٣٦

يا صاحب السعادة

اطلعت مع الاسف الشديد فى جريدة الايكودى بارى الصادرة فى ٦ فبراير سنة ١٩٣٦ ، على ما بعث به اليها مراسلها الخاص فى القاهرة بعنوان ( مشاهدات معينة عن المعاملة التى تصيب الاسرى الايطاليون ) فاذا هى بيانات مزعومة من بعض موظفى الاعمال الصحية الذين كانوا تابعين للبعثة الطبية المصرية فى الحبشة غير اننى بصفتى رئيساً لهذه البعثة استطيع ان اؤكد ان هذه المشاهدات المزعومة ، لا تتمتاز الا بما فيها من الخيال اللطيف ، ولا تدل مطلقاً ، الا على خصب تصور واضعها ايا كانوا . ولا شك ان قليلا من المعلومات المؤيدة بالتواريخ كفيلا باظهار قيمة هذه المزاعم .

لقد حدث حقيقة ، ان ذهب المسمى لييب حسن ابراهيم الى بولالى يوم ١٠ ديسمبر سنة ١٩٣٥ ، ليكون طباطبا للمستشفى المصرى المتنقل ، مع الطبيبين الدكتور محمد عزت والدكتور محمود مصطفى السخوى ، ولكن فاته ان يقول ( اننى حين ذهبت بنفسى يوم ١٢ ديسمبر للتفتيش على اعداد المستشفى المتنقل قد اخذت معى فى عودتى - لييب حسن - لاعيدته الى مصر ، بعد ان شككا اطباء مر الشكوى ، بما برهن عليه فى مدة يومين ، من التمرد وسوء الطباع ، وقد عاد بالفعل الى هرر يوم ١٥ ديسمبر ثم اجر يوم ٢٢ من جيبوتى على الباخرة ( دار تانان ) . ولما كنت قد امضيت ليلة ١٢ ديسمبر فى معسكر الجنرال وهيب باشا فى داجابور ، وذهبت معه فى الصباح المبكر يوم ١٣ الى بولالى ، فان فى وسعنى ان اؤكد تأكيد المطلاع ، انه لم يكن يوجد أى اسير ايطالى فى هاتين الجهتين ، كما اننى لم اتشرف هناك بمقابلة جلالة الامبراطور لان جلالاته لم يكن عاد الى جبهة القتال فى الميدان الجنوبي ، منذ يوم ٢١ نوفمبر ، وهو اليوم الذي قصد فيه بالطيارة جييجيجا ، ولم يذهب الى ابعده من ذلك .

ثم ان الطيارة الايطالية لم تحلق يوم ١٠ ديسمبر - كما يدعى لييب حسن - فوق المستشفى المتنقل فى بولالى ولكن المرات التى حلقت فيها كانت فى ٣٠ و ٣١ ديسمبر ولم تلق منشورات بل القث قنابل . وان تقرير الدكتور محمد عزت الذى هو الان بين يدي ، ليؤيد فى جميع النقط مذكراتى الشخصية فى هذا الشأن ، واذا كان لييب حسن قد ادى واجب عمله - بصفته طباطبا - ببعض الارادة القوية التى يبديها ، فيما يجترعه من وصف المناظر الوحشية ، لكان حتى الآن باقيا فى عمله يتناول الستة الجنهات التى هى مرتبه الشهرى

أما فيما يتعلق بمساعد الصيدلى ، الياس مقلب افندى . فقد وصل الى اديس ابابا يوم ٢١ اكتوبر ، وظل فيها - دون ان يبرحها - حتى يوم ١٧ نوفمبر الذي سافر فيه مع الدكتور رياض صلاح والمرحوم الدكتور الصاوي ، الى جييجيجا فوصلوا اليها يوم ٢١ أو ٢٢ من شهر نوفمبر نفسه . ولم يغادر الياس مقلب افندى هذه المدينة بل لبث فيها حتى سافر الى مصر يوم ٢٣ ديسمبر ، على الباخرة التى سافر عليها لييب حسن .

ولهذا كان من المستحيل عليه ، ان يشهد ما قيل انه حدث من الديجاز ماتش ناسيدو يوم ١١ نوفمبر فى داجابور . ويستطيع الدكتور أمين روفائيل ، الذى كان فى هذه الجهة حينذاك ، مع المرحوم الدكتور هو كان ، ان يؤيد ذلك . وقد اقت ثلاث مرات مختلفة بيجيجيجا ، وطف فى المرة الثانية ، على الاخص ، بالحاء المدينة كلها ، ودخلت بنفسى كثيراً من المنازل لاجت من حالات مرض الجدري ، وفى وسعنى ان اؤكد ، اننى لم ار اشارة الصليب الاحمر الا على مستشفانا الذى هو فى مقر بعثة الابهاء الملطيين ، وعلى مستشفى اخر صغير ، يرجع عمده الى ما قبل الحرب ، بل ان مدرسة ما كورين التى وضعت تحت تصرفنا ، احتياطاً لما يحتمل من زيادة عدد المرضى كانت مجردة من كل اشارة . وهنا اسائل نفسى فى دهشة اين هى المنازل السيئة السمعة ، اننى تمهيبها علامة الصليب الاحمر فى جييجيجا - اننى لم ار شيئاً من هذا بالرغم من العناية القديمة التى تقضى بتميز اما كن يسع الحور الوطنية ، بستر ابيض ، يعلق على الباب وعليه رسم يشبه رسم صليب جنيف .

وان جيمم مراسلى الصحف الذين زاروا مدينة هرر ، يلمعون ان مركز التلفزيون فى الدور الاعلى من قصر قديم للراس ما كورين والذ جلالة الامبراطور وهو يقع فى وسط المدينة ، مع انه مركز البعثة السويدية الذى يتألف من مستشفى ومدرسة ومنزل لسكنى مديرها ، قائم خارج المدينة على بعد كيلومتر فى طريق جييجيجا - وانى اسائل نفسى مرة اخرى لماذا يحمل موظفوا التلفزيون على اذرعهم اشارة الصليب الاحمر ؟

هل يفعلون ذلك ليضاموا الطيارات ؟

ان الاحباش اذا كانوا يقتلون اسرام كما يزعم الياس مقلب افندى ، فانى اؤكد له ، ان احدا منا ، هو ولا أنا لم نرم يفعلون ذلك . واذا كان الضباط أو الجنود قد تقبلوا منا ، سجاير اهديناها اليهم ، علامة ودوحية ، فامن شك انهم لم يستجدوا هذه السجاير ، ولست اعلم ما يتقاضونه من المرتبات ، وهى هو كثير أو قليل ، وذلك بما لا يعنيننا فى شىء ، انما المهم الذى اقوله ان هذه المرتبات تفي بحاجتهم .

اسماعيل داود

A LETTER FROM ABDEL MOHSEN EL WISHY, TO WHOM THE STATEMENT QUOTED IN THE ITALIAN DOCUMENTS IS ATTRIBUTED.

Mtre. Hamed Bey El Meligy,

Secretary to the General Committee for the Defence  
of the Ethiopian Cause.

Dear Sir,

I, Abdel Mohsen Abdel Fattah El Wishy, of Khan el Khalily, Gammalia District, Cairo, have the honour to declare that the rumour circulated about the ten medical attendants who returned to Egypt from Abyssinia on February 12th, 1936, to the effect that they had submitted applications for service with the Red Cross Society, is without any foundation. The real fact, however, is that we affixed our signatures on sheets of paper on the understanding that Labib Salama, a member of our mission, would fill in thereon a petition to His Highness Prince Omar Toussoun Pasha and His Beatitude Anba Youannis, Coptic Patriarch, requesting them to be good enough to pay us a certain sum of money as a remuneration.

We beg to invite Your Excellency's attention to the fact that, if by any chance any newspaper, foreign or Arabic, reports that we applied for service with the Italian Red Cross, such a report would be nothing but mere fabrication. Meanwhile, we should be grateful if you would publish this our letter in the Arabic newspapers for the information of the public.

In conclusion, we beg to offer you our condolences on the death of the late Dr. Sawy.

Kindly accept our best respects.

(Signed) ABDEL MOHSEN EL WISHY.

February 24th, 1936.

(1) *A Confirmation from Abdel Aziz Hafez, an ex-Medical Attendant.*

I certify that all the contents of this letter are perfectly true and that the allegation made by some medical attendants who were dismissed on account of bad conduct is a mere fabrication with a view to concealing their bad behaviour, of which we Egyptians in Abyssinia were ashamed. In view of this, the Egyptian Medical Mission could see no other alternative but to dismiss them and to send them back to Egypt, together with those whose contracts of service expired.

(Signed) ABDEL AZIZ HAFEZ.

February 24th, 1936.

عفة صاحب رفقته الأستاذ حبيب بن الحسين  
سكرتير اللجنة العامة للادب والادب والادب

سيدى المحترم

مقدم انا عبد الرحمن عبد الفتاح الرئيس العام للادب والادب والادب  
على وجه الخصوص رقم ٤ تبع قسم الادب والادب والادب  
اشرف بدمى اولاد

اقر باه الاشارة الى اني اذ نيت عمه المرضية لعمته والتمه عادوامه  
بجود الحسنة يتبع ١٠ فبذره الجارى والمتمه اليرم افرم قدرا طيبا  
الى جميعه الطيب الادب والادب والادب الى ان هذه الاشارة  
كذب وعاربه عدلهم والتمه اتا وقمنا مع اولاد بيضا لطيب  
ان هذه احد اولاد بيتنا على رعم ان كيتبه هذه الوردان لبيضا  
الموقع على لنا نهدعاهم الى عفة صاحب نسوا الادب والادب والادب  
الادب والادب والادب والادب والادب والادب والادب والادب  
اشرف بدمى اولاد اذا ظروهارنا في امهية اولادهم او مجرهم  
نذوقنا فيلرهارنا بنفهم الاشارة في جميعه الطيب الادب والادب والادب  
دمى اولاد

والله وبع مطاى هذه على صفواته الطراء لعميه لعميه لعميه  
على علم بالتمه في هذه الاشارة في جميعه الطيب والادب والادب  
الادب والادب والادب والادب والادب والادب والادب والادب

ونصفوا صاحب رفقته بشرف عظيم هو لك شكرا

١٩٤٦ - ٤ - ٤

عبد الحميد الرشيد  
أقرأ عشرين باسم كل باجا بوزل هذا الخطاب صحيح وأيدنا بنفهم بعضه المرصين الذين فصلهم البعث الاول  
شود اهدوهم محلهم واقتدوفه ولذبا ارادوا به ستر نقاشهم وعمودهم التي اضمحلنا  
نمهم المرصين في الحسنة وافطرا ادارة البعث لظروفهم المرصين من عدمه مترا وانعادتهم الى طرهم  
بعض الذين انتمت عضود قطرهم للعدن البعث المرصين  
عبد الرحمن رشيد  
١٩٤٦/٤/٤

A LETTER FROM SIX MEDICAL ATTENDANTS, INCLUDING ABDEL MOHSEN EL WISHY, TO WHOM THE STATEMENT MENTIONED IN THE ITALIAN DOCUMENTS IS ATTRIBUTED WITH REGARD TO THE ALLEGED MURDER OF A CERTAIN ITALIAN AIRMAN BY ABYSSINIANS.

His Highness Prince Omar Toussoun,

We, the medical attendants in the service of the Egyptian Medical Mission in Abyssinia, who returned to Egypt on February 12th, 1936, have the honour to submit this letter to Your Highness declaring that there is no truth at all in the allegations published in the Italian, French and other newspapers and which were attributed to some of our former colleagues in the service of the Egyptian Medical Mission in Abyssinia. The gist of these allegations is that we or other medical attendants to whom the said allegations were attributed eye-witnessed incidents indicating acts of barbarism or bad treatment on the part of the Abyssinians toward Italian captives. But, in fact and in effect, we and the other members of the Egyptian Medical Mission did not witness anything of the kind, but, on the contrary, we testify that the treatment accorded to captives and the wounded, as well as to us, Egyptians, by the Abyssinians was very kind and excellent and left nothing to be desired. Meanwhile, we herein testify that the services rendered by the Egyptian Medical Mission, of which we are among its members, were received with great satisfaction, appreciation and gratitude by the authorities.

In the light of the above, it will be seen that all the allegations made by those who have sold themselves to the Italians are a mere concoction of lies.

In conclusion, we beg that Your Highness will be good enough to announce this real fact, in order to maintain the honour of the Egyptians and to uphold their dignity.

(Signed) ABDEL MOHSEN EL WISHY, February 13th, 1936.

(Signed) ABDEL AZIM MOHAMED ALY EID,  
Sandanhour, Caliubia Province.

(Signed) ABDEL MOHSEN EL WISHY,  
Khan el Khalili, Aly Abbas Bey Bldg., No. 4.

(Signed) MOHAMED EL MAHDI AFIFI,  
14, Haret el Askar, Barrad, Shubra, Cairo.

(Signed) MAHMOUD MOHAMED ABDEL WAHED,  
El Adawia el Wistany Str., No. 26, Mohamed Nasr Lane.

(Signed) ABDEL AZIZ HAFEZ DUNIA,  
Hassan el Akbar Str., 36, Cairo.

(Signed) HANNA GHATTAS,  
Sawada, Minia Province.

حقة ضا حبه لسرا الذمير الجليل عمير مؤتمروه  
 تشرف منه لمرضيه لعائديه من البقية الطيبة الخيرية في يوم ١٠ فبراير ١٩٢٦  
 بأنه زرع إلى سموكم هذا الكتاب جعلته به كذب لإدعائه استوفى في (الصحة  
 البريطانية والفرنسية وغيرها منسوبة إلى بعض رجالنا السا بقية الذين كانوا  
 مرضيه (البيبة) وتخلص ما في هذه الأركان من أتنا وغيرنا من المرضية المستوية  
 اليوم الحديث قد شهدنا حوادث تدل على حقيقة أو سوء عمالة الزجاجة  
 في مرضى البريطانية والواقع أننا لم نشهد صحة ولا غيرنا من أعضاء البيبة (الصحة  
 الكمية) إلا كل ما يترقى الزجاجة من عمالهم للدمى والجرى من وعاء ملتصقا  
 من الهيريه بغير الإهمام والكرهه ونقدرا أنه يؤمن إلى قاعة برالبيبة (الصحة  
 التي منه من أعضاء) كافة على أحده ما يكونه من رضاه (السلطات) وتقدرها  
 من استحققت شكرها ويزا يكونه كل ما يزرع له من باعوا أنفسهم للبريطانية  
 كذب مزع فلتس من سموكم إذاعة هذه الحقيقة صيانة لشرف الهيريه وكرامتهم

عبد الحميد  
 عبد الحميد  
 عبد الحميد

١٩٢٦/٢/١٢

|            |                               |
|------------|-------------------------------|
| الأعضاء    | العنوان                       |
| عبد الحميد | مسند شور فليويج               |
| عبد الحميد | خانه الجليل عمارة على يد عمير |
| عبد الحميد | شماره ١٤ بالبراديشا           |
| عبد الحميد | شارع المدون لوطان عمارة لمدون |
| عبد الحميد | شارع حيدرآباد                 |
| عبد الحميد | سوادة الدنيا                  |

A LETTER FROM ABDEL AZIZ HAFEZ, AN EX-MEDICAL ATTENDANT IN THE SERVICE  
OF THE EGYPTIAN MEDICAL MISSION IN ABYSSINIA.

The Editor, *Al Balagh* Newspaper.

In view of the allegation recently appeared in an Italian newspaper to the effect that the Abyssinians treat Italian captives with cruelty and that they do not deserve assistance, I herein declare, for the information of everybody, that there is no truth whatsoever in the false information given by those medical attendants, with whom I worked and who were bribed by certain Italian news agencies spreading propaganda against the Abyssinians, in spite of the fact that these medical attendants were accorded a very courteous treatment by the Abyssinians.

Moreover, I must not fail to point out that these medical attendants never went to the field of war and saw nothing at all of the bad treatment alleged to have been meted out by the Abyssinians to Italian captives. Therefore, their allegations are mere fabrications. I was one of those who went to the scenes of war and eye-witnessed everything there and I hereby declare that the Abyssinians' treatment has always been very kind, especially towards foreign residents. In the circumstances, it is our duty to express our gratitude to them and to acknowledge their good treatment.

I must ask the Egyptian people not to believe these allegations, which are absolutely false.

In conclusion, it must be admitted that the Abyssinians deserve every assistance and support, not only from the Egyptians, but also from the whole civilised world. And can it be believed that any fair-minded person hesitates for a moment to support the weak and the oppressed?

(Signed) ABDEL AZIZ HAFÉZ.

February 24th, 1936.

A LETTER FROM MOHAMED RIAD, AN EX-MEDICAL ATTENDANT AND ONE OF THOSE TO WHOM  
THE STATEMENT MENTIONED IN ITALIAN DOCUMENTS IS ATTRIBUTED.

Mtre. Hamed El Meligy,

Secretary to the Higher Committee for Medical Aid to Abyssinia.

It came to my knowledge that some ex-medical attendants in the service of the Egyptian Medical Mission wish to have their photographs published in the Press and also to publish some news about the good treatment accorded by the Abyssinians to Italian captives and about the valuable services rendered by the Egyptian Medical Mission in Ethiopia. So I went with them to a European newspaper whose members of the staff had been speaking in the Italian language, which I could not understand. There they asked me to let them have a photograph of myself and to sign a certain paper embodying a praise to the Abyssinians as well as to the Egyptian Medical Mission. I complied with their request on this understanding. But two days later, the newspaper *Giornale d'Oriente* appeared with false news attributed to me and to those who took me to the said newspaper. In the circumstances, I declare that there is no truth at all in the news attributed to me and to my colleagues and, further, that all that was published in this newspaper in this connection is a mere concoction of lies. Moreover, they made us sign a document in Arabic which we were not given a chance to read.

I write this letter to you for your information and with the request that you should issue a *démenti*, in order to maintain the good reputation of Egypt. In conclusion, I must not fail to mention here that the journal referred to above offered to pay us money in return for signing certain documents and undertakings.

(Signed) MOHAMED RIAD,

El Zahed Street No. 1,  
branching off from El Malik Street.

February 17th, 1936.

حفرة المزمع الفاضل شيخ ترميز جريج بيلاع

بمناخه ما ظهر في احدى الجرائد الإيطالية عن ابحاثهم وساماتهم القاسية للأسي الإيطالية  
 وعن أنهم قوم لا يستحقون المساعدة والتضحية فإني أعلمه لفا على رؤوس الأستاد وأبين للأد  
 وأنا مرض كنت مع هؤلاء المرضى الذين استوتهم بعض الشركات الإيطالية التي تعمل للدعاية ضد الجبنة  
 وأغرتهم بالمال فذهب هؤلاء يدعون ضد الأبحاث ويختلقون عليهم اتهامات والأبطال وهم  
 الذين فتحوا لهم صدد بهم بالأوس وأكرموا وفادتهم وكانوا موضع الخزانة لهم وتكريمهم  
 ولا يفوتني أن أذكر لفا أنه هؤلاء المرضى لم يذهبوا إلى الميدان مطلقاً ولم يشهدوا  
 أي شيء من معاملة الأبحاث للأسي الإيطالية فكلامهم كله زعم بالطل وانفراد لا شك  
 فيه ولا مرد لأني كنت أنا أحد هؤلاء الذين توجهوا إلى الميدان وشهدت كل شيء بعيني  
 أسي فلم أر منهم ما زعم هؤلاء المرضى بل رأيت كل كرم وشفقة ورحمة خصوصاً نحو النازيين  
 من الأبحاث فواجب علينا إذا أن نعترف بفضولهم ونسب بذكرهم وما جزاء الأبحاث إلا  
 الاعجاب.

فأرجو من المصيريه جميعاً إلا بصدقوا هذه الزعم والأبطالين لأننا لا نعلم إلا من لصية  
 وننفضها كما من أساساً

هذه كلمة أملاها علي ضيري الذي أجي إلا أن يدفع بها ليبين للناس جميعاً  
 أن الأبحاث قوم لا يستحقون ما إلا كل مساعدة وتأييد ومن ذا الذي يتواني

لحظة في نصح الضيف والأخذ بيد الظلم

عبدالعزيز قزاق

١٩٢٦ فبراير

هذه المزمع كتر لجنة المساعدة الطبية للمبتدئين

بعد التقية علت انه بعض المرضى السابقين في البعثة الطبية يرغبونه

في نشر صورتهم وبعض الأخبار عنه حسب معاملة الأبحاث للأسي

الإيطالية وجمال الأعمال التي تقوم بها البعثة المصرية في البعثة فذبت معهم

في إحدى الصحف الإنجليزية وكانوا يتكلمونه بلغة الإيطالية لم أفهمها وفي

النزاهة طلبوا مني أخذ صورة لهم معهم وأمضاد ورقه قالوا انه ما فيها كمو

مدح في الأبحاث ومدح في البعثة الطبية المصرية وقد اجبت طلبهم بهذا

الاعتبار ولكنه ظهرت صريخة الجرنال اوريينت بعد يومين في جديت فيها

أخباراً لا صحي لها مطلقاً نسبت إلى والى الذية ذقت معهم إلى ادارة

هذه الجريدة وأنا ابرئ نفسي من كل ما نشرته منسوباً إلى واليهم

واصرح بان كل ما نشرته هذه الجريدة كذب وقد اطفونا على ورقه اضرى

باللغة العربية لم نقرأها ولم نعرف ما فيها لانه لم يتركوا لنا وقتاً لقراءتها

وقد صرحت لحضرتكم هذا للعلم ونرجو نشر التذييب حفظاً لسمعة

مصر وضمان العلم بانهم في هذه الجريدة الطليانية عرضوا عليها

نقوداً مقابل امضاد أوراقا وتعهيدات والسلام

محمد رياض  
 بنارح بنارح بنارح بنارح  
 ١٧ فبراير ١٩٢٦



A TESTIMONY FROM FOUR MEDICAL ATTENDANTS SUPPORTED BY AN AFFIDAVIT FROM THE FORMER DIRECTOR OF THE PILGRIMAGE AND QUARANTINE DEPARTMENT IN THE MINISTRY OF THE INTERIOR.

Mtre. Hamed El Meligy,

Secretary to the Higher Committee for Medical Aid to Abyssinia.

We have the honour to inform you that we learn from some medical attendants in the service of the Egyptian Medical Mission in Abyssinia who have recently returned to Egypt that our colleagues Labib Salama, Abdel Mohsen el Wishy, Kamel Ahmed Dweik, Mohamed Riad and Elias Mokbel went to an Italian newspaper and later to the Italian Legation in Cairo, through the instigation of some agents, where they were asked to affix their signatures on some papers, some of which were written and some were absolutely blank. These papers contained a defamation to the Abyssinians and various accusations such as killing Italian captives, tearing up their flesh, taking refuge, with their arms, in Egyptian hospitals every time they saw Italian aeroplanes approaching them.

We swear by the name of Almighty God, by the names of all Prophets, by all Holy Books and by our honour that all these accusations are mere fabrications and entirely devoid of truth. These medical attendants spent all the time at Addis Ababa and Harrar and neither of them moved to anywhere else. We further declare that during our sojourn in Abyssinia we never saw any Italian captive, whether alive or dead. As regards the treatment meted out to us by the Abyssinians, it was very good and kind and we heartily thank them for it.

(Signed) ADLY HANAFY AHMED,  
27, Gaafar Street, Kolali District, Cairo.

(Signed) MOHAMED EL MAHDI AFIFI,  
14, El Barrad Lane, Shubra District, Cairo.

(Signed) ADMED MOHAMED YOUSSEF,  
8, Salama Street, Kalaat el Kabsh, Cairo.

(Signed) ABDEL AZIZ HAFEZ DUNIA,  
Hassan el Akbar Street, Cairo.

*Affidavit.*

This letter was written in my presence by its signatories with their own free will. They took a solemn oath in my presence to the effect that all its contents were perfectly true. In view of the solemn oath taken by them and, further, owing to the fact that I can judge from their faces and tones that they tell the truth, I hereby support and confirm their evidence.

(Signed) MOHAMED HUSNY EL AMIRY,  
*ex-Head of the Pilgrimage and Quarantine  
Office in the Ministry of the Interior.*



AN AFFIDAVIT FROM MAHMOUD ALY IBRAHIM, EX-MEDICAL ATTENDANT, CONFIRMED  
BY A NOTABLE.

Mtre. Hamed El Meligy,

Secretary to the Higher Committee for Medical Aid to Abyssinia.

On March 28th, 1936, I sent you a letter which I expected would be published in *Al Balagh*, or any other newspaper, for the information of public opinion. To-day, I send you another letter with fuller explanation for favour of publication.

Labib Salama, an ex-medical attendant, accompanied by a certain Italian agent, called on me and offered that I should sign a contract for service in the Italian Red Cross similar to that signed by some of my former colleagues at a salary of £E15 per month, but I refused, although they showed me the contracts signed by them. Further, they told me that if I signed certain documents embodying alleged barbarous actions on the part of the Abyssinians, they would pay me £E80 in advance, being six months' salary. Moreover, they attempted to persuade me, by means of attractive promises, to accept the said offer. Among these promises was one that a gold medal would be awarded me by the Italian Government after the war and that I would be taken to Rome to be admitted to a school free of charge to take a medical course for a period of three years, after which I would be given a diploma in medicine. But all these promises were of no avail in persuading me to accept the offer in question, remarking to them that honour was more precious than money.

I beg that you will kindly have the above-mentioned facts published in the Press, in order to let the people know what the Italians do in Egypt. I swear by the name of Almighty God that all that I have mentioned here about the Italians and their promises is perfectly true. Meantime, I am prepared to declare these facts in the face of anybody.

Kindly accept my best respects.

(Signed) MAHMOUD ALY IBRAHIM,

*ex-Medical Attendant attached to the Egyptian  
Medical Mission in Abyssinia,*

residing in Sheikh Rihan Street, Lane No. 10, Cairo.

*Confirmation from a Notable.*

I, Abdel Aal El Sayed, of the village of Zarkan, Tala Markaz, Menufia Province, beg to declare and testify that the above letter was written in my presence and that its signatory confirmed the authenticity of the contents thereof after taking a solemn oath in my presence.

(Signed) ABDEL AAL EL SAYED.

هذه مجاهد البرة الا سوادها الملبس  
 هذه صفة اية اوسفت لذتكم وها - بتاريخ ١٩٤٦  
 وقت انظر ان بشرى حربية البلاغ اوان حربية مصر  
 اظهي قد يظهر عليه الراي العام واعدو اليوم فأرسل لهم  
 بشرى اوفى كل يظهر عليه الراي العام  
 وقد صدر في ليبيا سلامه ومنه احد الساسة ايويد ليبيا  
 وقد صدر على انه اوسى عفا كالعقد التي صدرها صم  
 للشر في البرية يا تحت خفة من الصليب الزهر اليرطال  
 ظهر صبحه انا شره با قايت واطلعت على عقد وهم  
 وما قالوه في اني اذا مضيت الزواره التي يظهر من ربيونه  
 من افعالهم حثية بزكره انه الزعامة اركبها فاسم  
 به ففوه في بعد تخليق هذا العقد مدة ٦ شهور وقد ما اوسى  
 ٨٠ حسم وقد اعدوا يلجونه على ربيونه الزور والخلاب  
 ومنذ انهم سيطروا نيشانه بعد الحرب يصنع منه الذهب  
 ومنذ انهم اى اليويد ليبيا سببا خذوني الى روما ويه خلوي  
 اعدى مدارهم لو قلم فيل مما اتم اعدوا في مصر حاملا  
 انه يرمي اليها ايام الطب بعد مع سنية لكنه كل هذه الزور  
 لم تنبى مدقغ رر قضت ما موضده على ذاك الاسم انه  
 اشرفت فوه كل مال  
 وانا ارجو عنكم انه تنشر هذه الحقائق في الصحف  
 ليبلغ الناس ما ينعلم اليويد ليونه في مصر وانا اقسم لكم  
 بالله انه كل ما ذكرتم عنه اعمال اليويد ليونه وعمرهم  
 من ومن هيبير المرصبة المصرية صبحه وانه سنده  
 لواجبه اى نخلونه بالحقيقة التي ذكرتها وفضلوا  
 يتبدل ابو هدام

هذه الاشياء التي ذكرها  
 على ان لا يكون  
 صاميا كبر وعجز الشيخ يظهر على صفة  
 ان يكون عرفت اننا على ان لا يكون كبرها الى  
 ان يكون كبر وعجز الشيخ يظهر على صفة

مصر وعلى ابراهيم  
 مرصه بالعبه الطبيه المصريه بالعبه سافا وبتعليمها  
 التل شارة الشيخ ربحاه عابديم مصر

A LETTER FROM TWO EX-MEDICAL ATTENDANTS.

Secretary to the Higher Committee for Medical Aid to Abyssinia.

We beg you to publish the following statement in all the Press:

An Italian newspaper edited in Cairo published in one of its issues last month an article over the signature of Abdel Mohsen el Wishy stating that he had eye-witnessed the murder of an Italian airman and the mutilation of his body by the Abyssinians, in addition to other ridiculous and fantastic allegations created by his imagination. We consider it our duty to declare openly and publicly that there is nothing farther from the truth than these allegations. For the said Abdel Mohsen was working as a servant to the medical officers and not as assistant dispenser as alleged by him. Nor did he ever move from Harrar. Therefore, his allegations are obviously false.

Meanwhile, we declare that the said Abdel Mohsen told us that he had intentionally fabricated this lie in order to exploit it together with his two colleagues, Labib Salama and Kamel Ahmed Dweik, to their personal material benefit. We strongly deprecate this disgraceful act committed by these weak-hearted persons, hoping that those concerned will take the necessary steps to put matters in their proper place, in order to silence these liars and to uphold the dignity and *amour propre* of the members of the Egyptian Medical Mission, whose valuable services have been the subject of great admiration by all other missions.

We are prepared to be confronted with the said Abdel Mohsen in order to prove that he was a mere humbug, having no real desire to serve humanity.

Please accept our best respects.

(Signed) MOHAMED EL MAHDI AFIFI.

(Signed) ABDEL AZIM MOHAMED ALY EID,

*ex-Medical Attendants in the Main Hospital at Harrar.*

Received on March 3rd, 1936.

مفقه مناه . اخذ بكتير اعام للجنة بساعة لطيفة للمنه  
 في يومه عزتكم شر هذا البيان في مسر (الصحف  
 نشره جريدة ابي بكر بعد ما اصداره في القاهرة في الشهر الماضي  
 مقال من يدعي بمضاهي عهد ابي بكر لويش وقد جاء فيه انه المذكور  
 ابي بعينه عادية قتل اهد لطياريه لوطا ليه وكيف انه لوطا ليه  
 شلوا بجنته الخ . . . . . من يدعي ان استخفا لتي استخفا  
 عقله للضعيف ولتي اظن على اوله عامه وخيالاته . واذنا مع  
 منه يدعي انفسه للمه للمذكور في هذا الادعاء وبعد عن الحقيقة  
 فانه المذكور كان يشتغل فادما لوزات لكاتبه لا مساعد فيه كما  
 يقول كما انه لم يتقل مطلقا من مدينة هره ولم ير شيئا منه  
 هذا قط بل ولم نسمع به .

كما نعلم بكل مراعاة انه امر لنا انه لعمري هذه الذكورية ليستغلا  
 لصاحبه للادية هو ورضيقاه لبيبي سلام وكان احمد دويل  
 وانا نستكر هذا العمل الفطرح الذي اقدم عليه مثل هذه الذكورية  
 الضعيفة النفوس . وندعو من لقايمه بالامر انه يصنعوا  
 لعمري نصابه حتى تتحرم هذه الذكورية الكاذبة . ونذكر  
 هذه النفوس لبقية التي لو نك بسوقنا جميعا نمة اعضاء  
 البيت الاثرياء . نمة اعضاء لبيعة الذرية مشوه لنا لجمع  
 من وطيبه واجانبه بانه بعثنا من لتي فاقت جميع البيئات  
 من مضا - لغاة المنكرية . واسما لجره حيه  
 واذ الفراء استعداد لواجبه لهذا التحول الذي ادعى ذلك  
 لذي الذرة انه شخص ضعيف النفس اندرس وملك منقوف  
 خدام يونانية .

محمد البرادى

عبد العظيم محمد عبد الحليم

1912

بغداد

عبد العظيم

لقامته بالعمل بفرقة لعمليات بالمستشفى برئيسه يوم سابقا

AN AFFIDAVIT FROM ADLY HANAFY AHMED, A MEDICAL ATTENDANT.

Cairo, April 14th, 1936.

Mtre. Hamed El Meligy,

Secretary to the Higher Committee for Medical Aid to Abyssinia.

I have the honour to inform you that I have read the reports published in the Press through the inspiration of the Italian authorities in Egypt with regard to the treatment meted out by the Abyssinians to Italian captives. One of these reports is a statement attributed to one of our colleagues, Abdel Mohsen El Wishy by name, which was confirmed by two other colleagues named Kamel Ahmed Dweik and Labib Salama, to the effect that Abdel Mohsen El Wishy had been in Bolaly, where he eye-witnessed some Abyssinians torturing and mutilating a certain captured Italian airman until he succumbed.

I swear by the name of Almighty God and the Sacred Scriptures and by my honour that this report is a mere lie and devoid of a single atom of truth.

What goes to confirm my statement is the fact that neither Abdel Mohsen El Wishy nor his two colleagues, Kamel Ahmed Dweik and Labib Salama, went to Bolaly ever since their stay in Abyssinia. The first of these men was a mess-waiter, the second a servant and the third a servant in a dispensary and neither of them had anything to do with medical attendance duties. They were sent back to Egypt by the Mission on account of their bad behaviour. I take Almighty God as my witness.

(Signed) ADLY HANAFY AHMED,

*ex-Medical Attendant in Abyssinia.*

27, Gaafar Street, Kolaly District, Cairo.

AN AFFIDAVIT FROM SAYED MOAWAD, EX-CHIEF MEDICAL ATTENDANT IN THE SERVICE OF THE EGYPTIAN MEDICAL MISSION IN ABYSSINIA.

Mtre. Hamed El Meligy,

Secretary to the Higher Committee for Medical Aid to Abyssinia.

It was stated in the Press that three medical attendants returning from Abyssinia—namely, Abdel Mohsen El Wishy, Labib Salama and Kamel Ahmed Dweik—had given evidence before official authorities in Egypt to the effect that the Abyssinians had accorded very bad treatment to Italian captives, etc. I swear by the name of Almighty God that these persons never went to Bolaly or to any other locality in the neighbourhood of any field of war and, further, that they never left Harrar from the date of their arrival in Abyssinia to the day on which they returned to Egypt. As to Elias Mokbel, the dispenser, who is of Syrian nationality, he was returned to Egypt on account of the accusations preferred against him—namely, the sale of drugs to Abyssinians and obtaining the proceeds for himself while such drugs were the property of the Egyptian Medical Mission. Such was also the case with Sami George,<sup>1</sup> who was accused of having taken some of the effects of Dr. Hockman, who was killed while examining a bombshell thrown by Italian aircraft.

It is of interest to mention here that Mohamed Riad Effendi, to whom certain allegations were attributed in the Italian pamphlet, did not move from Harrar during his sojourn in Abyssinia and that he was dismissed from service in the Egyptian Medical Mission on account of his bad conduct, like those who were bribed by the Italian authorities to act contrary to their conscience.

I beg that you will announce this fact for the information of world public opinion.

(Signed) SAYED MOAWAD,

*ex-Chief Medical Attendant in the Service of the Egyptian Medical Mission in Abyssinia.*

<sup>1</sup> Sami George, referred to above, was a servant in the Egyptian Unit at Daghabur at the time when Dr. Hockman was killed while examining a bombshell thrown by Italian aircraft near the tents of the unit.

مصر في ١٤ أبريل ١٩٢٦

حضرة المترجم الأستاذ حامد اللبيني سكرتير اللجنة العليا  
للرعاية الطبية للميت

أتشرف بأنه أخبركم أني اطلعت على ما نشر في الصحف بواسطة السلطات  
البريطانية في مصر خاصة بمعاملة الاحباشه للسوريين الايطاليين ومنه  
ذلك ما كتب صدوره الى احدنا المدعو عبد الحليم الويشي وصدوره عليه  
لكل من الزميلين السابقين لائل احمد دويك ولييب سلامه وهو يتلخص  
في انه عبد الحليم الويشي كان في بلبلي Bolaly وراى بعينه بعينه لاجهات  
يعد بونه طياراً ايطاليا اسيراً قتلوه بعد تسليم جسمه في ان قسم  
بالله في جميع الكتب السماويه ويشرفني انه لهذه الروايه مذكوره وليس في  
اي اثر للقيمه ويؤكد ذلك انه عبد الحليم الويشي وزميله كامل احمد دويك  
ولييب سلامه لم يسافروا الى بلبلي Bolaly منذ وصولهم الى بلبي في  
يوم خروجهم من بلبي وقد كان اولهم مغربياً والكاف خادم زلفه والشاف  
خادم اجزخانه ولم يبق لهم اي صلة باعمال التمريض ولا بالخدمات  
الطبية وقد اعادتهم اليتم بسبب سوء سلوكهم هناك والله  
على ما اقول شهيد

عدي محسن احمد

المترجم بالحيث سابقاً

٢٧ شارع جعفر بالفلح بحمص

مصر في يوم ١٧ مايو ١٩٢٦

حضرة المترجم الأستاذ حامد اللبيني . سكرتير اللجنة العليا للمساعدة الطبية للميت  
ذرت الصحف انه ثبوت من المرضية لعامة ميتة الميت وقدمت الحسمه الويشي ولييب سلامه  
وكامل احمد دويك منذ واما المراسلات الرسمية البريطانية في مصر انه لاجهات  
السوريين الايطاليين اسوأ معاملته ... الخ . وان اصبح مضمناً بالدم على صخر ما اقول  
انه كوالد الويشي ص لم يزعموا الى بولبي ولولا انه حرمه فريه به ميدان القتال بل هم  
لم يخرجوا به سريه فمر منذ يوم دخولهم الى الميتة الى يوم عودتهم الى مصر . اما السيد  
الساحب مطيل السورى الجنس فقد اعيد الى مصر بسبب الترحيل ووجهت اليه وتم بيعة الويشي  
الى الاحباشه وقضيه تمنا النفس حاله كونه ملطاً للغة . وذلك كما ذكره في سابقاً  
جورج الذي انهم بالوصول على بعضه كلفان الذين هو كما انه واقفاً لا يطعماً فيل

ويعني انه ذكر في خطاب لنا المقال انه محمد با صفة الذي نسبت اليه لبعده الاقوال  
في الروايات البريطانية لم يخرج منه «هرر» وقد عيروه اللجنة لسوء سلوكه . يا مصر  
شأنه شأنه الزمة ستعوضهم السلطات البريطانية فيما عواضنا لهم

فارجوا ان تعلموا ذلك للعالم امثلاً قائلين والسلام كما يشهد بالحق  
الطبيعي والمهربي بالحيث  
ساحس جورج الذي تور كما به خادما في مستشفى دجاور وقت وفاة الدكتور كوكا به حينها  
كانه بما ولد ذلك قسلة ايطالية وهيها بالقرب من ضمام المستشفى  
اشتهر بالحق  
والله المهر به بالية



AN AFFIDAVIT FROM THE EX-CHIEF MEDICAL ATTENDANT, ABDEL KAWI ABDEL SALAM ZIDAN,  
AND TWO MEDICAL ATTENDANTS, AHMED MOHAMED YOUSSEF AND MOHAMED EL MAHDI AFIFI.

Mtre. Hamed El Meligy,

Secretary to the Higher Committee for Medical Aid to Abyssinia.

I have the honour to submit the following for favour of publication in the Press for the information of world public opinion:

It came to my knowledge that some of my ex-colleagues who served as medical attendants in the Egyptian Medical Mission in Abyssinia had been enticed by some Italian agents to go to the Italian Legation in Cairo and to a certain Italian newspaper. There they were asked to write a declaration in which they described imaginary incidents, asserting that the Abyssinians had maltreated Italian captives and mutilated their bodies in a barbaric manner. In this declaration, they further mentioned a certain incident which they were told had occurred in the town of Bolaly and which they were asked to declare that they had eye-witnessed. What is astonishing, however, is that these medical attendants—namely, Abdel Mohsen El Wishy, Labib Salama, Kamel Ahmed Dweik and Mohamed Riad—never left Harrar from the date of their arrival in Abyssinia to the day on which they returned to Egypt. How, then, could they have eye-witnessed this imaginary incident asserted to have taken place at Bolaly while they never went to the said town and while the distance between Bolaly and Harrar, where these medical attendants and myself were living, is no less than twenty-four hours by car? Moreover, there are official documents in possession of your Committee as well as in the Egyptian Consulate in Addis Ababa and in the International Red Cross Centre which prove that the aforementioned medical attendants never went to Bolaly and that they spent all the time at Harrar. Therefore it will be seen that their assertions referred to above are mere fabrications which they were bribed by the Italians to make. This only applies if this nonsensical talk was really uttered by them.

I swear by my honour and religion that I and all the other members of the Egyptian Medical Mission—especially Abdel Mohsen el Wishy, Kamel Ahmed Dweik, Labib Salama, Mohamed Riad, Labib Hassan Ibrahim, Sami George and Elias Mokbel—never at any time saw any Italian captive in the hands of the Abyssinians; that all the allegations attributed to the Egyptian medical attendants are absolutely untrue; and that these allegations were nothing but Italian propaganda with a view to harming the reputation of our brethren, the Abyssinians, who were very kind and courteous to us.

It is only fair and just that we, Egyptians, should declare this fact. I take Almighty God as my witness.

*(Signed)* ABDEL KAWI ABDEL SALAM ZIDAN,  
*ex-Chief Medical Attendant in the Egyptian  
Medical Mission at Kasr el Aini Hospital in Cairo.*

I swear by my honour and religion that all the contents of this letter are perfectly true.

*(Signed)* MOHAMED EL MAHDI AFIFI,  
*ex-Medical Attendant in the Egyptian Medical  
Mission at Harrar.*

I declare that the contents of this letter are perfectly true.

*(Signed)* AHMED MOHAMED YOUSSEF,  
8, Salam Street, Cairo.

افانهم بالجنة. فلا ما زعموا انهم ساعدوه بانفسهم  
 كذب واقتداء استهزاء ايرطال ليرده منهم مع يوسف  
 بقرويه استفذ لا نفهم وضعف قوسهم اذا كان  
 هذا الكلام الخارج قد صدر منهم حفيظة ولم يكونوا قد  
 اضر اعليه بقبر انه بعد احيائه. وانا اضم بشرفي ودين  
 على انك وضع اجزاء لبعض الطبى المصرى وعلى الاخص عبد الحميد  
 ومحمد احمد دويك وليد سارة ومحمد رياض وليد حمد ابراهيم  
 وسام جرج والباس فضل لم نشهد في اى يوم ان اسير  
 الا لاني بيه ايدى الاحباش وانه جمع ما ذكر وصورة ليدان ليرم  
 ونسب الى المرصيه المصريه لا حفيظة له انا هو مجرد غلبا ايرطالين  
 بعد بلا نسيه اسمنا اذما عن اذيه لم نرى منهم الاكل  
 خير وجهه معامله وانسانه ويمكن اشرف على تقرب ذلك ولم  
 على ما قول شهيدى عبد العزيز عبد السلام زبدان  
 يا شتر ورجى لسانه للغة العربى بورد  
 اضم ليرن ودينه اكل  
 ما دون هذا الخاب صحيح ويزن عليه كل صاحب مروه وشرف وذهاب  
 انرو اعترف بوجه اكل ذلك  
 امره يوسف شارب سلامه لى عمره على قامة  
 الكباش

محمد ابراهيم  
 مرسه ساجده بالجنة اليه ايرطالين

Appendix 2.

REPORT ON MY FLIGHT TO KWORAM ON MARCH 16TH, 1936, AND ON THE DESTRUCTION OF THE AIRPLANE OF THE ETHIOPIAN RED CROSS SOCIETY, MARCH 17TH, 1936.

I took off from the Akaki Aerodrome, Addis Ababa, on Monday, March 16th, at 2 p.m., with Dr. Junod, delegate of the International Red Cross Committee, Geneva, and with one mechanic and a cargo of special drugs against gas-wounds, the Red Cross mail, etc., in the Fokker belonging to the Ethiopian Red Cross, marked with the regular signs, the photos of which had been transmitted to Geneva and to the Italian Government. Our orders were to deliver the medical material, etc., to the Red Cross Ambulance stationed at Kworam and to bring back to Addis Ababa Dr. Van Schelven, of the Netherlands Red Cross Ambulance, who had been wounded.

We arrived at the Dessie airfield at 3.50 p.m., tanked petrol and started for Kworam at 4.55 p.m., aiming at the Kworam airfield at 6.05. A Government airplane had preceded us by half-an-hour and was already on the field when we arrived.

The same evening we were very graciously and cordially received by His Majesty the Emperor. His Majesty's Secretary, Ato Wolde Guiorguis, informed us, amongst other things, that the distance between the Ghebi (the Emperor's temporary residence) and places where the Dutch and British Ambulances were stationed was too far and too difficult to pass at night, so that we very reluctantly realised that we had to abandon all hopes of reaching Dr. van Schelven and executing our plan in one night. I was all the more reluctant to act on Ato Wolde Guiorguis' suggestions in that I know that it would be very difficult to camouflage any plane in country such as around Kworam, let alone one so big and with such characteristic colours as our Fokker. Nevertheless, Ato Wolde Guiorguis assured Dr. Junod that it was quite possible and it was finally decided to camouflage the plane early next morning.

We spent the night at the Ghebi and next morning at 6.30 we were at the airfield and camouflaging our plane, which was stationed at a distance of about 200 metres from the Government plane that had been camouflaged by the employees of the Government.

At 7 a.m. we started on our way to the British Red Cross Ambulance. About 8 a.m. appeared the first Italian planes. We counted three bombing machines. While we were having breakfast, our boy came up and told us that one plane was burning. At the same moment we saw the Government plane, which was being consumed by fire very rapidly.

We instantly decided to try to save our own Red Cross plane, which we had camouflaged with a view to the fact that it had been bombed twice before on the Dessie airfield, from only 200 metres, in spite of its having, at the time, its Red Cross emblems displayed. So we rushed down into the plain as fast as we could, but were obliged to hide ourselves several times for fear of being spotted by the Italian aviators. As soon as we were down on the big plain our progress was stopped by large masses of mustard gas (Yperite) dropped by the Italian flyers all around the Red Cross machine and with which the air and the ground were saturated. At about 10 a.m. two further bombing-planes came over Kworam and altogether the five of them dropped about 200 bombs over our airplane, but not one touched it. We were near the field when, at 11 a.m., three new fighting machines appeared from the north. They flew very low, down to about 20 metres, and proceeded to attack in good formation, shooting at our plane with machine-guns about five times from every direction. But still the Red Cross plane was standing where it was, apparently untouched. Crossing large patches covered with mustard gas, we finally managed to run up to our machine, with the intention of taking off from the field, but on our reaching it we found its two tanks perforated and all the petrol gone. So it was impossible for us to take off with it; we took away all the camouflage in order to show the Italians the Red Cross sign. We just had time to run away again to about 300 metres distance when three Italian bombing-planes returned. They started bombing operations at about 12.30 p.m., dropping about 300 bombs from an altitude of about 800 metres for about one hour and a-half. The last plane came down much lower, to about 200 metres, and dropped something like ten incendiary bombs. After that, the same plane turned, came back once more, still lower, down to about 100 metres, but did not bomb again and flew away in the direction of Amba Alaji. This time, Dr. Junod believed that the aviator had recognised the Red Cross signs on our plane and had stopped bombing it in consequence. We therefore went up to the Radio Station and Dr. Junod called to the International Red Cross Committee, Geneva, urging them to make the Italians stop bombing the Red Cross plane.

However, when we returned to the airfield at 3.30 p.m., we saw that our plane was burning, and we also saw three fighting machines making attacks the same as they had done in the

morning. When they saw that they had succeeded in setting the Red Cross plane on fire, they flew off. When I saw our burning machine, I started to run towards it; but as I was about halfway on the field, suddenly three new Italian planes appeared and—probably when they noticed that our plane was finished and done with—they started throwing bombs on the pack-mules that were on the airfield. I was without cover at the time and unable to find a hiding-place. I had to remain lying down flat on the ground. After half-an-hour the planes flew off in the direction of Kworam, which village they bombed with incendiary bombs.

When they had gone, I had time to go up to the burning Red Cross machine in order to investigate if there was any possible way of saving it. I found, however, that the plane was completely burned with the exception of the engine, which might possibly have been repaired. But as I had no tools, etc., at my disposal, I had to abandon it.

On the next day (March 18th) we had ample occasion to observe how the Italian planes dropped mustard gas (Yperite) in liquid form. A liquid solution is squirted directly from the planes, the gas falling like a light rain covering a large space of ground and each drop that touches one's skin leaving a burn-wound. We saw several hundred people, mostly civilians, old men, women and children, with these dreadful wounds. I myself had my left hand and wrist burned from touching a bush in passing which had probably been sprayed with Yperite. I also had a sensation of burning on my tongue and on the mucous membranes of my respiratory organs.

We left Kworam on March 18th by lorry and arrived back at Dessie after travelling for two days. From there we returned to Addis by a Government airplane.

(Signed) CARL GUSTAF VON ROSEN.

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Appendix 3.

Addis Ababa, April 9th, 1936.

Dr. Schuppler,  
Chief of Ambulance No. 3.  
To the Imperial Foreign Office,  
Addis Ababa.

I have the honour to inform you that on January 14th, 1936, for the first time battle gas-bombs were used through bomb-throwing by Italian flyers. Through these bombs 20 country people were killed, and I treated about 15 cases from gas-bombing, 2 children being among them. The burning is caused from (Senfgas) mustard gas, used south of the Pass Alaghi on January 30th, 1936.

Five miles westward of Amba Aradam, we have been ourselves lightly gassed. In what manner it was applied I cannot state; but it also was mustard gas. I alone could stipulate nearly 80 cases of poison gas; all were soldiers.

In Tembien, no gas was used by the Italians. At the same time, I found a gas-bomb (mustard gas) 16 km. west of the plain Koram on January 19th. In this district there were only civilians. The bomb measured 1.30 m. by 10 cm.

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Appendix 4.

To His Excellency Belatengueta Herouy,  
Minister for Foreign Affairs, Addis Ababa.

During my experience of aerial bombardment in the area of the northern front during the past four months, the use of mustard gas has been a frequent occurrence. My own first personal experience of gas bombardment was on Sunday, March 1st, in the bush between Alamata and Kobbo, about ten miles south of Kworam. From the early morning of this day, Italian aeroplanes were maintaining a continual reconnaissance over this area, in which not only soldiers of the Imperial Guard were encamped, but through which large bodies of irregulars, accompanied according to their custom by women and boys, were advancing. The population of the neighbourhood, one of whose occupations is the maintenance of large herds of cattle, were of course

also present following their usual pursuits. The Italian bombardment was carried out indiscriminately and claimed its victims irrespective of the categories to which they belonged. During this morning, the dropping of several large containers of corrosive liquid was noted and the presence of gas was quickly felt through the impregnation of the atmosphere over considerable zones with vapour whose pungent biting character left no doubt that it was a substance of the nature familiarly known to us in the Great War as mustard.

Later in the same day I visited the base which the British Ambulance had then established at Alamata and saw there a number of persons suffering from burns which, judging from my own experience, were undoubtedly inflicted by a liquid of the "mustard" type. Some of these cases, I was informed, had been brought in during that day, while others had arrived on the two or three preceding days during which the base had been established there. A notable fact about these cases was that, while a number showed burns on head and shoulders caused obviously by falling liquid, a much greater number were severely injured in the legs and lower parts of the bodies. In the case of several men, large areas of skin had been removed from the legs and thighs and some of these also had suffered extremely severe and painful burning of the genital organs. The cause of this particular form of injury is as follows. The gas was being dropped in large containers, one of which had actually been brought into the ambulance compound and was inspected and photographed by myself and colleagues. It was a torpedo-shaped object of a total length of about four feet. On striking the ground, the nose of the container becomes detached and from a bottle within is released a quantity of liquid amounting, I estimate, to about 40 lb. Falling in dense bush, this liquid is scattered over ground and foliage and remains there for a considerable period. I am informed that its corrosive quality persists for some two or three days. Not only troops but peasants passing through the bush on their usual occupations and coming into contact unawares with contaminated foliage sustain the terrible injuries described above.

During the subsequent months which I spent at Kworam and in the neighbourhood of Lake Ashangi, I witnessed daily bombardments by Italian aeroplanes in which gas-bombs were very frequently used. In addition to the containers already described, the Italians flying over Kworam Plain at relatively low altitudes used the method of spraying from the machine. This method causes possibly more widespread injury and is certainly more difficult to escape from than the dropping of gas-shells. From the fine rain of corrosive liquid which descends from the plane there seems little protection unless possibly something in the nature of a diving suit were devised, but in any case Ethiopian soldiers and peasants are not provided with even the most elementary forms of mask or protective clothing. Consequently, large numbers of them, subjected to this form of attack, receive ghastly injuries to head, face and upper parts of bodies. I may mention as an example that, one evening when I was riding across Kworam Plain shortly after such a gas attack, I came upon the British Ambulance Warrant Officer Atkinson administering first aid to victims. It had been necessary to send him down from the cave in which the Ambulance was then located because many of the victims had been blinded by the gas-spraying and could not go up into the hills for treatments. After this it became a daily occurrence for the Ambulance to send officers down to the plain to treat victims thus incapacitated. On the evening in question, while I was present, Atkinson treated fully 100 cases of burning by corrosive liquid. Another example of injury by gas within my own experience occurred when the British Ambulance officers Captain Townshend Stephens and Dr. Empey went to the assistance of the crew of the Ethiopian Red Cross plane which was bombarded by the Italians while lying on the open ground at Kworam.

The officers found themselves passing through a zone of mustard gas and both shortly afterwards when I met them showed marked indications of inhalation of the vapour, while Captain Townshend Stephens suffered slight but distinct burns on the throat. Among the wounded who during my stay in the region of Kworam were streaming back from the battles south of Makalle and in the Tembien were a great proportion of gas victims. Many were suffering from gangrened wounds owing to the lack of facilities and materials for treating the effects of gas at the front.

All the facts here recorded were observed by me in company with other European witnesses.

(Signed) Walter M. HOLMES,

*Correspondent of the Nordisk Telegraph Agency, Copenhagen,  
and for "The Times" at the Northern Front.*

Reuter's Bureau, Addis Ababa,  
April 11th, 1936.

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#### Appendix 5.

This appendix contains the letter signed by Prince Ismail Daoud on March 13th, 1936 (see Appendix 1 above, page 4).

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Appendix 6.

British Ambulance Service,  
c/o Ethiopian Red Cross,  
Addis Ababa, Ethiopia.

REPORT ON THE USE OF GAS ON THE NORTHERN FRONT.

In the latter half of February, while the British Ambulance Service was situated at Waldia, several cases of severe burn from mustard gas were treated. These cases had made their own way down from the front. On February 28th, 29th, and March 1st, about 150 cases of severe burn from mustard gas were treated by the advance unit of the British Ambulance Service in Ethiopia near Alamata. Many of these patients were women, children and infants. The burns of the large majority of them had been contracted locally. During the three days while the unit was situated near Alamata, several mustard-gas bombs were dropped in that region.

Between March 7th and March 22nd, while the unit was situated in the region of Lake Ashangi, between 200 and 300 cases of burning by mustard gas were treated by the unit. Many of these had been temporarily blinded, and a special clinic, about a mile away from the unit where the gassing had been most severe, had to be held, as the victims, being blind, were unable to find their way to the Ambulance. While the unit was in this situation, mustard gas was frequently used in the vicinity.

A large number of the burns treated were of a very severe and terrible nature.

(Signed) John M. MELLY,  
Commandant,  
British Ambulance Service in Ethiopia.

April 10th, 1936.

Appendix 7.

Yerga Alem, March 19th, 1936.

To the International Red Cross,  
Addis Ababa.

The following will be a statement of gas bomb being used by the Italians to-day at Yerga Alem. At 8 a.m. two trimotor Italian bombing planes went over Yerga Alem. At 5 p.m. two patients were brought along to our camp, both suffering from severe irritation of the eyes with epiphora and blepharospasms and strong irritation of the mucous membranes of the nose and throat. One of them had also a bulbous burn of the skin of the dorsals on both feet.

We immediately left for the town, as we heard that more persons were injured. We found four persons suffering from exactly the same symptoms as regards eyes, nose and throat. All six patients, who were very suffering, were put into our hospital.

On investigation of the spot where the bomb exploded, we found a hole by 3 metres in diameter and 1½ metres deep. Judging by the three pieces of the bomb that we found in the hole, we should say it to have been 75 cm. long and about 30 cm. in diameter, made up of 2 mm. thick sheet-steel welded together. The grass around the hole for about 5 metres was faded, not burned. We enclose a little sample of the powder found nearby. There was a distinct smell of mustard up to 80 metres from the spot. No rain had fallen since the bomb dropped, but the wind had been rather strong in the afternoon.

The injured persons were located 10-20 metres from the exploding bomb.

(Signed) GUNNAR ULLAND.

P.S. — March 20th. — To-day we have treated furthermore fifteen patients injured from the gas-bomb yesterday. All these patients had bulbous burns of the feet and legs, and a few in the face. These burns had all characteristics of burns from mustard gas. I have taken two photos

of these burns on the enclosed film in 32 and 33. When you have made use of these pictures, please forward the whole film to the Norwegian Red Cross, Oslo.

(Signed) VALE.

Excerpt from letter from Mr. Smith, Sudan Interior Mission missionary at Yerga Alem (March 20th, 1936):

" . . . Yesterday, gas was dropped here. Two containers; one exploded, one unexploded. Over thirty people were affected. We have been working on them yesterday and to-day at N.R.C. camp. Seems to be mustard gas mixed with another gas."

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Appendix 8.

[Translation.]

April 10th, 1936.

We give herewith a list, with dates, of gas bombardments carried out by the Italians in flagrant violation of the Geneva Protocol of 1925. The list is far from complete, because since the beginning of March the Italians have been systematically bombing every day, on the fronts and on centres of civilian population, with gases prohibited by that Protocol:

|                       |               |                               |            |
|-----------------------|---------------|-------------------------------|------------|
| Takkaze . . . . .     | December 22nd | Kworam . . . . .              | March 17th |
| Amba Alaji . . . . .  | December 26th | Kworam . . . . .              | March 18th |
| Borana . . . . .      | December 30th | Irga Alem . . . . .           | March 19th |
| Makale . . . . .      | December 31st | Irga Alem . . . . .           | March 21st |
| Sokota . . . . .      | January 10th  | Inda Mehoni . . . . .         | March 29th |
| Makale . . . . .      | January 21st  | Inda Mehoni . . . . .         | March 30th |
| Megalo . . . . .      | February 16th | Kworam <sup>1</sup> . . . . . | April 4th  |
| Waldia Road . . . . . | February 27th | Kworam <sup>1</sup> . . . . . | April 5th  |
| Kworam . . . . .      | March 16th    | Kworam <sup>1</sup> . . . . . | April 6th  |
| Ylan Serer . . . . .  | March 17th    | Kworam <sup>1</sup> . . . . . | April 7th  |

It is also desirable to give statistics of consignments of gas to East Africa which have passed through the Suez Canal:

Between June 25th and December 25th, 1935, there passed through the Suez Canal, consigned to Massawa:

265 tons of asphyxiating gas;  
45 tons of mustard gas;  
7,483 gas-bombs.

On January 4th, at 6.35 a.m., the S.S. *Sicilia* passed through the Suez Canal carrying:

4,700 asphyxiating and tear-gas bombs.

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<sup>1</sup> In these bombardments the gas was sprayed on the town.

**Appendix 9.**

**BOMBING OF No. 1 BRITISH RED CROSS AMBULANCE IN THE PLAIN  
OF KWORAM, MARCH 4TH, 1936.**

No. 1.

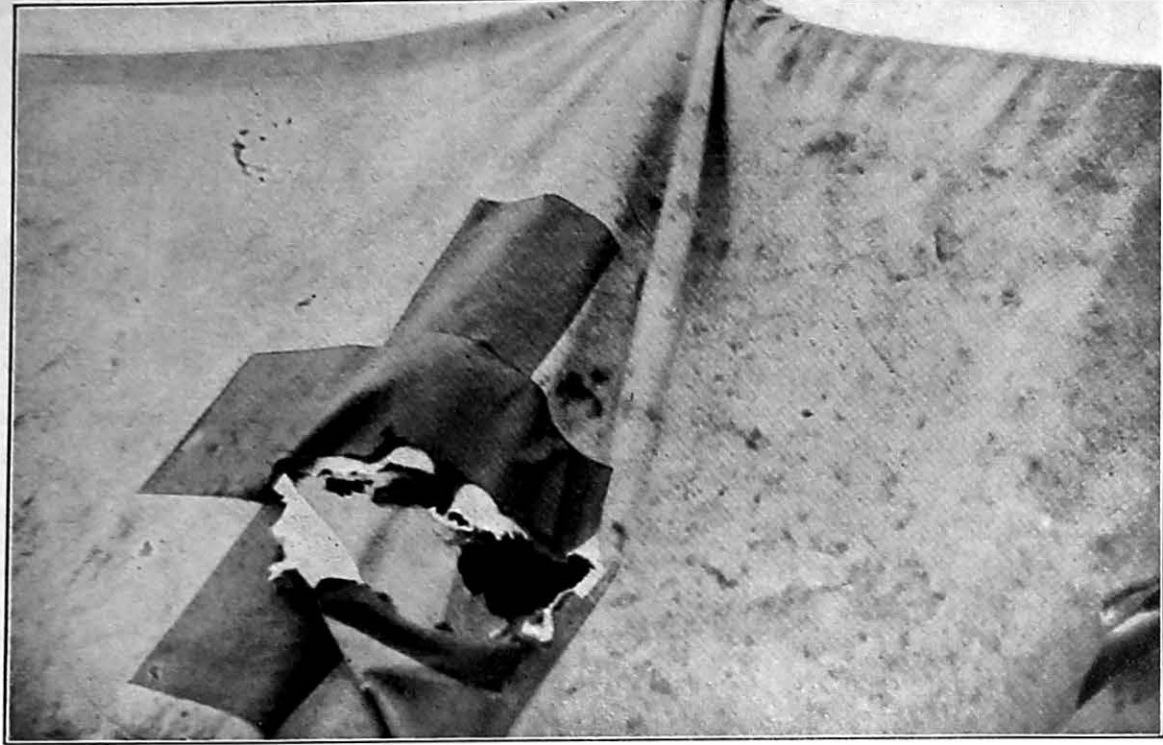


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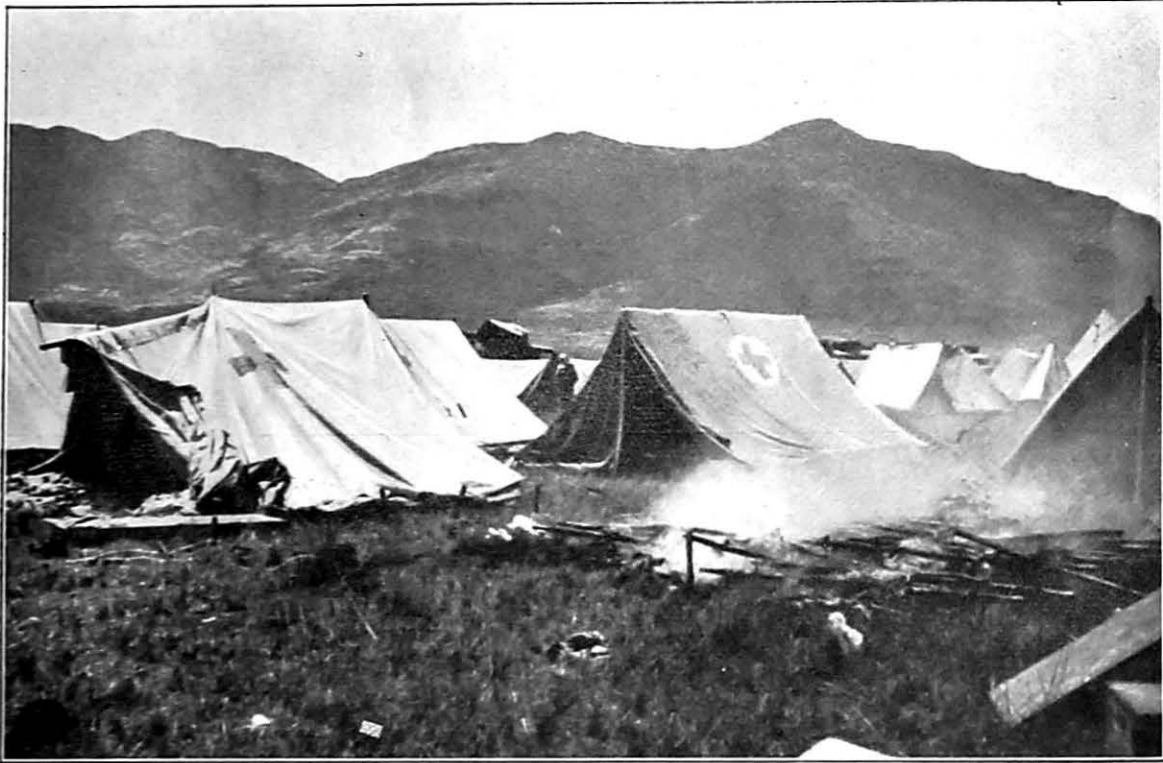




No. 3.



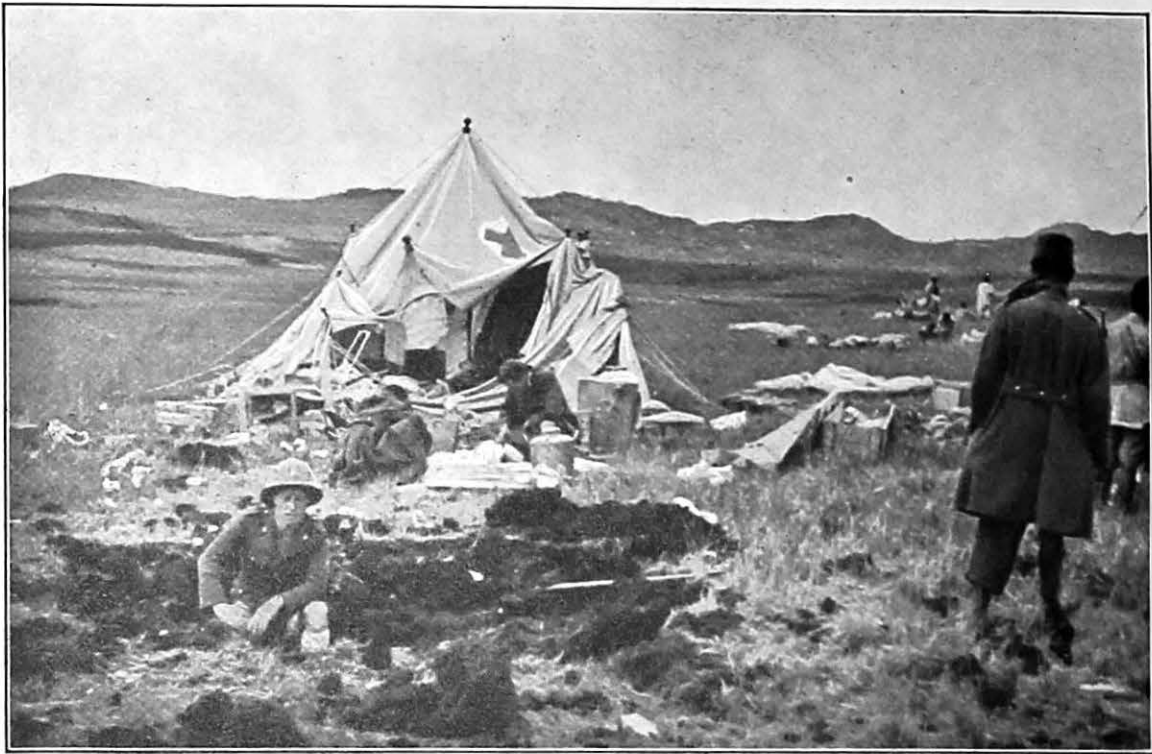
No. 4.



No. 5.



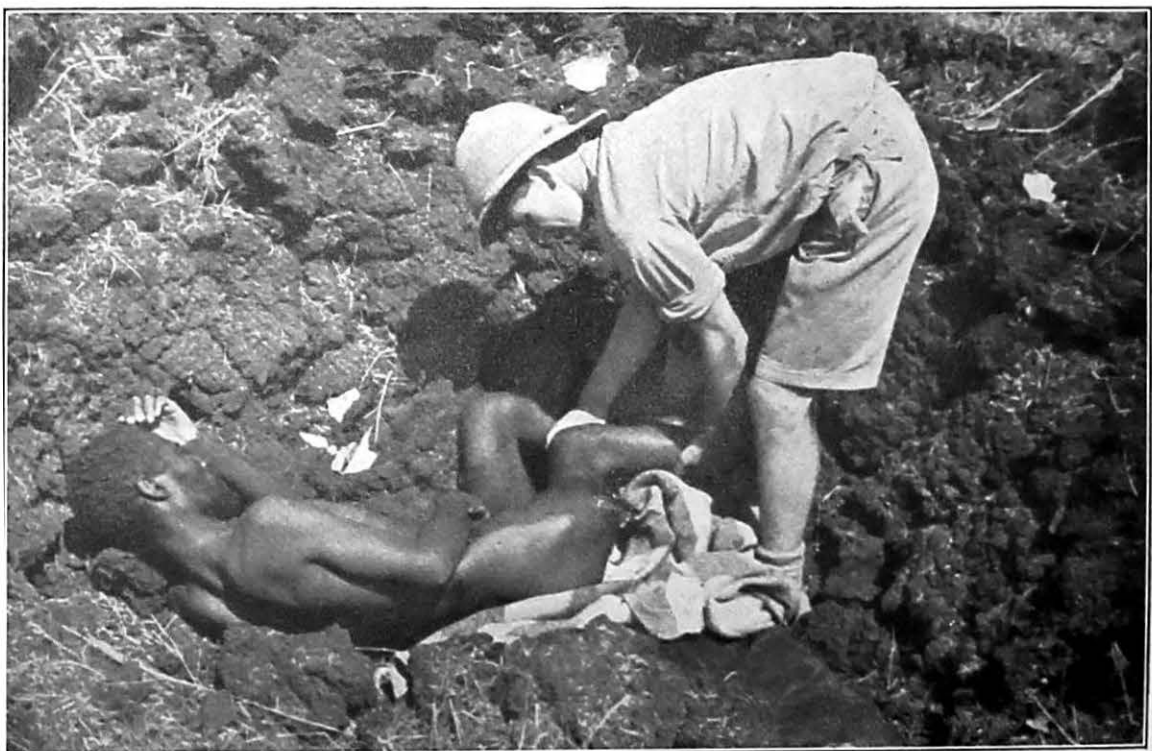
No. 6.



No. 7.



No. 8.



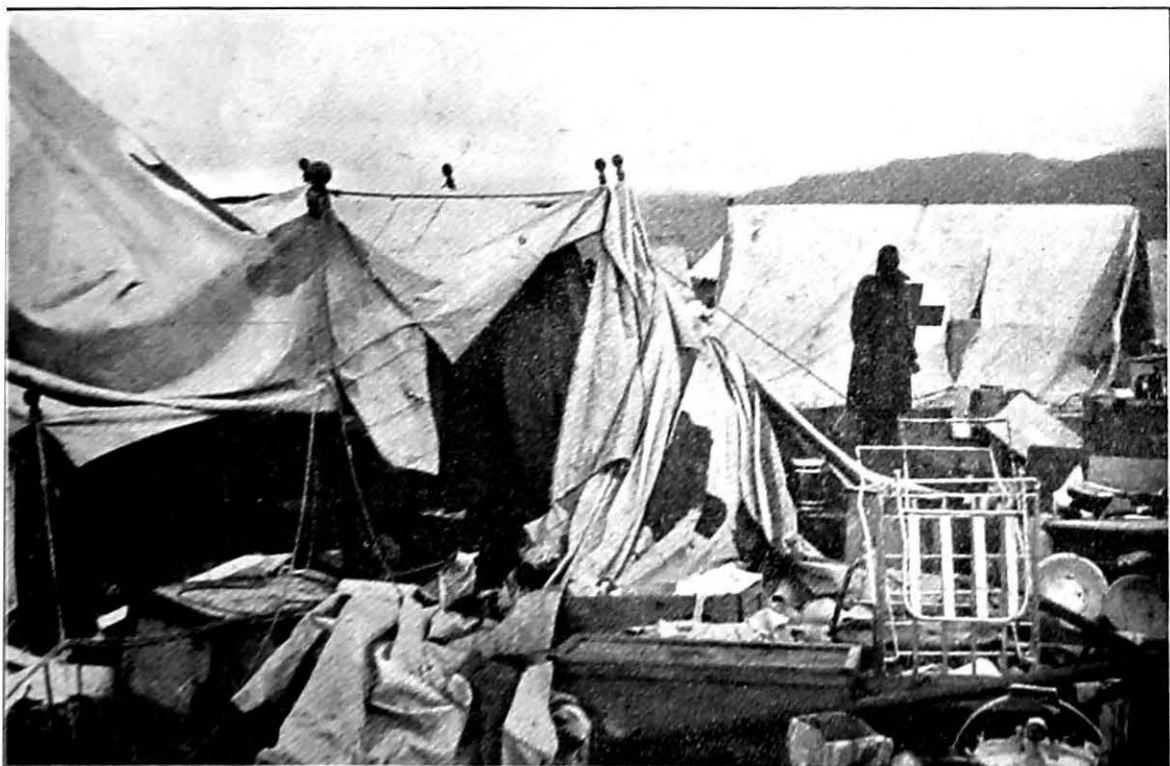
No. 9.



No. 10.



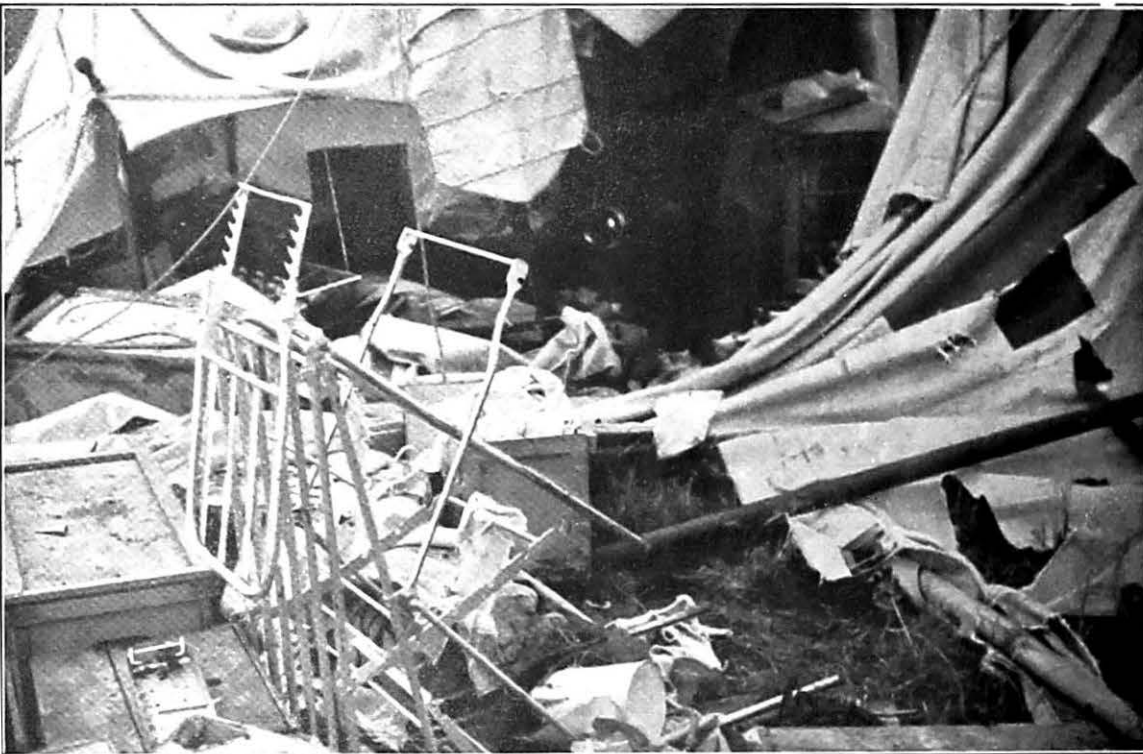
No. 11.



No. 12.



No. 13.



No. 14.



No. 15.



No. 16.



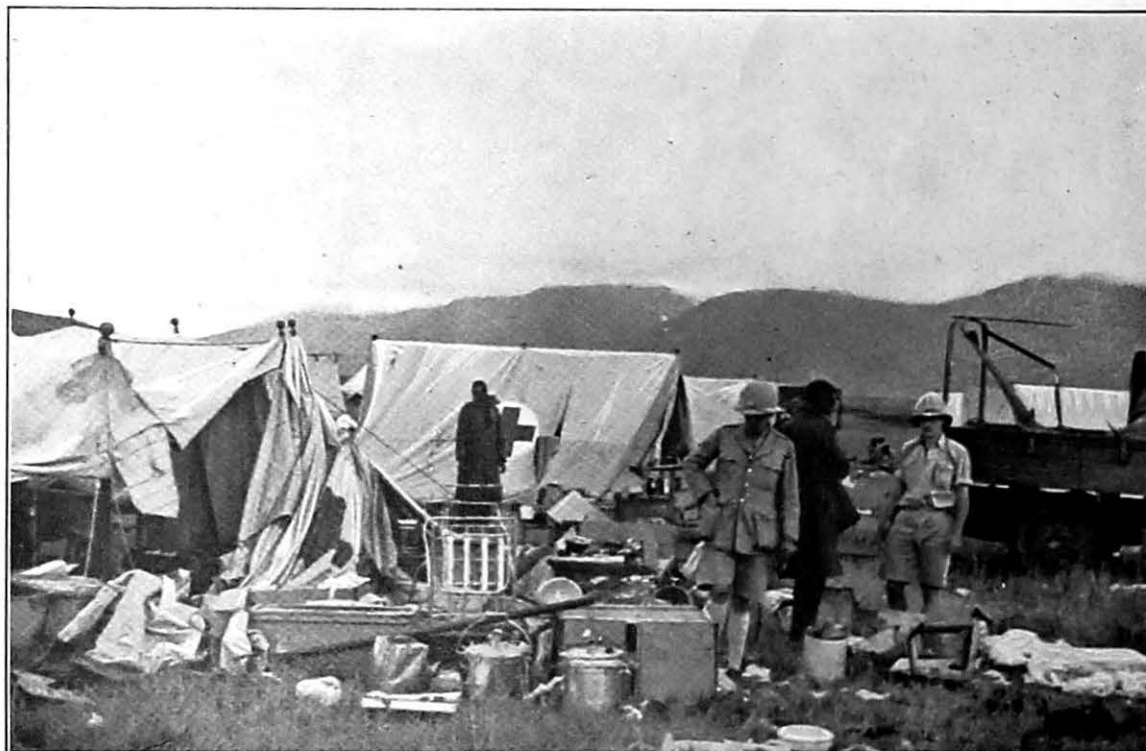
No. 17.



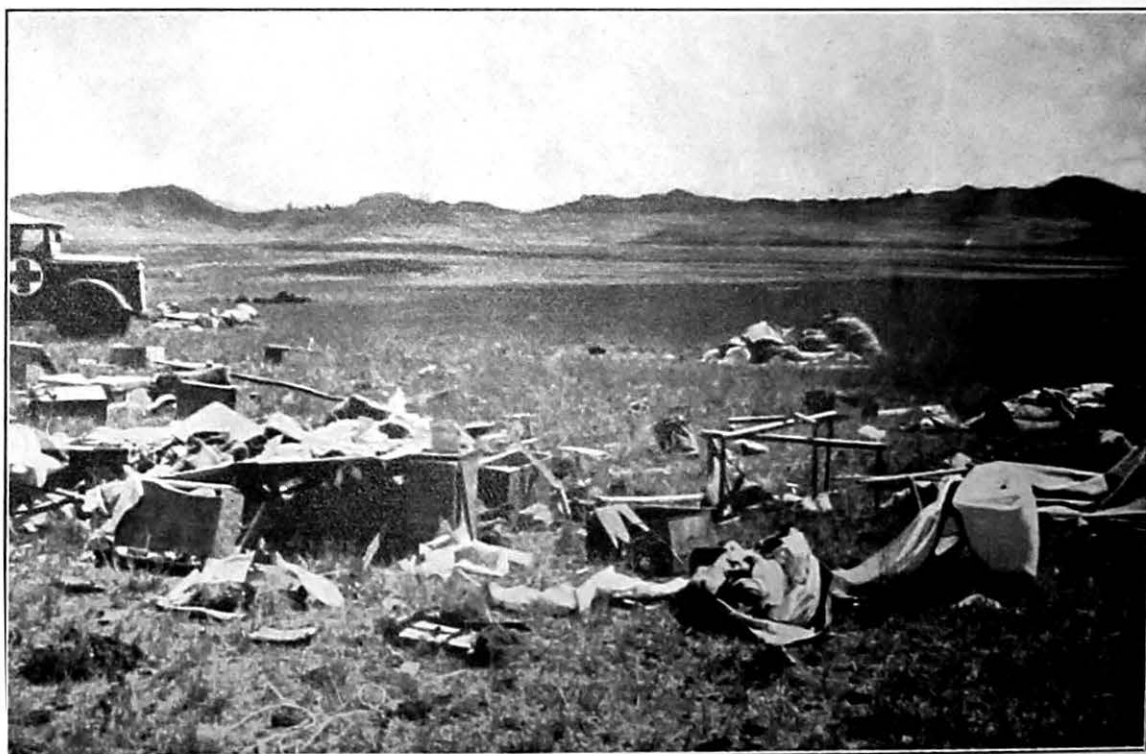
No. 18.



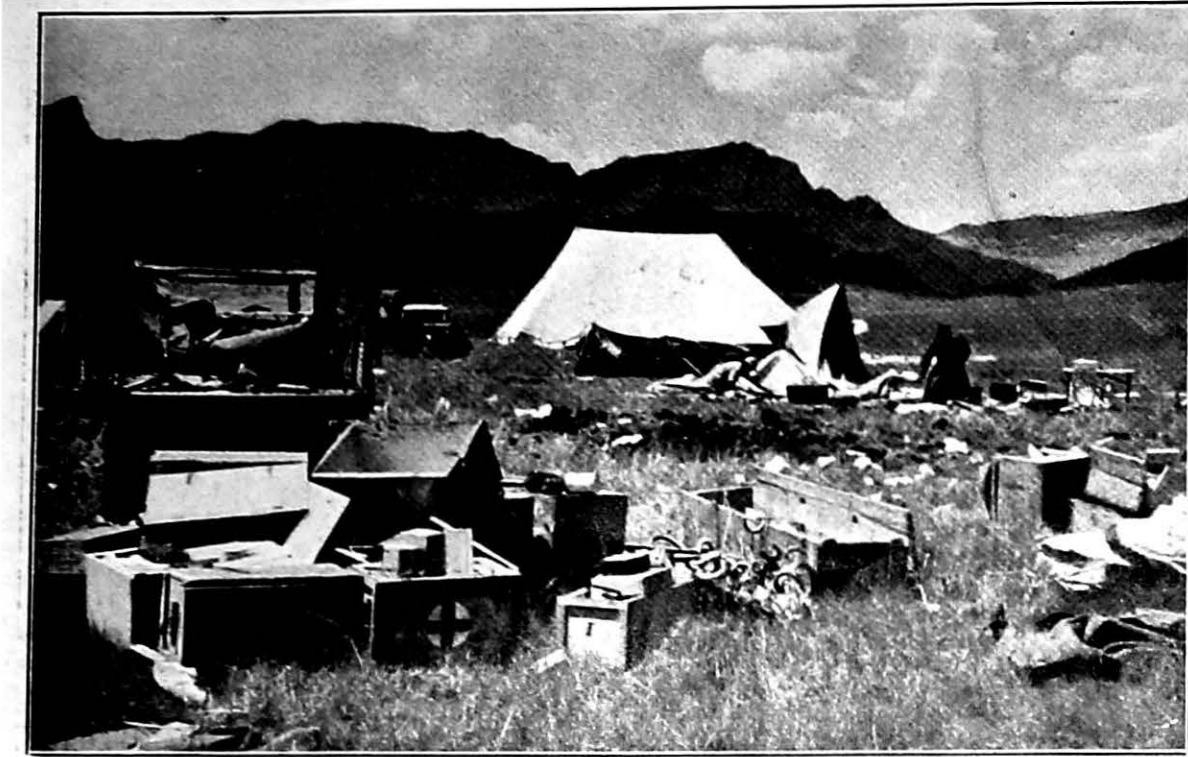
No. 19.



No. 20.



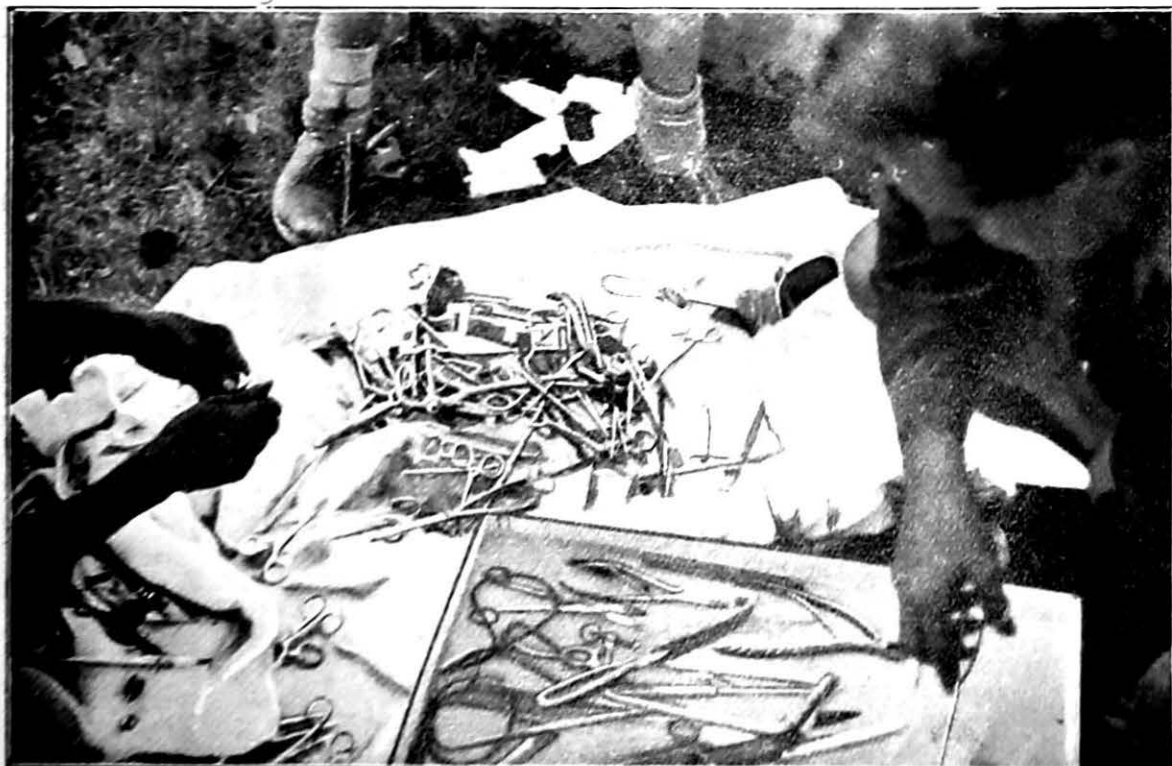
No. 21.



No. 22.



No. 23.



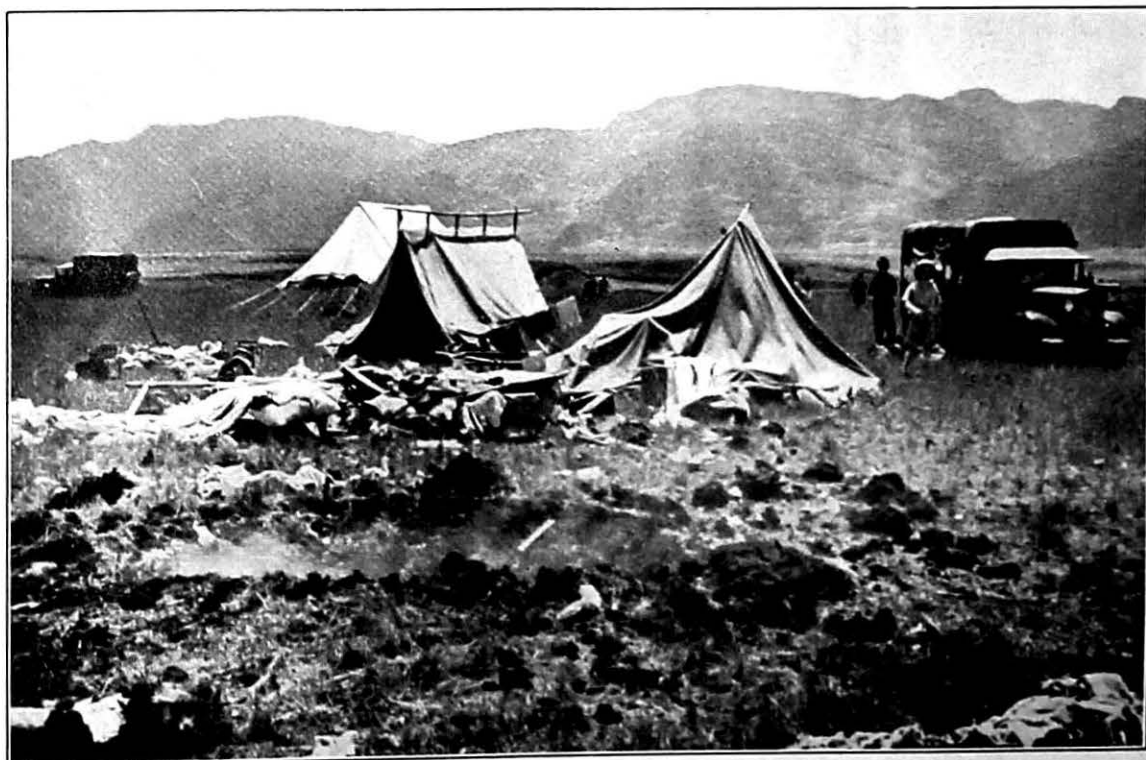
No. 23 bis.



No. 24.



No. 25.





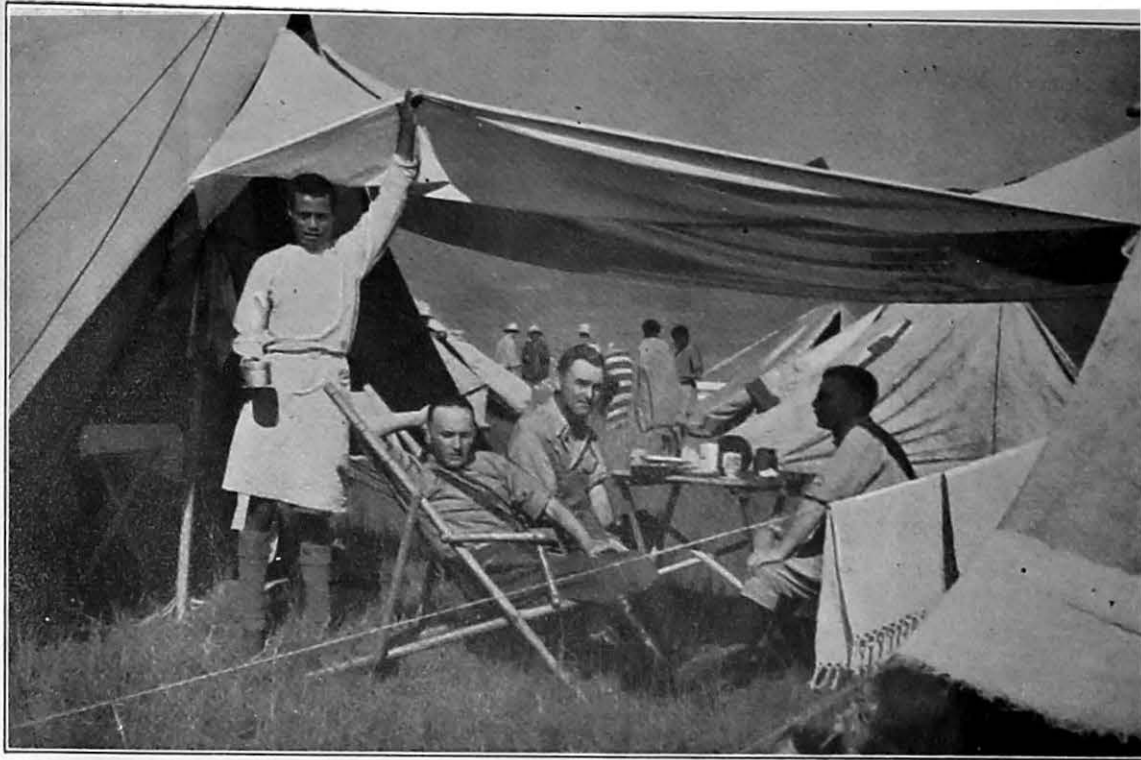
No. 26.



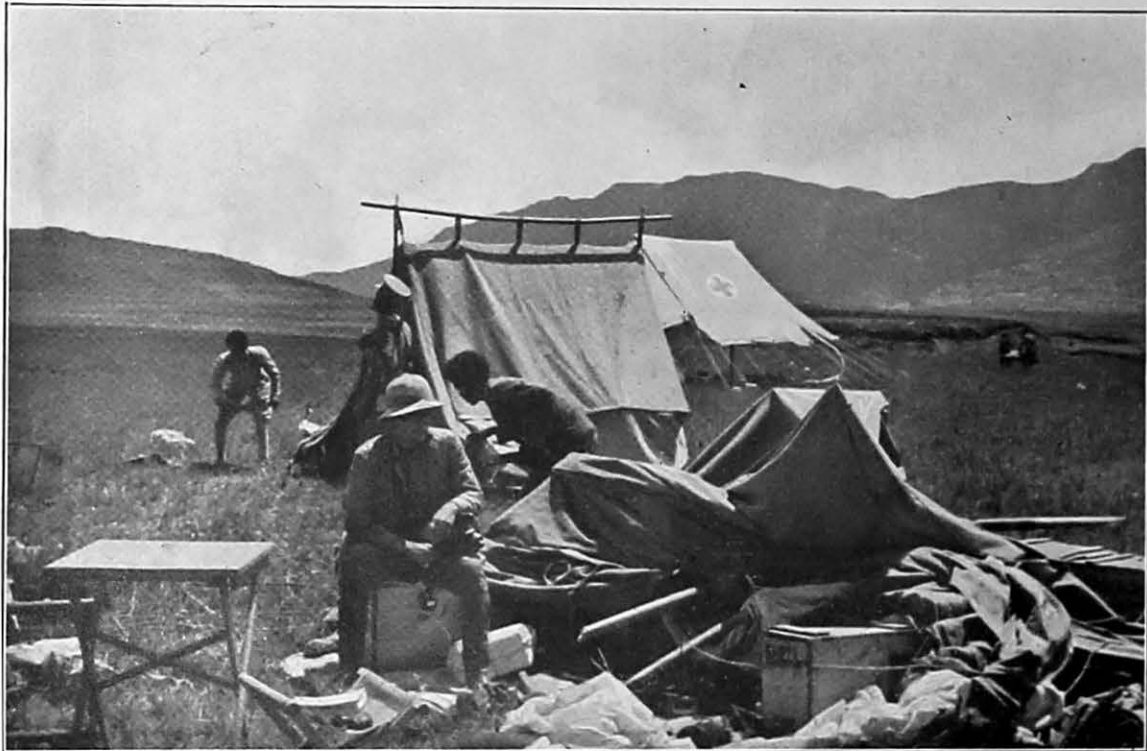
No. 27.



No. 28.



No. 29.

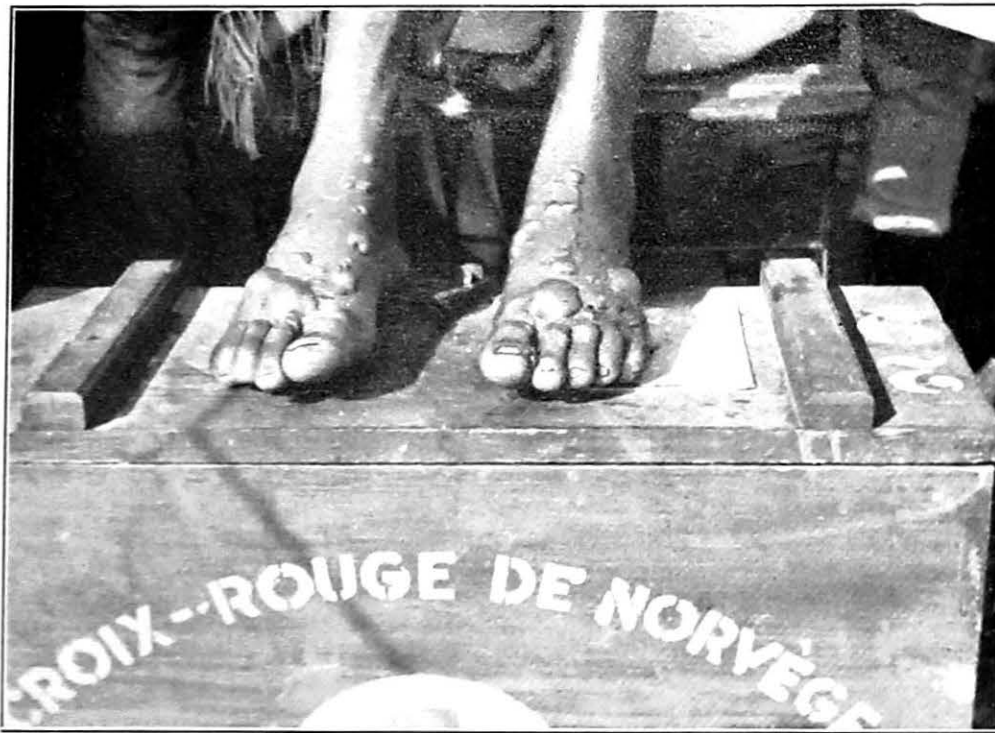


No. 30.





Appendix 10.



No. 1. — March 19th, 1936, at Yrga Allem.



No. 2. — Gassed at Kworam, March 19th, 1936. Typical blisters produced by gas dropped on the plain. Every drop made a blister.



No. 3. — March 19th, 1936, at Yrga Allem.



No. 4. — On March 19th, 1936, at 8 a.m., two Italian triple-engined aeroplanes coming from the south dropped mustard gas on the town of Yrga Allem. Forty-seven gassed cases are being treated by us.  
(See telegram.) Dr. ULLAND.



No. 5. — March 19th, 1936, at Yrga Allem.

Geneva, May 7th, 1936.

LEAGUE OF NATIONS

**DISPUTE BETWEEN ETHIOPIA AND ITALY**

**COMMUNICATION FROM THE SWEDISH GOVERNMENT**

LETTER ADDRESSED TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS  
BY THE SWEDISH MINISTER FOR FOREIGN AFFAIRS.

Stockholm, May 4th, 1936.

*Three annexes.*

Under cover of your letter of April 20th last, you were good enough to send me a copy of the Analysis of the Documents concerning the Conduct of the War in Ethiopia, which mentions the existence of reports from the Swedish Ambulance in Ethiopia.

With reference to that communication, I have the honour to send you herewith copies of the following documents relating to the Swedish Ambulance in Ethiopia—*i.e.*:

(1) Note, dated January 14th, 1936, from the Swedish Minister in Rome to the President of the Council and Minister for Foreign Affairs of Italy;

(2) Note, dated January 17th, 1936, from the Italian Under-Secretary of State for Foreign Affairs to the Swedish Minister in Rome;

(3) Note, dated March 4th, 1936, from the Swedish Minister in Rome to the President of the Council and Minister for Foreign Affairs of Italy, with the following appendices:

(a) Account of the circumstances of the bombing of the Swedish Red Cross Ambulance at Melka Dida (Malka Didaka) on December 30th, 1935, photographic reproductions of a leaflet and of a sketch together with a list of the terms used on the sketch and the text underneath;

(b) Official record of the hearing of a witness and translation of an exchange of telegrams between the Royal Ministry for Foreign Affairs, Stockholm, and the Swedish Consul in Addis Ababa, February 15th-17th, 1936.

I must add that the Swedish Government, which is endeavouring to collect information regarding the attack on an ambulance unit at Ilylan Serer on March 17th, 1936 (see page 8 of the above-mentioned Analysis), is not yet in possession of definite information.

As the Swedish ambulance is mentioned in the analysis under the heading "Use of Poison Gas" (IV.C), I think it my duty to inform you that the Swedish Government has indeed received certain information pointing to the use of gas, but has not felt called upon to open an enquiry into the matter, and therefore is not in a position to supply you with any material on the subject.

(Signed) Richard SANDLER.

ANNEX 1.

[*Translation.*]

In continuation of previous conversations on the subject, the Swedish Government has the honour to inform the Italian Government of the following facts.

An ambulance equipped by the Swedish Red Cross for work in Ethiopia, which was sent to that country with the approval of the Swedish Government and after due notification of the Italian Government, was bombed from the air at Malka Didaka, Province of Boroná, on December 30th last by Italian military forces. The bombing caused a considerable number of victims among the

sick and wounded and staff of the ambulance. Among those killed was an ambulance orderly named Lundström, of Swedish nationality. Another Swedish national, Dr. Hylander, the ambulance's doctor-in-chief, was wounded. The ambulance equipment was largely destroyed.

The Swedish Government immediately requested the Italian and Ethiopian Governments, and also the Swedish nationals serving with the ambulance at the time of the attack from the air, for information concerning the facts of this serious incident. The particulars received were communicated to the Italian Government.

They were, moreover, carefully examined by the Swedish Government itself, which now considers itself in a position to form a reasoned opinion of the facts in question, on the basis more particularly of the information supplied by the Swedish staff of the ambulance. The information which it has so far been able to obtain from the Italian authorities is not such as to lead it to alter that opinion.

The Swedish Government has thus reached the conviction that the Swedish ambulance was directly attacked by the Italian air forces. As this means that Swedish nationals were attacked by Italian forces when employed in rendering assistance in accordance with the 1929 Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field, the Swedish Government considers it its duty to address to the Italian Government a formal protest against this act.

Various Italian *communiqués*, together with a communication from General Graziani, officially transmitted to the Swedish Government, state that the bombing which had such disastrous consequences for the Swedish ambulance was a measure of reprisals adopted in consequence of breaches of the laws of which the Ethiopians are said to have been guilty. The Swedish Government is of opinion that such a reason cannot be held to justify the aggression committed against the ambulance.

As regards the activities of the ambulance, no evidence has been produced to support the allegation that it had in any way whatsoever misused the Red Cross emblem. The Swedish members of its staff have emphatically denied as baseless anything which may have been said to that effect. The Swedish Government has no reason to doubt the accuracy of their statements.

The Swedish Government, which has noted the Italian Government's regrets that Swedish subjects should have suffered from the bombing in question, assumes that it may rest assured that the enquiries set on foot by the Italian authorities with a view to establishing the responsibilities incurred will be rapidly proceeded with and that the aggression will be duly punished. The Swedish Government reserves its right to put forward subsequently any claims which it may regard as justified.

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ANNEX 2.

[*Translation from the Italian.*]

Under-Secretary of State  
for Foreign Affairs.

Rome, January 17th, 1936-XIV.

No. 806.

To His Excellency M. Erik Sjöborg,  
Swedish Minister, Rome.

Monsieur le Ministre,

I have the honour to reply to Your Excellency's note of January 14th last.

In our conversation of January 4th, I informed Your Excellency that the Italian Government was prepared to ask General Headquarters in Somaliland for all information which could throw light on the bombardment of December 30th last, during which the Swedish Red Cross ambulance was hit.

The information received, which provides a reply to some of Your Excellency's questions, was communicated to you by me at our interview of January 12th.

His Majesty's Government is always ready to ask General Headquarters in Somaliland to send any other additional information, but it must most strongly repudiate the suggestion, made in Your Excellency's above-mentioned note, that the Swedish ambulance was directly attacked by the Italian air forces and was consequently the victim of an aggression.

In accordance with the international obligations assumed by Italy and the instructions issued in consequence, and, moreover, in obedience to their own innate feelings of humanity, the Italian airmen, in the course of the military operations which Italy finds herself obliged to conduct in East Africa, make a point of respecting the Red Cross emblem, even when they have good reason to suppose (as has frequently been the case in the course of the operations) that the enemy is abusing it for warlike purposes.

It may, however, happen, as it repeatedly has happened in the past on all battlefields, that some formations bearing the Red Cross emblem may sometimes accidentally find themselves involved in military operations.

No one regrets such an eventuality more than the Italian Government; and it is making every effort to see that it does not arise.

As appears from the statements and information received from Italian Headquarters, an example of such an incident is provided by the case of the Swedish ambulance, which was accidentally hit during the bombing of the tents pitched in its immediate vicinity, which Italian Headquarters had reason to believe were occupied by the chiefs of Ras Desta Damtu's army, and which were bombed in consequence of the barbarous torture and decapitation of an Italian prisoner who had fallen into the hands of the Ethiopian troops.

As I had occasion to inform Your Excellency, His Majesty's Government cannot but deplore this incident and wishes to take this further opportunity of expressing its regret that the Swedish Medical Mission should have been accidentally involved in the risks connected with the military operations during which it was accomplishing its mission in East Africa.

(Signed) SUVICH.

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ANNEX 3.

*Two appendices.*

Acting on my Government's instructions, I have the honour to communicate to you the following regarding the question referred to in my note of January 14th, 1936, and in the official letter which I received on January 17th in reply to that note.

The Swedish Government has carefully examined the information given by the Italian Government in the said note of January 17th, and in the verbal communications made to me by M. Suvich, Under-Secretary of State for Foreign Affairs.

The Italian Government's note points out that it may sometimes happen that some formations bearing the Red Cross emblem may find themselves accidentally involved in military operations, and that, according to the statements and information received from Italian Headquarters, it was in an incident of this kind that the Swedish ambulance was involved. The latter is stated to have been accidentally hit during a bombardment of tents pitched in its immediate neighbourhood, which the Italian Headquarters had reason to believe were occupied by the chiefs of Ras Desta Damtu's army.

The Swedish Government agrees with the Italian Government that a Medical Mission may find itself accidentally involved in military operations and be hit during a bombardment, without the authors of the latter incurring any responsibility. On the other hand, it cannot accept the Italian Government's contention that the bombardment of the Swedish ambulance on December 30th, 1935, constituted an incident of this kind. In its note of January 14th, it expressed the conviction that the ambulance was directly attacked by the Italian air forces. Although in its reply to the said note the Italian Government does not accept this conclusion, the supplementary information received from the Swedish staff of the ambulance obliges the Swedish Government to maintain that the ambulance camp, whatever may have been the reason of the bombardment, was directly attacked by the Italian airmen, and that it constituted, so far as it has hitherto been possible to ascertain, the sole objective. A statement of the facts is attached to the present note.<sup>1</sup> It is based on reports and sketches of the locality received from the chief doctor of the ambulance, and on evidence given by Swedish members of the ambulance on the occasion of the official hearing of witnesses by the Swedish Consul at Addis Ababa. A *procès-verbal*, drawn up by the said Consul<sup>2</sup> and accompanied by an exchange of telegrams regarding it, is also attached to the present note. In the Swedish Government's opinion, the above-mentioned statement clears up the essential circumstances of the incident.

Evidently this statement does not concord with the Italian Headquarters' brief communications, which hitherto constitute the only information supplied by authorised Italian sources. Thus the assertion in the military report that no bomb hit the ambulance itself, but that the damage was caused by fragments of bombs which fell near the Red Cross camp, is contradicted and must be considered as directly refuted by the fact, now ascertained, that a large number of bombs—practically all of them, in fact—fell into the middle of the camp, killing or wounding numerous persons among the sick, the wounded, and the ambulance staff. The Headquarters' assertion that the attack was directed against a tent pitched in the vicinity of the camp is also contrary to the evidence of the witnesses, who unanimously state that there were no other tents than those of the ambulance camp for tens of kilometres around. Lastly, it has now to be regarded as established that, on the day of the occurrence, the weather was perfectly clear and that no error was therefore possible on the part of the airmen regarding the nature of the camp. The existence at this place of any objective for a bombardment other than the Swedish ambulance has not been established. Leaflets signed "Graziani" and proclaiming that the attack was in the nature of reprisals were thrown by the airmen into the actual camp of the ambulance. In this connection,

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<sup>1</sup> See Appendix 1.

<sup>2</sup> See Appendix 2.

attention should be drawn to the particularly important fact that the ambulance camp had already been attacked on December 22nd by Italian airmen, who had subsequently flown over it nearly every day, sometimes at a very low altitude.

The Swedish Government has noted with satisfaction the regret expressed by the Italian Government for the damage caused to the ambulance and its unreserved declarations concerning its duty to respect the Red Cross emblem and the instructions given in consequence to the Italian airmen. Owing to the facts which appear to it to have now been established, however, it is obliged to conclude that these instructions were not obeyed by the military personnel responsible for the bombardment of December 30th.

In consequence of the foregoing, the Swedish Government expresses the hope that the Italian Government, after taking cognisance of the information contained in the present note, will arrive on its own account at the same conclusion as itself on the actual facts and their interpretation. It maintains the request made in its previous note that the aggression committed against the Swedish ambulance should be duly punished. Lastly, it presumes that the Italian Government is prepared to pay compensation, of an amount to be agreed upon between the two Governments, for the damage caused by the bombardment to Swedish nationals and property.

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#### Appendix 1.

#### ACCOUNT OF THE CIRCUMSTANCES OF THE BOMBING OF THE SWEDISH RED CROSS AMBULANCE AT MELKA DIDA ON DECEMBER 30TH, 1935.

On December 21st, 1935, the Swedish ambulance reached Melka Dida on the Ganale Doria about 80 kilometres from Dolo. Owing to the torrid heat, the motor-lorries were immediately placed in the shade of a very thinly wooded palm-grove where the ground slopes down to the river. On the ground bordered by the palm-grove, two big Red Cross flags  $2\frac{1}{2} \times 2\frac{1}{2}$  metres were spread out and three flags 3 metres long attached to a rope stretched between two isolated palm-trees stripped of their leaves, the Red Cross flag being in the middle and the Swedish and Ethiopian on either side, so as to be visible from a great distance.

On December 22nd, two Italian aeroplanes appeared on the south-east horizon and, after a flight over the neighbouring area, flew towards the ambulance camp. One of the machines, following the line of the stream, dropped some bombs before, and a few others after, having flown over the camp; it dropped some bombs also north of the site and on the open ground to the south. The second machine, which came up from the south and kept rather low, opened machine-gun fire right above the camp, though it was impossible to see where the bullets had hit the ground. The aeroplane then wheeled round again above the camp at a lower altitude and machine-gunned it twice. The range of the first shower of bullets extended from the three suspended flags, across the whole camp, between two of the lorries, quite close to Dr. Norup and the orderly Lundgren, and about 1 metre from an Ethiopian orderly called Aga. When it fired its second volley, the aeroplane was about 200 metres up and the bullets hit the ground about 10 metres away from one of the Red Cross flags stretched on the ground quite close to where five Swedes were standing. During the shooting the engine was cut out. This attack caused no damage.

Subsequently, Italian aeroplanes came over practically every day, but made no attack on the ambulance until December 30th. Meanwhile, the ambulance staff had made certain arrangements so as to be able to make a longer stay at that place. For instance, the side of the camp, which covered an area of about  $125 \times 250$  metres, the longer side following the bank of the Ganale Doria, and the actual site of the tents measuring  $75 \times 75$  metres, was marked out by fences and ropes. Near the river, still another Red Cross flag,  $2\frac{1}{2} \times 2\frac{1}{2}$  metres, was also laid out conspicuously on the ground. The three larger hospital tents of the eight ambulance tents were pitched in a very conspicuous spot on the level ground away from the wooded area along the river bank. The Red Cross emblem had been placed on three of the tents and also on the ambulance motor-lorries, which had been parked so far beyond the edge of the wood that they were clearly visible.

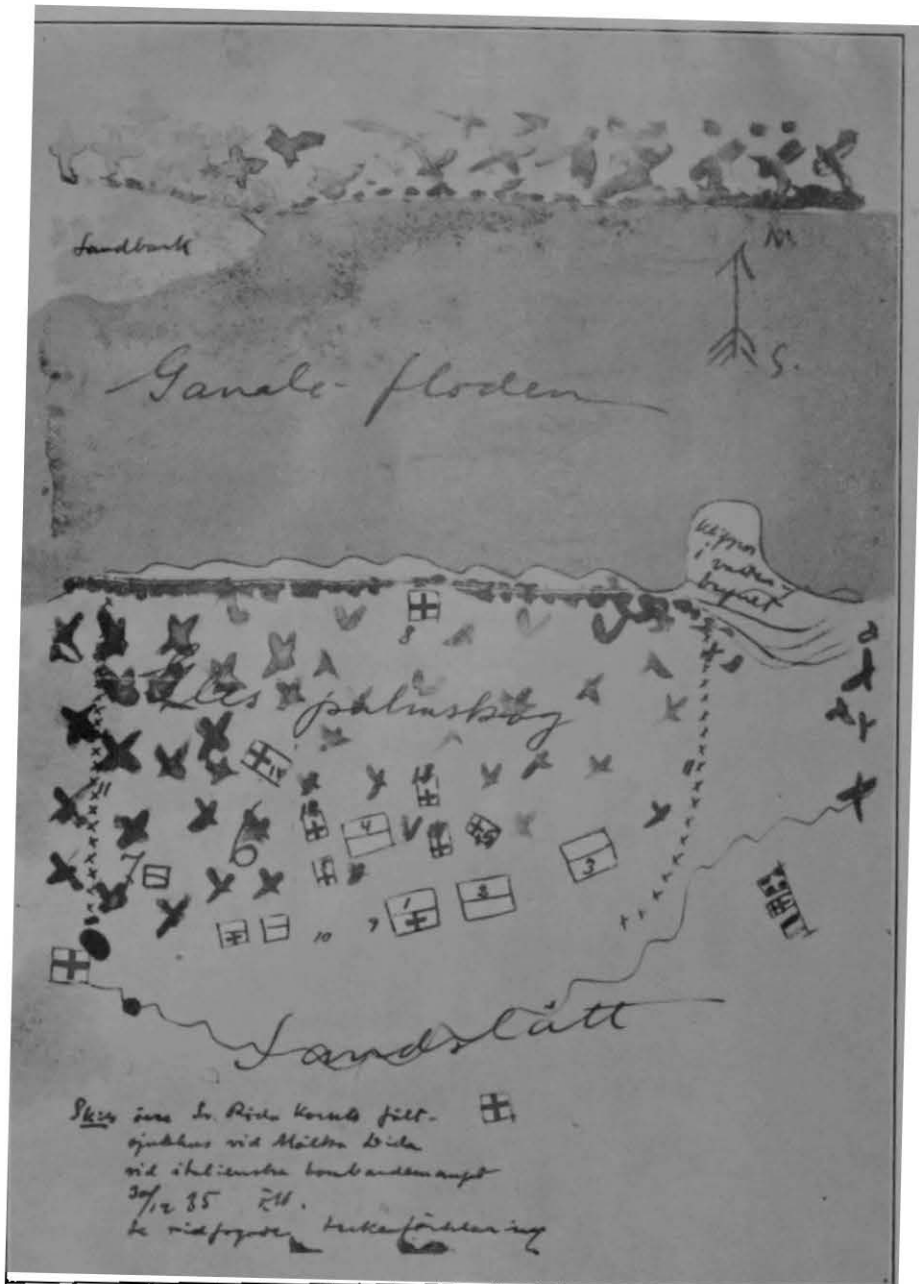
On December 26th, Ras Desta had come near enough to Malka Dida for the members of the ambulance to be able to have an interview with him in the jungle at about 5 kilometres' distance from the ambulance. On December 29th, an Italian aeroplane flew over the camp at a height of about 300 metres and on leaving fired a machine-gun volley. On December 30th, the distance from the ambulance to the Ethiopian front line was about 20 kilometres and to Ras Desta's headquarters at least 5 kilometres.

There were no troops nearer the camp, although it sometimes happened that individual Ethiopian soldiers or groups of soldiers, while marching or during air raids, hid themselves even nearer in the wood bordering the river. The ambulance escort of five men was not quartered in a tent and always remained outside the camp fence, except when its commander called in the course



of his duties. The ambulance tents were the only tents within a radius of many kilometres, and there were none either in the military formations or at Ras Desta's headquarters.

On December 30th, as on the preceding days, the sky was cloudless and the visibility excellent. About 7.30 that morning, four Italian aeroplanes came up along the Ganale Doria, flew over the camp from a south-easterly direction and dropped a few bombs in the wood. A little later six other aeroplanes in two groups of three, flying in close formation, came over from the south, where there



*Meaning of Signs on the Sketch.*

|  |   |
|--|---|
| N . . . . .  | North.  |
| S . . . . .  | South.  |
| Sandbank . . . . .   | Sandbank.   |
| Ganale-floden . . . . .  | Ganale River.   |
| Klippor i vattenbrynet   | Rocks at the edge of the water.   |
| Gles palmskog . . . . .  | Thinly wooded palm-grove.   |
| Sandslätt . . . . .  | Sandy plain.  |
| Skiss över Sv. Röda Korsets fältsjukhus vid Malka Dida vid italienska bombardemanget 30/12 35. F.H. Se vidfogade teckenförklaring. | Sketch of the camp of the Swedish Red Cross Ambulance at Malka Dida during the Italian bombardment of December 30th, 1935. F. H. (Fride Hylander). See explanation below. |

*Explanation.*

1. Tent for septic operations. Perforated by about 380 holes.
2. Tent for aseptic operations. Perforated by about 450 holes.
3. Pharmacy and tent for internal examinations. One patient applying for admission killed at the door of the tent.
4. Mess-tent. On the roof, piece of a patient's flesh.
5. Motor-lorry on which Lundström was killed.
6. Surgical and medical section.
7. Dysentery cases. Tent completely destroyed.
8. Open clearing where Red Cross flag  $2\frac{1}{2} \times 2\frac{1}{2}$  metres was spread out.
9. Place where Hylander was wounded.
10. Place where Lundgren was wounded.
11. Fence of bushes.
- 12-15. Motor vehicles.
16. Sanitary tent (medical section).



Area bombed.

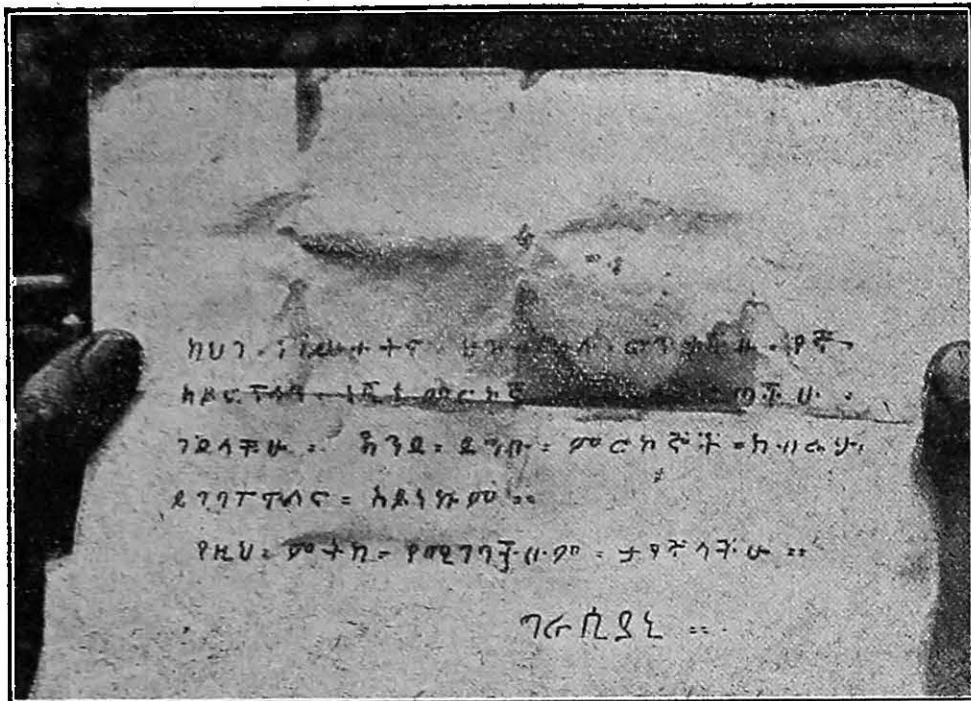
was a clear view of the camp. These six aeroplanes started to bombard the ambulance as soon as they were above the camp, the attack being continued by the four machines above mentioned, which had returned from the north-west. The attack lasted, it was calculated, altogether about twenty minutes, including some pauses during which the aeroplanes made a half-turn and came back over the camp. It is hard to tell the exact height at which they were flying during the bombardment, owing to the surprise caused by their attack and the clouds of dust raised by the very first explosion, and also because no member of the ambulance had experience in estimating the height of an aeroplane's flight. It is, however, believed that, when the first bombs were dropped, the planes were between 500 and 700 metres up. The noise of the bombs falling resembled a peal of thunder. The number of explosions was estimated at about 100, the noise of the explosions partly overlapping. Almost all the bombs fell in the centre of the camp, where great destruction was done, while the ambulance escort, for instance, only some hundred metres away and the members of the staff who had time to take shelter at the edge of the wood or outside the latter remained unscathed. The number of bombs which fell directly into the camp was not counted. From the place where he fell, nearly in the centre of the camp, Dr. Hylander thinks that he counted some thirty holes. As a matter of fact, the bombardment had made larger or smaller holes all over the ground, the biggest being more than two metres deep. Several were used later for burying the dead and were thus filled up. Many incendiary bombs were noticed burning.

During the bombardment, twenty-eight persons were killed outright or died the same day, while the number of wounded was about fifty. The death-roll then rose to forty-two, all wounded or sick persons undergoing treatment by the ambulance or members of its staff. At least one of the hospital tents had received a direct hit from a bomb and the others were torn to pieces by

splinters flying in all directions; two, for instance, were perforated with hundreds of big and small irregular holes evenly distributed over the whole of their surface. All the lorries had also been more or less damaged.

During the bombardment, the orderly Lundström, who was sitting at the time on one of the lorries, was hit in the face by a big shell splinter which carried away the inside of the lower and

upper jaws. He succumbed to his wounds shortly afterwards. The orderly Lundgren had his scalp pierced by a splinter, which grazed the skull. Dr. Hylander was injured in the back and left thigh and wounded by steel splinters in the right thigh and back muscles.



After the bombardment, hectographed leaflets in the Amharic tongue were picked up (photographed copy herewith) which had been dropped into the camp from the aeroplanes and which in the translation read as follows:

“ You have transgressed the laws of kingdoms and nations by killing a captive airman by beheading him. According to the law prisoners must be treated with respect. Do not touch them! You will consequently receive the punishment which you deserve. — GRAZIANI.”

Appendix 2.

[Translation.]

OFFICIAL RECORD OF THE HEARING OF A WITNESS.

On January 18th, 1936, at the Bethsaida Hospital at Addis Ababa, there took place a further hearing before the Swedish Consul at Addis Ababa of Dr. Fride Hylander, Doctor-in-Chief of the Swedish Ambulance in Ethiopia, concerning the bombardment of the said ambulance by Italian air forces on December 30th, 1935, of which the Consulate was first informed by telegram on December 31st, 1935.

The above-mentioned hearing was recommended by a telegram from the Ministry of Foreign Affairs dated January 15th, 1936.

The other members of the staff of the ambulance being at a distance from Addis Ababa, it has only been possible to record in the present statement the evidence of Dr. Hylander. The previous repeated hearings of Pastor Josef Svensson and Dr. Erik Smith, both eye-witnesses of the bombardment, on being compared with the description given by Dr. Marcel Junod, delegate of Geneva, have not resulted in any finding essentially modifying the statements of Dr. Hylander, which are, on the contrary, fully confirmed by the evidence of the above-mentioned persons.

Dr. Fride Hylander stated that he was born on February 2nd, 1898, and was domiciled at Jönköping, passed his examination as Licentiate in Medicine in 1926 and was appointed as First Assistant Doctor of the Central Hospital for the province of Jönköping in 1933. He was appointed Doctor-in-Chief of the Swedish Ambulance in Ethiopia in 1935.

In the first place, the report dated January 6th, 1936, to the Central Committee of the Swedish Red Cross was examined.

*Place.* — Dr. Hylander states that the Swedish ambulance was situated at Melka Dida, where it had arrived on December 21st, 1935; Melka Dida is situated on the west bank of the River Ganale at about 80 kilometres from the town of Dolo on the Upper Juba River.

*Marking of the camp.* — The camp was marked with three Red Cross flags measuring  $2\frac{1}{2} \times 2\frac{1}{2}$  metres spread on the ground, and three flags measuring 3 metres—Red Cross, Ethiopian and Swedish—spread between two isolated trees stripped of their leaves. Three of the eight tents bore large red crosses on the roof.

*Dimensions of the camp.* — The camping-ground had a total area of  $125 \times 250$  metres, the longer side following the bank of the river; the actual ground on which the tents were pitched measured  $75 \times 75$  metres. The camp was separated from the neighbouring ground by an artificial hedge of thorn-bushes.

*Distance from the military formations.* — The distance of the ambulance from the first Ethiopian lines was about 20 kilometres and the distance from the headquarters of Ras Desta was at least 5 kilometres.

There were no troops at a lesser distance from the camp.

*Escort.* — The escort, which consisted of five men, always remained outside the camp enclosure, except for some visits from its head in connection with service requirements.

*Atmospheric conditions.* — On December 30th, the sky was perfectly clear, as on the previous day, and visibility was extraordinarily good.

*Number of aircraft.* — The attack was carried out by ten aeroplanes in two groups of six and four machines each.

*Direction of the attack.* — The six aeroplanes which began the attack came from the south, where there was nothing to prevent them from seeing the camp. The four which took part later had previously flown over the camp from the south-east, then made a half-turn and returned from the north-west.

*Height of the aeroplanes.* — It is difficult to state at what height the machines were flying, on account of the sudden nature of the attack and the enormous clouds of dust raised by the first explosion. Dr. Hylander, however, thinks he may estimate the height at 500 to 700 metres, since on the approach of the machines he raised his head to look at them and distinctly saw them throw the first bombs. Dr. Hylander points out that neither he nor any other member of the ambulance is accustomed to estimating the height at which aeroplanes fly.

*Duration of the attack.* — The duration of the attack is estimated at about twenty minutes in all, with pauses during which the machines made a half-turn in order to return over the camp.

*Number of bombs.* — The number of bomb explosions is estimated at about 100, the noise of the explosions partly overlapping.

*Direct hits.* — The number of bombs which fell directly into the camp was not counted. Dr. Hylander thinks he counted about thirty holes from the place where he fell, approximately in the middle of the camp. Several bomb holes were used for the burial of the dead and were then immediately filled in. One at least of the medical tents was directly hit by a bomb, while the other tents were torn into shreds by the splinters which flew from all sides. It is difficult to state whether there were any ricochets; if so, they would have been caused by the rebound against objects situated in the camp. There were no stones on the ground, but only fine sand, which had not been beaten down hard.

*Number of killed and wounded.* — Twenty-eight persons were killed immediately or died the same day and about fifty were wounded. The number of dead as a result of the bombardment amounted afterwards to forty-two, all sick, wounded or members of the ambulance staff.

*Material damage.* — All the tents were more or less in shreds, most of them to such an extent as to be rendered valueless, although it has been possible to make them provisionally fit for use. All the motor vehicles were more or less damaged, all the glass on them was splintered and the radiators of two of them were broken. It is proposed to have an estimate made by experts of the loss of value suffered by the motor vehicles. With regard to the damage caused to medicaments, instruments and other articles of equipment, the manager of the ambulance, Pastor Svensson, is preparing a list.

*Neighbourhood.* — No other tent than those of the camp was situated on the ground, not even in the distant military formations or at headquarters. Headquarters and the troops were camping in natural grottos and caves dug out for the purpose, so that there were no tents for a distance of several tens of kilometres. The nearest were certainly those of the Italian troops themselves.

*No abuse of the red cross.* — Dr. Hylander energetically denies having in any way abused the red cross, and states that there were neither European nor Ethiopian officers in the camp or even in the neighbourhood, with the exception of the escort, consisting of five men, which was outside the camping-ground (without a tent).

*The attack not due to a mistake, but premeditated.* — The attack was undoubtedly premeditated. The following facts tend to confirm this:

- (1) For more than a week there had been daily reconnaissances;
  - (2) The Red Cross camp was the only camp with tents for many tens of kilometres around;
  - (3) The dropping of bombs was concentrated on the camp: the escort, which was at a distance of only 100 metres from the camp, remained uninjured, while the devastation in the camp was terrible;
- The members of the staff who had time to hide on the edge of or outside the camp remained uninjured;

- (4) No other bombardment took place on the same day in this area;
- (5) The multigraphed communications thrown into the camp from the aeroplanes read, in translation, as follows:

“ You have transgressed the laws of kingdoms and nations by killing a captive airman by beheading him. According to law, prisoners must be treated with respect. Do not touch them! You will consequently receive the punishment you deserve. — GRAZIANI.”

The object was revenge.

On being specially questioned, Dr. Hylander stated that he had nothing more to say and nothing to add to the above statement, and his hearing was accordingly concluded.

Addis Ababa, Bethsaida Hospital, January 18th, 1936.

(Signed) Knut HANNER,  
Consul.

[Stamp of the Royal Swedish Consulate, Addis Ababa.]

Translation of an exchange of telegrams between the Royal Ministry of Foreign Affairs at Stockholm and the Swedish Consul at Addis Ababa, February 15th-17th, 1936:

1. Royal Ministry of Foreign Affairs to the Swedish Consul at Addis Ababa, February 15th, 1936:

“ Has the evidence of M. Hylander appearing in the statement been confirmed in your presence by other Swedish members of the ambulance? Which members? ”

2. Swedish Consul at Addis Ababa to the Royal Ministry of Foreign Affairs, February 17th, 1936:

“ Smith, Norup, Holm, Svensson, Allander, Lundgren, Joelsson confirm.”

Geneva, May 12th, 1936.

LEAGUE OF NATIONS

**DISPUTE BETWEEN ETHIOPIA AND ITALY**  
**COMMUNICATION FROM THE ITALIAN GOVERNMENT**

*Note by the Secretary-General.*

The Secretary-General has the honour to distribute to the Council and the Members of the League the following communication, received on May 11th.

*[Translation from the Italian.]*

Rome, May 9th, 1936.—XIV.

*To the Secretary-General.*

On May 2nd, 1936, the Ethiopian Legation in Paris communicated to you a number of documents<sup>1</sup> with intent to prove that, in the military operations against the Italian troops, the Ethiopian armed forces had always respected the rules and customs in force, whereas they had been violated by the Italian troops.

Notwithstanding the fact that the note in question proceeds from a diplomatic agency of a State which no longer exists, I have the honour to communicate to you the following, purely for the information of the States Members of the League of Nations.

1. Some time ago, the Italian Government was informed that certain agents were carrying on an agitation in Egypt with the object of destroying the credit of the depositions made by certain members of the Egyptian Medical Mission in Ethiopia concerning the atrocities committed by the Abyssinian troops upon Italian prisoners. These agents endeavoured to cause the deponents to retract, by using threats, or to accuse them of perjury and dishonesty, obtaining denials from other sources for that purpose. One of the first who attempted to deny the evidence was Dr. Nashed Tadros, a former member of the Mission.

As many as twenty members of the Egyptian Medical Mission, however, on their recent return to Egypt, confirmed, by a statement of which I enclose a copy and a translation (Appendices 1 and 2) the information regarding the tortures inflicted upon Italian prisoners.

2. On March 17th, 1936, near Quoram, two aeroplanes standing side by side and not bearing the Red Cross emblem were destroyed. The same persons have admitted that they masked the aeroplanes to make them invisible.

This use of camouflage is plainly inconsistent with the provisions of Article 18 of the Geneva Convention.

3. As regards the incidents in which the British ambulance at Quoram was involved early in March last, I would refer to the note addressed to you on May 7th, from which it will be seen that, on March 3rd and 4th, Italian aeroplanes were fired upon and hit by anti-aircraft guns from the site of the ambulance—a circumstance that calls into operation Article 7 of the Geneva Convention, which lays down that medical units lose all right to protection if they commit acts injurious to the enemy: and that, on March 5th, an Italian aeroplane was hit and almost disabled by Oerlikon projectiles fired from a gun or guns stationed in the immediate vicinity of the ambulance—which obviously cannot ensure the ambulance against being involved in the effects of the consequences of such provocative action.

4. With regard to the assertions concerning the use of poisonous gases, I would refer to the note addressed to the Chairman of the Committee of Thirteen on April 30th last, in which it was stated, *inter alia*, that His Majesty's Government is anxious to establish (in the manner indicated) the truth of the facts, which cannot fail to prove that the statements contained in those assertions

<sup>1</sup> See document C.201.M.126.1936.VII.

are false and tendentious. As was also stated, His Majesty's Government has never ignored the provisions of the Protocol of 1925, although it regards that Protocol as not precluding the exercise of the right of reprisal in punishment of such abominable atrocities as those committed by the Ethiopian forces, which would be inconceivable in civilised countries (torture and decapitation of prisoners; emasculation of the wounded and killed; savagery towards and the killing of non combatants; systematic use of dum-dum bullets, etc.).

The attack upon Dr. van Schelven, Head of the Dutch Ambulance, the murder of Dr. Melly Head of the British Ambulance, and the scenes of bloodshed at Addis Ababa before the entry of the Italian troops confirm what the Italian Government has repeatedly asserted on the basis of numerous concordant statements from its own authorities and a variety of foreign witnesses.

(Signed) ALOISI.

Appendix 1.

ATROCITIES COMMITTED UPON ITALIAN PRISONERS: STATEMENT BY TWENTY MEMBERS OF THE EGYPTIAN MEDICAL MISSION.

نحن أعضاء البعثة الطبية المصرية العائدة من بلاد الحبشة  
نفرد باسمنا وذكره اخواننا المصريين العائدين من الحبشة بما  
ما شاهدناه او سمعناه من تعذيب الأسرى الأيطاليين  
وما ذكره الدكتورنا عبد حامد باشا البعثة سابقا لاجل  
الضعف الذي انهم لم يقدروا من يوم نزولهم في البلاد  
واحد وقد اطلعوا عليه الأعيان وعلى زعمائهم بنادقهم  
وبالله السلام مني

عبد الرحمن  
عبد الرحمن  
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عبد الرحمن  
عبد الرحمن

Certified true copy:

(Signed): G. Rocco,  
Chief of the International  
Institutions Division.

[L.S.]

**Appendix 2.**

ATROCITIES COMMITTED UPON ITALIAN PRISONERS: STATEMENT BY TWENTY MEMBERS  
OF THE EGYPTIAN MEDICAL MISSION.

[*Translation from the Italian.*]

We, Members of the Egyptian Medical Mission returned from Abyssinia, declare that what has been reported by our colleagues, the medical orderlies returned from Ethiopia, concerning what they have heard and seen of the atrocities committed upon Italian prisoners, is true.

We further declare that the statements of Dr. Nashed, formerly Chief Medical Officer of the Egyptian Medical Mission, are not in accordance with the facts, inasmuch as he did not leave Harrar on one single occasion after the day of his arrival. The Abyssinians then fired upon Dr. Nashed and his colleagues, whom God preserved unharmed.

(*Signed*):

- |                              |                               |
|------------------------------|-------------------------------|
| (1) KAMEL AHMED.             | (11) AUAD KHALIL.             |
| (2) LABIB SALAMAH.           | (12) ALY EL MASRI.            |
| (3) ABDEL UAHID HASSANEIN.   | (13) MAHMUD SHUEB.            |
| (4) ALY MURSI MUBAREK.       | (14) MOHAMMED EL MAHDI.       |
| (5) MOHAMMED SHUEIR.         | (15) SAID MOAUAD.             |
| (6) ABDEL RAHMAN ALY SHERIF. | (16) ADLY HANAFLI.            |
| (7) MAHMUD ALY IBRAHIM.      | (17) HABIB ABDEL MESSIH.      |
| (8) LABIB HASSAN.            | (18) HASSAN ALY KHALIFA.      |
| (9) MAHMUD ABDEL UAHID.      | (19) ALY SEUDI.               |
| (10) ABDEL ALY EID.          | (20) SCIAHATA SABUR GHIRGHIS. |

Geneva, May 19th, 1936.

LEAGUE OF NATIONS

**DISPUTE BETWEEN ETHIOPIA AND ITALY**

**COMMUNICATION FROM THE ITALIAN GOVERNMENT**

*Note by the Secretary-General:*

The Secretary-General has the honour to distribute to the Council and Members of the League the following communication, received on May 11th.

*[Translation from the Italian.]*

**USE OF DUM-DUM BULLETS BY THE  
ETHIOPIAN TROOPS**

**PROTEST BY THE ITALIAN GOVERNMENT TO THE  
LEAGUE OF NATIONS**

MINISTRY FOR FOREIGN  
AFFAIRS.  
No. 215341/22.

Rome, April 30th, 1936 — XIV.

*To the Secretary-General.*

In numerous communications<sup>1</sup> I have reported to you the proved and continuous use by the Abyssinian troops of expansive, or so-called dum-dum, bullets, which produce particularly cruel wounds and often cause death.

I now transmit to you the following fresh data and documents, in chronological order:

A. On October 15th, 1935, at Sella Utrarà (northern front), Askari Uoldegherghis Tesfabruc was wounded by a dum-dum bullet. I enclose copy of the medical report on this case (Appendix 1).

B. In an encounter which took place at Hananlei (southern front) on November 11th, 1935, several Italian native soldiers (dubats) were wounded with dum-dum bullets, as already reported to you.<sup>2</sup>

I now enclose copies of the medical reports containing the clinical history of some of these cases (Appendix 2).

C. On December 18th, 1935, at Debra Amba (northern front), Sergeant-Major Edoardo Di Noia was hit by a dum-dum bullet, which caused his death. I enclose copies of the medical report on this case (Appendix 3).

D. On January 21st, 1936, in an encounter in the Gabat Valley, in Tembien (northern front), Militiaman Benigno Zedda was hit by a dum-dum bullet, which caused his death. I enclose the medical report and a photograph (Appendices 4 and 5).

E. On the same date, in an encounter near Negaidà (northern front), Sergeant Federico Maikus and Private Arturo Sirignano, of the 20th Infantry Regiment, were wounded by dum-dum bullets. I enclose the relative medical reports (Appendices 6 and 7).

<sup>1</sup> Telegram and note of December 17th, 1935; telegram of December 20th, 1935; telegram and note of December 21st, 1935; telegram of January 16th, 1936, and note of January 18th, 1936; note of March 9th, 1936; telegrams of April 7th and 18th, 1936.

<sup>2</sup> Telegram of January 16th, 1936, and note of January 18th, 1936.



F. On the same date, Capomanipolo Vincenzo Crispo and Militiaman Armando Trenti, of the 202nd Legion of Blackshirts, and Militiaman Mario Mancini, of the 192nd Legion of Blackshirts, were also wounded by dum-dum bullets. I enclose a medical report on these cases, two photographs of Crispo's wounds, a photograph of the fragments of the bullet found in him, two X-ray photographs of Militiaman Trenti, and a photograph of one fragment of a bullet found in him (Appendices 8-14).

G. On January 27th, 1936, at Barentù (northern front), a special Board examined three wounded men, who had arrived on the previous day, including Askari Ali Essen, who was found to have been hit by a dum-dum bullet; I enclose copies of the Board's report and a technical report on the examination of the fragments found in this askari's wounds, and also a photograph of the said fragments (Appendices 15-17).

H. On February 9th, 1936, during a flight over Tembien, Pilot Remo Ghezzi was hit by a dum-dum bullet, which caused his death; I enclose copy of the report of the Commander of the Second Army Corps concerning this casualty, three photographs of the wounds, an X-ray photograph, and a photograph of the fragments of bullet extracted from the wounds (Appendices 18-23).

I. On February 21st, 1936, in the fighting at Enda Mariam (northern front), Muntaz Salim Schollo was wounded by a dum-dum bullet; I enclose copy of the medical report on this case, and a photograph (Appendices 24 and 25).

L. On February 29th, 1936, in fighting which took place near Selaclacà (northern front), Corporal-Major Giovanni Insoli, Corporal Angelo Saracco, and Privates Bruno Giampaoli, Cesare Bonini, and Gino Neri, of the 83rd Infantry Regiment, were wounded by dum-dum bullets; I enclose the relevant medical reports and photographs (Appendices 26-35).

M. On March 2nd, 1936, also in the neighbourhood of Selaclacà (northern front), Militiaman Antonio Famà, of the 3rd ("April 21st") Blackshirt Division, was wounded by a dum-dum bullet; I enclose the relevant medical report and a photograph (Appendices 36 and 37).

N. On April 4th, 1936, during a flight over Addis Ababa, as I have already informed you,<sup>1</sup> Captain Falconi and Sergeant-Mechanic Di Cristo were wounded by dum-dum bullets, the first in the left maxillary region and the second in the left knee, this latter wound necessitating the amputation of the limb. I shall send the relative medical reports later.

O. On April 15th and 16th, 1936, on the southern front, Air Lieutenant-Colonel Emilio Liberati<sup>2</sup> and Air Sub-Lieutenant Federico Valli, and Captain Sante Follador, of the infantry, were wounded by dum-dum bullets; I shall send photographs and the medical reports, the despatch of which has already been announced by the Italian authorities in Somaliland.

P. In the battle of Gianagobò (southern front), which was fought from April 14th to 17th, 1936, of 160 wounded brought to Mogadiscio, as many as 120 were found to have been wounded by dum-dum bullets; I shall send the relevant medical reports and photographs, which are being collected by the Italian authorities in Somaliland.

Q. On April 24th, 1936, during a flight on the southern front, Air Captain Virgilio Cianfarani was wounded by a dum-dum bullet, as mentioned in Italian official *communiqué* No. 196, of April 28th, 1936. I shall send you the relevant documentation as soon as I receive it.

The above-mentioned facts do not exhaust the list of cases in which the use of prohibited ammunition by the Abyssinians has been noted; they are only those with regard to which documentation is available at the moment. Whereas in many cases the medical authorities were not in a position to prepare documentary evidence, in view of the rapidity of the military operations, in numerous other cases the necessary data and documents are being collected, and will be communicated to you as soon as possible.

I have already had occasion to supply you with various information concerning the dum-dum bullets employed by the Abyssinians, including documentary evidence concerning the use of ammunition manufactured by Eley Bros., London, and Kynoch's, Birmingham.<sup>3</sup> The bullets manufactured by Eley Bros., captured on the southern front, have a deep hole in the nose, designed to cause the expansion and break-up of the bullet on impact, the base of the bullet being marked E.C.II; the bullets manufactured by Kynoch's, captured on the northern front, are of the

<sup>1</sup> Telegram of April 7th, 1936.

<sup>2</sup> Telegram of April 18th, 1936.

<sup>3</sup> Telegram and note of December 21st, 1935, telegram of January 16th, 1936, and note of January 18th, 1936.

“soft-nose” type — *i.e.*, the nose being of lead not cased with any hard metal, and consequently liable to deformation; I enclose a photograph of the label of one of the packets of ammunition supplied by Kynoch’s which fell into the possession of the Italian troops, and of one of the bullets contained in it, the base of which is marked K.C.VI (Appendices 38 and 39).

Another kind of prohibited bullet that fell into the possession of the Italian troops also has a hole in the nose, but has in addition a longitudinal slit in the upper part, to make it still easier for the bullet to expand and burst; I enclose a photograph of one of these bullets (Appendix 40).

Another type of illegal bullet found on the northern front has the leaden nose uncovered, and is marked on the base \* D \* 9.3 × 62; I append a photograph (Appendix 41).

I have already informed you<sup>1</sup> that there were also taken on the northern front two kinds of dum-dum bullets marked on the base:

(1) 9 × 57 — 491 A — D.W.M.

(2) 474 C — K-K — D.W.M.

I enclose a photograph of one bullet of each kind, both of which have an uncovered leaden nose (Appendices 42 and 43).

Another type of bullet captured on the northern front is of large calibre, the whole of its upper extremity being of lead, without casing; I enclose photographs of two bullets of this type, one of which also shows an incision in the leaden nose (Appendices 44 and 45). These bullets have respectively on their bases the following signs:

(1) Lion of Judah, 2 interlaced G’s.B.07.

(2) \* S — F — M\*, 2 interlaced G’s.

General Graziani has reported that, in the operations along the Ganale Doria (January 1936), several thousand dum-dum bullets were captured from the Abyssinians. These bullets were not captured in dumps, but found in the possession of a large number of prisoners. They are of two types: some with a perforated nose, others partially cased, but with the leaden point uncovered. It has not, however, been possible to identify the manufacturing firm (though it is certainly a European firm), because no intact package was found, but only separate bullets stuck in bandoliers. Nevertheless, as these bullets have on their base the mark K.C.VI, which appears also on the bullets supplied by Kynoch’s (see Appendix 39), it is reasonable to suppose that they also come from the Birmingham firm. I enclose a photograph of one of these bullets, which has a hollow nose and the marks referred to above (Appendix 46).

Marshal Badoglio informed me on April 26th, 1936, that, in the Lake Ashangi battle and the subsequent pursuit, about 2,000 dum-dum bullets had up to that date been captured and handed over to the Ordnance Service, some of which, it was possible to ascertain, had been manufactured in England. In the other cases, it was not possible to identify the manufacturing firm because the bullets were found without their packing. Some hundreds of cartridges with soft lead bullets for Gras rifles were also captured.

Marshal Badoglio added that further quantities of dum-dum bullets were captured by the large army units, and that it was a proved fact that almost all the Abyssinian levies were provided with dum-dum bullets.

In this connection, I append a photograph of the bandolier of a member of the Abyssinian levies captured in the battle of Lake Ashangi. It contained six dum-dum bullets with hollow noses, five being marked on the base K.C.VI and one: E.C.II (Appendices 47 and 48); these marks, as pointed out above, are the same as those noted on the bullets manufactured by Kynoch’s and Eley’s. The origin of the bandolier proves that these bullets, hitherto found only on the southern front, are also in use on the northern front.

All these exhibits (fragments, bullets, and bandolier) are in the possession of this Ministry, and can be produced if necessary.

I would ask you to be good enough to transmit to the States Members of the League of Nations the present note and the documents appended thereto, which — as I have already had occasion to observe — help to establish a chain of incontrovertible evidence that prohibited ammunition has been used by the Abyssinian troops, not occasionally in one single locality or at one particular moment, but systematically, in various localities far distant from one another, and at different times; the fact cannot, therefore, be unknown to the commanders of the Ethiopian troops or to the Abyssinian Government, which consequently bears the responsibility.

(Signed) SUVICH.

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<sup>1</sup> Note of January 18th, 1936.

### Appendix 1.

17th Native Battalion,  
Medical Station.

Uarieu Pass, January 12th, 1936 — XIV.

To Headquarters, 17th Native Battalion.

*Subject:* WOUND OF ASKARI UOLDEGHERGHIS TESFABRUC.

With regard to the wounding of Askari Uoldegherghis Tesfabruc, of the Third Company, at Sella Uararà on October 15th, 1935, I have to report the following:

The askari in question was wounded by an enemy soldier while chopping wood; he had a gunshot wound with entrance in the postero-lateral region of the right thigh and exit in the antero-medial region of the same thigh. The entrance orifice, which was roughly circular, measured about 6 cm. in diameter and had jagged edges; the exit orifice was of the same size and description. When the course of the bullet was explored with the anatomical probe, the aponeurosis was found to be torn and shattered and many of the muscular fibres were bruised and lacerated.

From the description given, it is obvious that the wound was caused by a very much bent bullet which had passed through the tissues and caused the lacerations in question.

(Signed) G. PAPETTI,  
2nd Lieutenant, Medical Corps.

### Appendix 2.

Delegation of the Intendance  
in East Africa  
of the Command of Armed Forces  
in Somaliland,  
Medical Department.

#### CLINICAL HISTORY OF THREE MEN WOUNDED BY DUM-DUM BULLETS.

##### *First Case — Field Hospital 453 (Native Surgical Section).*

Diagnosis: Wound in the left thigh, with exposed comminuted fracture of the femur, caused by a dum-dum bullet.

Name and surname: ALI DIRSCE.  
Date of admission: November 14th,  
1935 — XIV.  
Tribe: Averghedir.  
Approximate age: 30.

Place of birth: Obbia.  
Armed force to which the soldier belongs:  
C.I.S.I.  
Arm or corps: Third group of levies.  
Rank: Dubat.

*Anamnesis.* — This man comes from Gorahai, whence he was removed by the First Medical Section. He states that he took part in the encounter between our troops and Ethiopian levies at Hananlei, about 40 kilometres from Sasabane. The engagement took place on the 11th instant, beginning about 7 a.m.; at about 10 o'clock, when the enemy was about 1 kilometre away, he received a gunshot wound in the radix of the left thigh. His wound was attended to about an hour later at the advanced dressing-station by the officer attached to the detachment. He was subsequently taken over by the Medical Section and conveyed to Gorahai.

*Objective Examination.* — This man was of normal appearance and well nourished; the blood content of the visible mucous membranes was good. Heart sound. No abnormal symptoms in the respiratory organs.

On examination of the left leg, in the upper third of the outer surface of the thigh, a large hole was discovered, all the flesh having been destroyed down to the bone. It was irregular in shape, the edges being jagged and turned over. The flesh round it was reduced to a pulp and bruised. It was longer than it was wide, the length being over 15 cm. and the width about 10 cm. Through this hole, which was only bleeding slightly, the bony structure could be seen in the form of splinters of bone of various sizes, many of them completely detached, belonging to the femur, from which they were separated for a length of about 8 cm. On the inner surface of the upper part of the thigh, 5 cm. below the level of the ischio-pubic line, there was a hole of an irregular circular shape, with a diameter of about 1 cm., the edges being curved inwards: a probe passed through the lesions in a straight line led to the hole on the outside of the thigh.

During the first and subsequent dressings in hospital, a large number of metal splinters, recognisable as fragments of the casing of a rifle-bullet and small particles of a softer metallic substance having the appearance and consistency of lead, were extracted from the lesion on the outside of the thigh, together with a large number of minute fragments of bone completely detached and scraps of dead and pulpy tissue.

*Conclusions relating to the First Case.* — Dubat Ali Dirsce was wounded by a rifle-bullet in the left thigh. The shot was fired at a range of about 1,000 metres. The nature of the entrance orifice and of the large hole representing the exit orifice, and also the serious lesions discovered along the whole of the bullet's course, accurately correspond to the specific nature of the lesions produced by an expanding bullet. Metallic fragments of the bullet were found in the wound.

It is impossible that these can be shell splinters, both because artillery was not used in the action and because of the features of the entrance orifice and the nature of the metal fragments.

Nor can the wound have been caused by a bent and splintered bullet which hit the man after ricocheting, in view of the nature of the entrance orifice and of the terrain on which the action took place (absence of buildings, rocks, and any objects which could cause a ricochet).

The fact that the bullet split up into minute pieces in the wound proves beyond all doubt that it was expressly made to expand and explode, and was not an ordinary cased bullet empirically treated so as to cause it to bend and split up.

\* \* \*

*Second Case — Field Hospital 453 (Native Surgical Section).*

Diagnosis: Wound in the left thigh with exposed comminuted fracture of the femur, caused by a dum-dum bullet.

Name and surname: FARA ADEN.  
Date of admission: November 14th,  
1935 — XIV.  
Tribe: Reberdian.  
Approximate age: 22.

Place of birth: Rocca Littorio.  
Armed force to which the soldier belongs:  
C.I.S.I.  
Arm or corps: Third group of levies.  
Rank: Dubat.

*Anamnesis.* — This man comes from Gorahai, whence he was removed by the First Medical Section.

He states that, on the 11th instant, at Hananlei, near Sasabane, he took part in the encounter between our troops and the Ethiopian soldiers; at about 10 a.m., when the enemy was from 800 to 1,000 metres away, he received a gunshot wound in the left thigh. His wound was attended to about an hour later at the advanced dressing-station by the medical officer attached to the detachment; he was subsequently taken over by the Medical Section and conveyed to Gorahai.

*Objective Examination.* — A normal subject, well nourished and with a good blood supply, muscles strong and well developed.

On the anterior surface of the left thigh, where the middle third joins the lower third, there was a large hole, all the flesh having been destroyed down to the bone; the lesion was bleeding slightly. The edges were jagged and the flesh round them reduced to a pulp; the shape of the hole was an irregular oval, longer than it was wide; approximate length 15 cm., width 10 cm. At the bottom of the hole the bones could be seen. They had been broken, the heads being cut off obliquely, the upper end of one resting on top of the lower end of the other; around the fracture was a large number of small splinters completely detached.

On the outer surface, at the same level as the lesion described above, there was a continuous lesion affecting the whole of the flesh, and of an irregular circular shape, the edges being bruised and bent inwards, with approximate diameter 1 cm. Probing showed that the two lesions connected.

During the first and subsequent dressings of the lesion on the anterior surface of the thigh, a number of metal splinters, recognisable as fragments of the casing of a rifle-bullet, and small particles of lead, were extracted, together with a large number of fragments of bone and scraps of necrotic tissue.

*Conclusions relating to the Second Case.* — Dubat Fara Aden was wounded by a rifle-bullet in the left thigh. The shot was fired at a range of from 800 to 1,000 metres. The nature of the entrance orifice and the hole representing the exit orifice, and the serious lesions discovered throughout the whole course of the bullet, accurately correspond to the specific nature of the lesions produced by an expanding bullet, metal fragments of which were found in the wound. For the reasons mentioned in connection with the previous case, these cannot possibly have been shell splinters or a bent bullet which hit the man after ricocheting.

The splitting-up of the bullet into a large number of small fragments shows that it was expressly manufactured to produce a disruptive and explosive effect.

\* \* \*

*Third Case — Field Hospital 453 (Native Surgical Section).*

Diagnosis: Deep wound in the left knee, the femoral epiphysis being affected, caused by a dum-dum bullet.

Name and surname: ABDI OSMAN.  
Date of admission: November 14th,  
1935 — XIV.  
Tribe: Deshisha.  
Approximate age: 25.

Place of birth: Bender Cassim.  
Armed force to which the soldier belongs:  
C.I.S.I.  
Arm or corps: Third group of levies.  
Rank: Sub-chief.

*Anamnesis.* — This man comes from Gorahai, whence he was removed by the First Medical Section. He states that, on the 11th instant, he took part at Hananlei, in the neighbourhood of Sasabane, in the engagement between our troops and Abyssinian levies. At about 10 a.m. he was hit in the left knee by a shot fired at a range of about 900 to 1,000 metres. About an hour later he was attended at the advanced dressing-station by the medical officer attached to the detachment, and was then taken over by the Medical Section and conveyed to Gorahai.

*Objective Examination.* — Tall man. Scantly nourished; visible mucosæ well injected with blood. Muscles in good condition.

On examination of the left knee, we found on the popliteal aspect a loss of tissue affecting all the fleshy layers as far as the bone, the cavity being of irregular shape with a ragged margin and turned-out edges, discoloured and bruised, bleeding slightly; the length of the wound was greater than its breadth: length about 6 cm., breadth, slightly above the popliteal fold, about 4 cm.

Through the cavity caused by the loss of tissue the bone was visible in the form of numerous bone-splinters of different sizes, mostly still adhering to the wound and belonging to the epiphyseal extremity of the femur. On the anterior condylar aspect, near the inner margin of the knee-cap, we found a loss of tissue of an irregular circular shape with a diameter of about 1 cm. and turned-in edges; a probe through the lesion, following a somewhat irregular track, arrived in the wound on the popliteal aspect, from which a thick viscous liquid mixed with blood was oozing.

During medical treatment, numerous small metallic splinters and fragments of lead were found in the wound.

*Conclusions regarding the Third Case.* — Dubat Sub-Chief Abdi Osman was wounded by a rifle-bullet in the region of the left knee. The shot was fired from a distance of 900 to 1,000 metres. The characteristics of the entrance aperture, those of the exit aperture and the lesions found along the track of the bullet, although not possessing the degree of gravity encountered in the previous cases, are those of lesions produced by a bullet with a disruptive and explosive action. Fragments of this bullet were found in the wound.

For the reasons already stated, the fragments in question cannot be those of a shell or of a distorted projectile which struck the patient by ricochet.

The breaking-up of the projectile into numerous small fragments shows that it must have been a bullet deliberately manufactured to produce a disruptive and explosive effect.

\* \* \*

*General Conclusions.*

In all the three cases examined, the characteristics of the lesions and the other factors observed are such that it can be confidently asserted that the wounds received were due to the effect of dum-dum bullets deliberately manufactured for the purpose of obtaining a disruptive and explosive effect.

(Signed) MAURIZIO BEDEI,  
Colonel, Medical Officer in Charge  
of the Health Service.

**Appendix 3.**

17th Native Battalion,  
Medical Station.

Uarieu Pass, January 12th, 1936 — XIV.

To Headquarters, 17th Native Battalion.

*Subject:* WOUND OF SERGEANT-MAJOR DI NOIA.

As regards the wound received by Sergeant-Major Edoardo Di Noia in the engagement of December 18th, 1935, at Debra Amba, I have to report the following:

The non-commissioned officer in question was hit in the right suprascapular region by a fire-arm projectile travelling downwards and somewhat obliquely from back to front. At the upper limit of the above-mentioned region, there was a large break in continuity, of rounded form, with a diameter of 5 or 6 cm., and with very ragged margins. As a result of this break in continuity, the pleural cavity was torn open, and within a few minutes after the infliction of the wound, a glance through the aperture revealed the formation of an immense hæmothorax. When the thoracic wall was pressed, large quantities of fluid and clotted blood flowed out. Presumably the pulmonary parenchyma was severely lacerated by the projectile. There was no exit aperture. The wounded man, in a state of acute anæmia, died about two hours afterwards, as soon as he arrived at the medical station.

It is obvious from this description of the wound that its cause was a very misshapen projectile of the dum-dum type.

(Signed) G. PAPETTI,  
2nd Lieutenant, Medical Corps.

**Appendix 4.**

192nd Blackshirt Legion,  
Medical Station.

Tembien, March 5th, 1936 — XIV.

To Headquarters, 192nd ("F. Ferrucci") Blackshirt Legion.

On January 23rd last, I examined Blackshirt BENIGNO ZEDDA, of this Legion, who died as a result of a wound received in action on January 21st.

Death was due to a gunshot wound, with only an entrance aperture in the right mandibular region.

The features of the wound were as follows: large orifice, of the size of a 10-centesimi piece of the old type, with destruction of the external soft tissues and of the corresponding bones, destruction of the palatal area and of the upper tracheo-pharyngeal tracts, with injuries of the large vessels of the neck.

In view of these features, it is clear that the wound was caused by an explosive bullet.

(Signed) UMBERTO BUTTINI,  
Director of the Health Service, Medical Centurion.

**Appendix 5.**

WOUND FROM A DUM-DUM BULLET RECEIVED BY MILITIAMAN BENIGNO ZEDDA (Valley of the Gabat, in Tembien, January 21st, 1936).



**Appendix 6.**

20th ("Brescia") Infantry Regiment,  
Infirmery.

January 22nd, 1936 — XIV.

To Headquarters,  
20th Infantry Regiment.

*Subject:* WOUNDS FROM EXPLOSIVE BULLETS.

I attended Sergeant FEDERICO MAIKUS, wounded in the action yesterday evening near Negaidà.

He has a wound from a rifle-bullet on the inner side of the middle of the right thigh, the projectile remaining in the wound. In the left hemithorax and on the outside of the upper part of the left arm there are numerous small wounds affecting the outer tissues and undoubtedly due to metal splinters.

I accordingly conclude that the said wounds were caused by explosive bullets.

(Signed) G. COCCIA,  
Captain, Chief Medical Officer.

**Appendix 7.**

20th ("Brescia") Infantry Regiment,  
Infirmery.

January 22nd, 1936 — XIV.

To Headquarters,  
20th Infantry Regiment.

*Subject:* WOUND FROM EXPLOSIVE BULLET.

I attended Private ARTURO SIRIGNANO, of the 4th Company, wounded in the action yesterday evening near Negaidà. He has a wound from a rifle-bullet in the lower part of his left leg. The entrance and exit apertures of the projectile are large and have very ragged edges; the soft tissues are torn, and there is a comminuted fracture of the lower tibia, with small fragments of bone projected outside.

On the basis of the above observations, I consider that the wound was caused by an explosive bullet.

The wounded man has been transferred to the 28th Medical Station.

(Signed) G. COCCIA,  
Captain, Chief Medical Officer.

**Appendix 8.**

30th Surgical Unit.

Enda Jesus, January 23rd, 1936 — XIV.

To the Medical Section of the 3rd Army Corps, E.A.

*Subject:* WOUNDS PRODUCED BY EXPLOSIVE BULLETS.

In obedience to the recent instructions, we report the wounds received by the undermentioned soldiers, the characteristics of which give strong ground for the suspicion that explosive bullets were used by the enemy:

1. Capomanipolo VINCENZO CRISPO, 202nd Blackshirt Legion. Died of wounds at the base of the right thorax, entrance aperture in front and exit aperture behind; wound in the lower part of the right thigh with entrance aperture in front and exit aperture in the popliteal fold, with fracture of the femur.

*Observations.* — The apertures of the thorax wound are approximately normal — *i.e.*, as produced by an ordinary rifle-bullet.

As regards the thigh wound, on the other hand, while the entrance aperture is normal, the same cannot be said of the exit aperture, which, instead of being an ordinary hole, consists of a large and irregular cavity with laceration of the tissues.

A particularly noteworthy circumstance is the fact that among these tissues it proved possible to trace fragments of the bullet which caused the wound, some of them very small and others larger and very jagged.

2. Blackshirt ARMANDO TRENTI, 202nd Blackshirt Legion. Wounded in the upper half of the right hemithorax, in front, and in the right shoulder, by small splinters of bullet, causing about twenty small wounds; in addition, wounds in the palm of the left hand from splinters of the same bullet.

*Observations.* — The wounded man states that the bullet, before hitting him, struck the sights of his rifle, breaking into small fragments which wounded him, while no injury was suffered by the rifle.

Of the wounds received, some penetrated the lung, as shown by the blood spit out by the patient and the X-ray examination; others only lodged in the pulmonary walls.

A splinter consisting of a twisted metal plate with jagged edges, a couple of centimetres long and a centimetre broad, was extracted from one of the latter wounds.

The X-ray examination revealed the presence of numerous splinters in all the right thoracic region and in the palm of the hand.

3. Blackshirt MARIO MANCINI, 192nd Blackshirt Legion. Wounded in the right arm, the left leg, and the left thigh.

*Observations.* — Of these wounds, the one which calls for some remark is the wound in the left thigh, the entrance aperture of which is in the lower external part, and the exit aperture in the lower internal part.

These wounds are about four times as large as the wounds caused by ordinary bullets. They also have severely bruised edges, bent outwards and irregular.

The above gives strong ground for the suspicion that the enemy used unlawful projectiles. The splinters extracted, the X-ray photographs, and the photographs of the wounds are at the disposal of General Headquarters.

(Signed) Dr. PASQUALE CIANCI,  
*Captain, Chief Medical Officer.*

#### Appendix 9.

WOUND FROM A DUM-DUM BULLET RECEIVED BY CAPOMANIPOLO VINCENZO CRISPO.  
Entrance aperture in the lower part of the right thigh, anterior, internal aspect.

(Enda Jesus, January 21st, 1936.)





**Appendix 10.**

WOUND CAUSED BY A DUM-DUM BULLET ON CAPOMANIPOLO VINCENZO CRISPO.

Exit in the popliteal space.

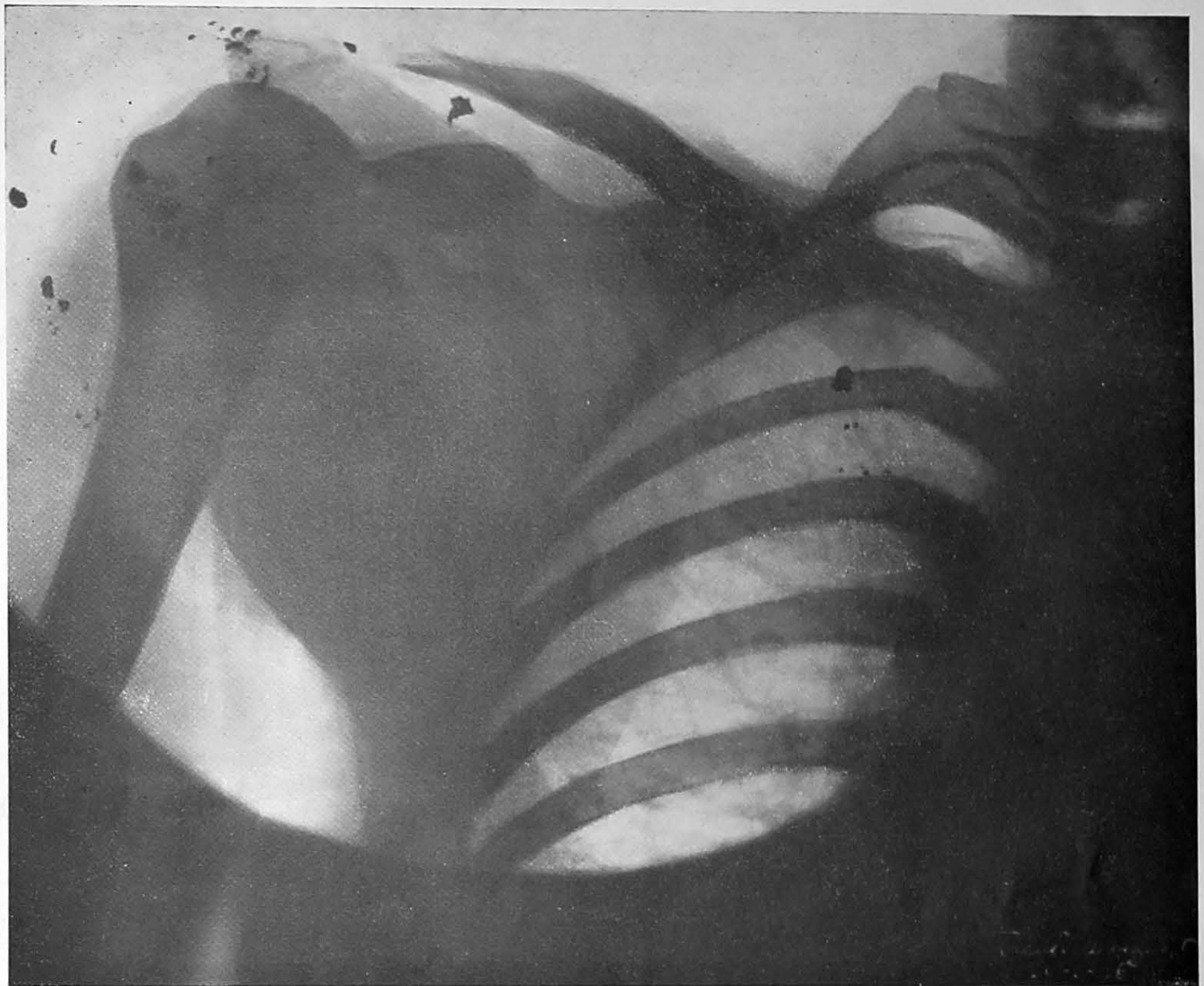
(Enda Jesus, January 21st, 1936.)



**Appendix 11.**

FRAGMENTS OF BULLET EXTRACTED FROM CAPOMANIPOLO  
VINCENZO CRISPO'S WOUND.

**Appendix 12.** — X-RAY PHOTOGRAPH OF MILITIAMAN ARMANDO TRENTI'S WOUNDS CAUSED BY A DUM-DUM BULLET.  
Note the fragments of bullet scattered throughout the whole thoracic region. (Enda Jesus, January 20th, 1936.)



**Appendix 13.** — MILITIAMAN ARMANDO TRENTI'S WOUNDS CAUSED BY A DUM-DUM BULLET.  
Note the quantity of fragments of bullets. (Enda Jesus, January 20th, 1936.)



**Appendix 14.**

FRAGMENT OF BULLET EXTRACTED FROM THE THORAX  
OF MILITIAMAN ARMANDO TRENTI.



Appendix 15.

3 F/156 Op.  
28-1-1936.

Barentù, January 27th, 1936 — XIV.

The undersigned, sitting as a Board at 3 p.m., in accordance with Order No. 156 of prot. Op., in Field Hospital No. 97, have examined the three soldiers wounded in action who arrived here yesterday from the Tessenei detachment.

1. . . . .
2. . . . .
3. Askari ALI ESSEN.

Has a gunshot wound, the entrance being in the right sub-clavicular region and there being no exit. The course of the wound runs upwards, backwards and to the left. At the end of this course is an incision made by the surgeon in order to extract the bullet, lying just under the skin in the suprascapular area and in the right paravertebral region. By probing through the entrance, the site of fracture of the clavicle can be reached, and when the probe is withdrawn tiny fragments of metal are found.

Of the bullet extracted by means of the said incision, there seems to be only a part, so that other parts may perhaps be found in the focus of the fracture.

The patient has a second gunshot wound in the nape of the neck, the cleansing of which revealed pieces of wood. The undersigned have not, in their examination, discovered anything of importance in the case of the first two wounded men, but consider that the third case merits attention. They therefore decide to send Ali Essen to Asmara for further examination, by X-rays if necessary.

The expert member of the Board, Lieutenant Chierici, will make a special report on the conclusions reached by him from the point of view of ballistics.

(Signed) FRANCESCO FERRANTE, Captain, Medical Corps.

(Signed) EMANUELE R. M. STOLF, Captain, Medical Corps.

(Signed) LUIGI CHERICI, Lieutenant, Artillery.  
*Members of the Board.*

(Signed) GIUSEPPE FERA, Major, Medical Corps.  
*President.*

Appendix 16.

REPORT ON THE EXAMINATION OF SPLINTERS FOUND IN WOUNDS.

Barentù, January 27th, 1936 -- XIV.

All the wounds of the three askaris examined appear to have been produced by ordinary projectiles from military small arms of calibre greater than 8 mm.; only the wound in the shoulder of Askari ALI ESSEN suggests the use of non-regulation bullets.

A round fragment weighing about 2 grammes and two other minute fragments of lead were extracted from the shoulder-wound; the absence of fragments of casing justifies the conclusion that the projectile which caused the wound was entirely of lead, and the shape of the fragment suggests that, before being discharged, the projectile had a longitudinal incision made on the nose, and possibly a lateral incision halfway down.

It is not impossible that the bullet was cased with one of the substances commonly used for that purpose, but in that case the incisions referred to above may have detached the casing.

The extraction of the fragments which have presumably remained in the cavity will definitely establish whether traces of a metal casing can be found or not.

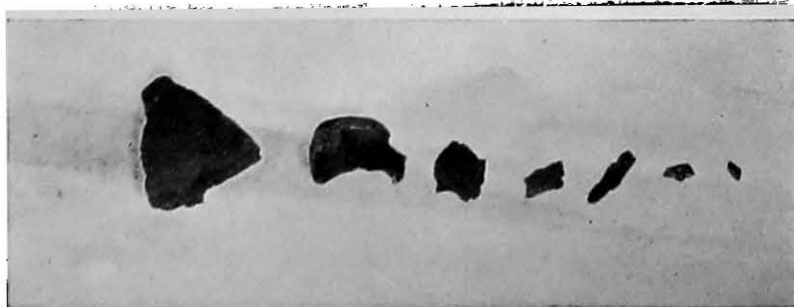
From the dimensions and shape of the biggest fragment, and from the statements of the wounded askari, it may be inferred that the bullet was fired from a Wetterly 70-87 rifle, or more probably from an F. Gras rifle, calibre 11.

We enclose the objects extracted from the wounds of Askari Ali Essen. The wooden splinters come from the stock of the rifle from which the bullet glanced off.

(Signed) LUIGI CHERICI,  
Lieutenant, Artillery.

Appendix 17.

FRAGMENTS EXTRACTED FROM THE WOUNDS OF  
ASKARI ALI ESSEN.



Appendix 18.

Headquarters, Second Army Corps.  
Information Office.

Adowa, February 11th, 1936 — XIV.

To G.H.Q., East Africa,  
Makale.  
N. 114.I.S. di Prot.

*Subject:* WOUND OF AIRMAN REMO GHEZZI.

The following is communicated for your information:

At 5.30 p.m. on February 9th, Airman R. T. Remo Ghezzi, wounded by an enemy bullet during a flight over Tembien, was taken to the surgical station at Hospital 538 at Aksum in a very serious condition due to acute secondary anæmia.

The entrance aperture was in the lower front part of the right leg, with an exit aperture higher up on the inside of the leg, accompanied by a comminuted fracture of the tibia and fibula. The bullet, after passing through the leg, entered the middle of the left thigh, causing an extensive and comminuted open fracture of the femur. Fragments of a leaden bullet were taken from this wound. The photographs show the entrance aperture (A) in the leg, the exit aperture (B), and the entrance aperture (C) in the thigh, all of different dimensions.

The X-ray photograph taken *post mortem* shows that other metal fragments are scattered in the area of the fracture of the leg. The different size of the apertures, the presence of fragments of the bullet and the gravity of the splintering of the bones clearly show that the projectile which caused the wound was a dum-dum bullet.

(Signed) P. MARAVIGNA,  
General Officer Commanding Army Corps.

Appendix 19.

WOUNDS FROM A DUM-DUM BULLET RECEIVED BY AIRMAN REMO GHEZZI.

The bullet entered at A, went out at B, and then penetrated at C. (Tembien, February 9th, 1936.)



**Appendix 20.**

WOUND FROM A DUM-DUM BULLET RECEIVED BY AIRMAN REMO GHEZZI.  
Detail of figure shown in Appendix 19.



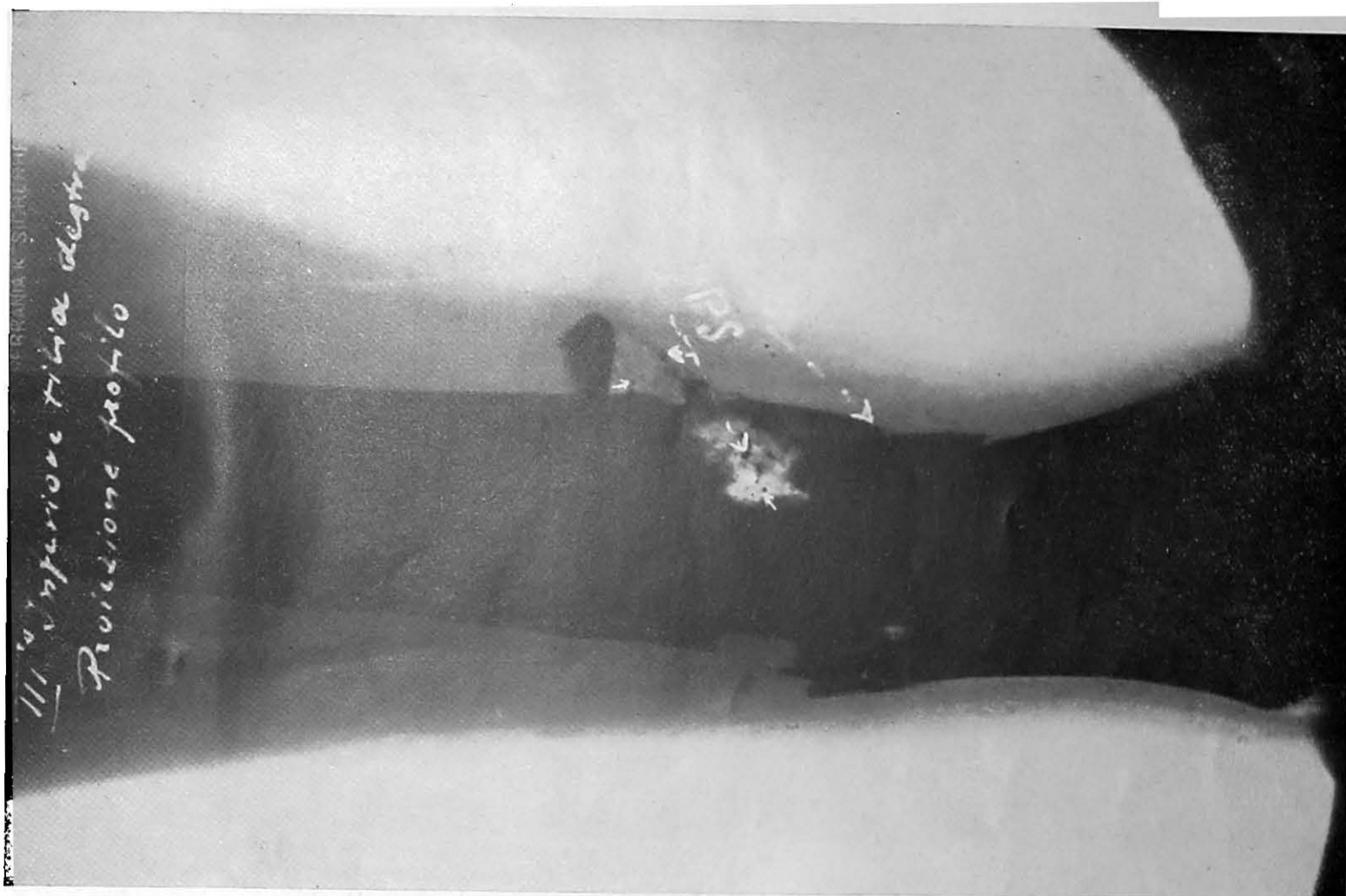
**Appendix 21.**

WOUND FROM A DUM-DUM BULLET RECEIVED BY AIRMAN REMO GHEZZI.  
Detail of figure shown in Appendix 19.



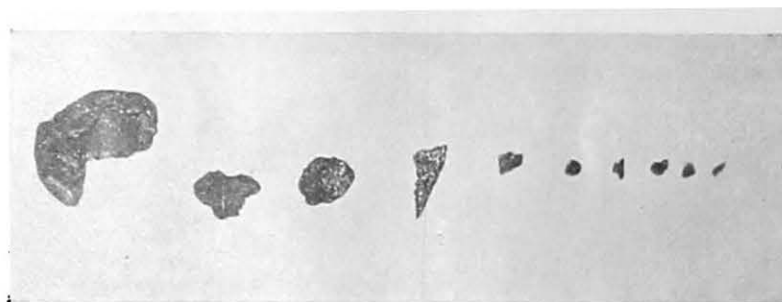
**Appendix 22.**

X-RAY PHOTOGRAPH OF THE RIGHT LEG OF AIRMAN REMO GHEZZI.  
Observe fragments of bullet — shown by arrows — scattered in the area of fracture.



**Appendix 23.**

FRAGMENTS OF BULLET EXTRACTED FROM  
THE WOUND OF AIRMAN REMO GHEZZI.



**Appendix 24.**

179th Field Hospital,  
Surgical Division.  
Native Section.

MUNTAZ SALIM SCHOLLO, OF THE 27TH ERITREAN BATTALION OF THE COLONIAL CORPS.

Wounded by a dum-dum bullet in the action at Enda Mariam on February 21st, 1936.  
Admitted to this hospital on February 24th.

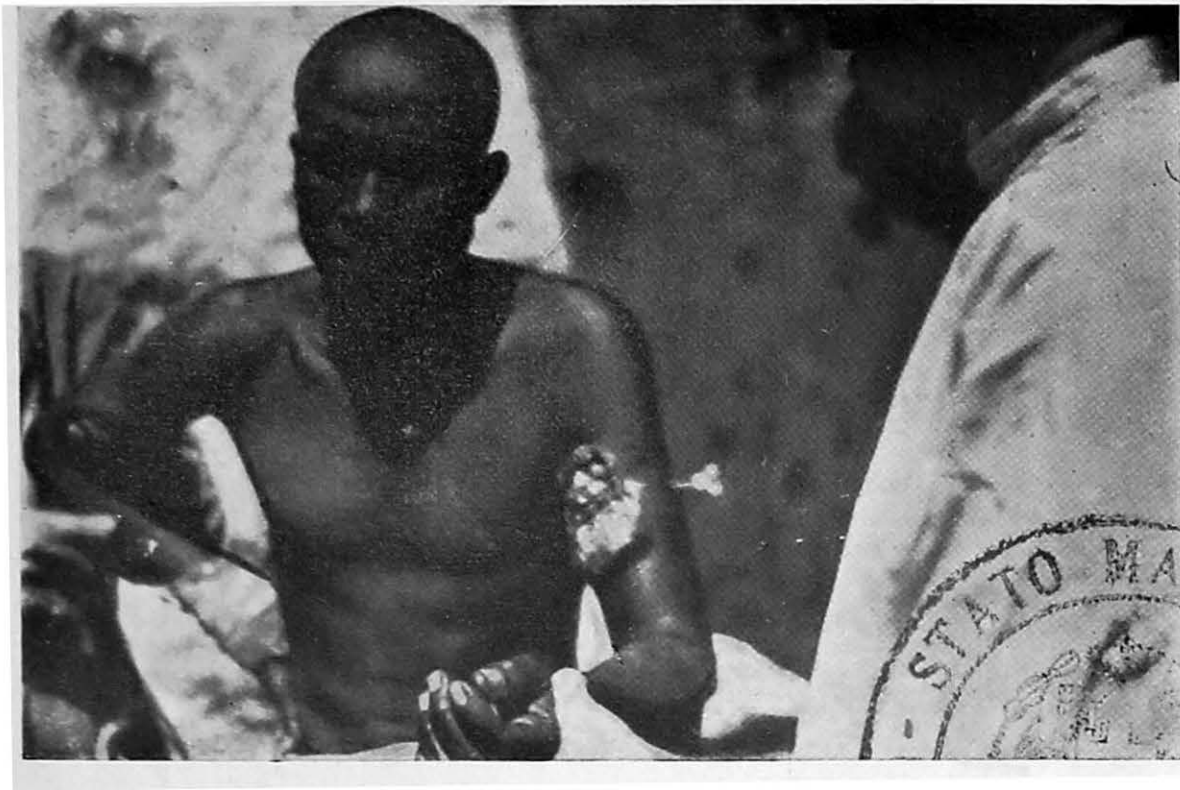
Gunshot wound with small entrance aperture at the back of the left arm. After travelling a few centimetres in a straight line and only just under the skin, the bullet, completely missing the bone, burst open the biceps, as shown in the attached photograph. In the photograph, the shortness of the bullet's track is clearly shown by the surgical probe.

(Signed) E. ALESSANDRI, 2nd Lieutenant,  
Head of Division.

(Signed) C. GELANZÉ, Captain,  
Director.

**Appendix 25.**

WOUND FROM A DUM-DUM BULLET RECEIVED BY MUNTAZ SALIM SCHOLLO.  
(Enda Mariam, February 21st, 1936.)



**Appendix 27.**

WOUND FROM A DUM-DUM BULLET RECEIVED  
BY CORPORAL-MAJOR GIOVANNI INSOLI.  
(Selaclacà, February 29th, 1936.)

**Appendix 26.**

179th Field Hospital,  
Surgical Division.

CORPORAL-MAJOR GIOVANNI INSOLI,  
83RD INFANTRY REGIMENT, 3RD COMPANY.

Wounded on February 29th, 1936, near  
Selaclacà.

Admitted to this hospital on March 10th,  
1936.

Gunshot wound in the lower part of the  
right arm, with a small entrance aperture  
on the front of the arm and exit aperture at  
the back. Track of the bullet goes straight  
through, between the bones. At the exit  
aperture, which is as big as a large hen's egg,  
the neighbouring muscles and tendons are  
turned outward. Wound due to a bullet of  
the misshapen or dum-dum type.

(Signed) E. ALESSANDRI, 2nd Lieutenant,  
*Head of Division.*

(Signed) C. GELANZÉ, Captain,  
*Director.*



179th Field Hospital,  
Surgical Division.

**Appendix 28.**

CORPORAL ANGELO SARACCO, 83RD INFANTRY REGIMENT, HEADQUARTERS COMPANY.

Wounded on February 29th, 1936, by an explosive bullet at Selaclacà.

Entered this hospital on March 11th, 1936.

Compound wound in the upper part of the left knee. The explosion of the projectile, evidence of which is provided by the burns on the outer tissues, produced three large cavities, in which various metallic fragments were found. The central lesion completely destroyed the proximal epiphysis of the fibula, also completely destroying a long stretch of the external popliteal sciatic nerve, rendering any repair thereof surgically impossible.

(S.) E. ALESSANDRI, 2nd Lieut., *Head of Division.*

(S.) C. GELANZÉ, Captain, *Director.*

**Appendix 29.**

WOUND FROM  
DUM-DUM BULLET  
RECEIVED BY  
CORPORAL ANGELO  
SARACCO.  
(Selaclacà,  
February 29th,  
1936.)



179th Field Hospital,  
Surgical Section.

**Appendix 30.**

PRIVATE BRUNO GIAMPAOLI, SON OF ALFREDO, 83RD INFANTRY REGIMENT, 1ST BATTALION,  
2ND COMPANY.

Wounded on February 29th, 1936, at Selaclacà. Admitted to this hospital on March 10th, 1936.

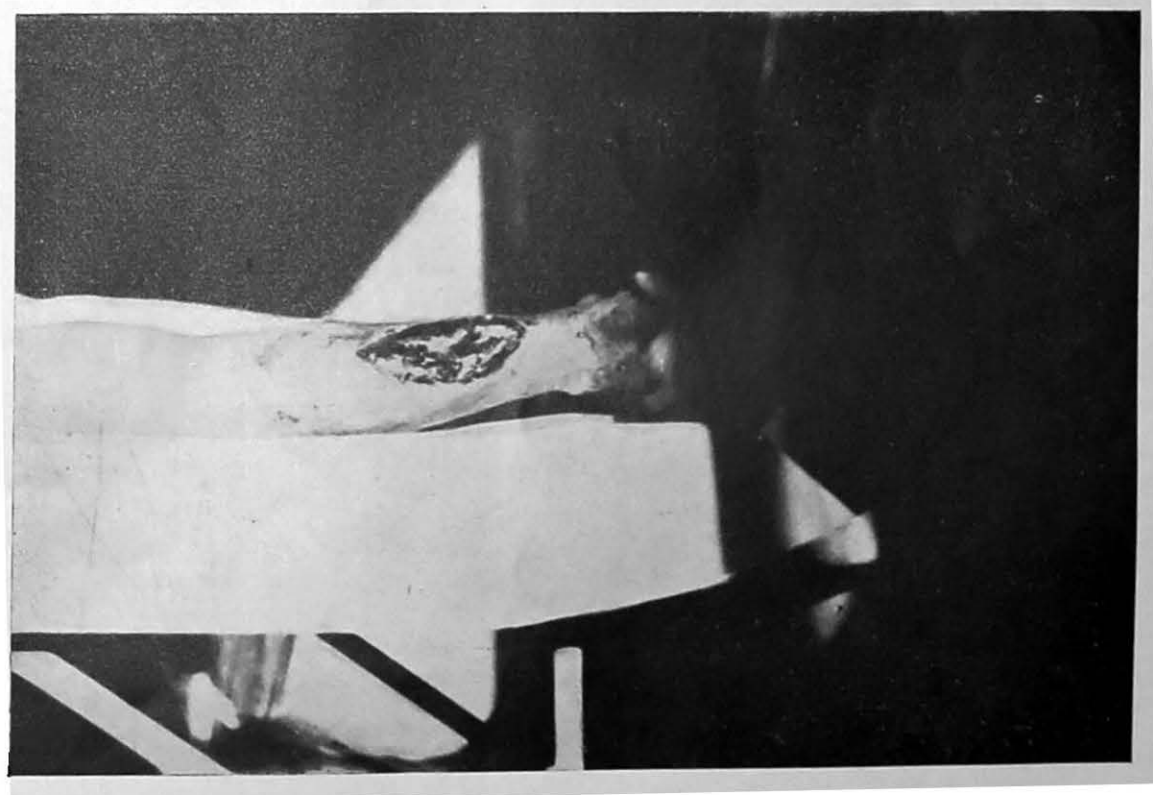
Wound made by explosive or dum-dum bullet with small entrance on the outer side of the lower third of the right leg. Course of wound does not affect bones or joint. Exit 25 cm. long and 10 cm. wide, as in photograph. The lesion affects the whole tendo Achillis region with complete destruction of the tendon, from the head of the gastrocnemius down to the insertion in the heel-bone (calcaneus process). This man has also another gunshot wound with its entrance on the inner side of the left leg and its exit on the outer side, with a perfectly transverse course through the flexor muscular tissue and part of the adductor muscular tissue. The enormous gape of the wound shows the large calibre of the bullet.

(S.) E. ALESSANDRI, 2nd Lieut., *Head of Division.*

(S.) C. GELANZÉ, Captain, *Director.*

**Appendix 31.**

WOUND CAUSED  
BY A DUM-DUM  
BULLET ON  
PRIVATE BRUNO  
GIAMPAOLI.  
(Selaclacà,  
February 29th,  
1936.)





### Appendix 32.

179th Field Hospital,  
Surgical Section.

PRIVATE CESARE BONINI, 83RD INFANTRY  
REGIMENT, 1ST BATTALION, 1ST COMPANY.

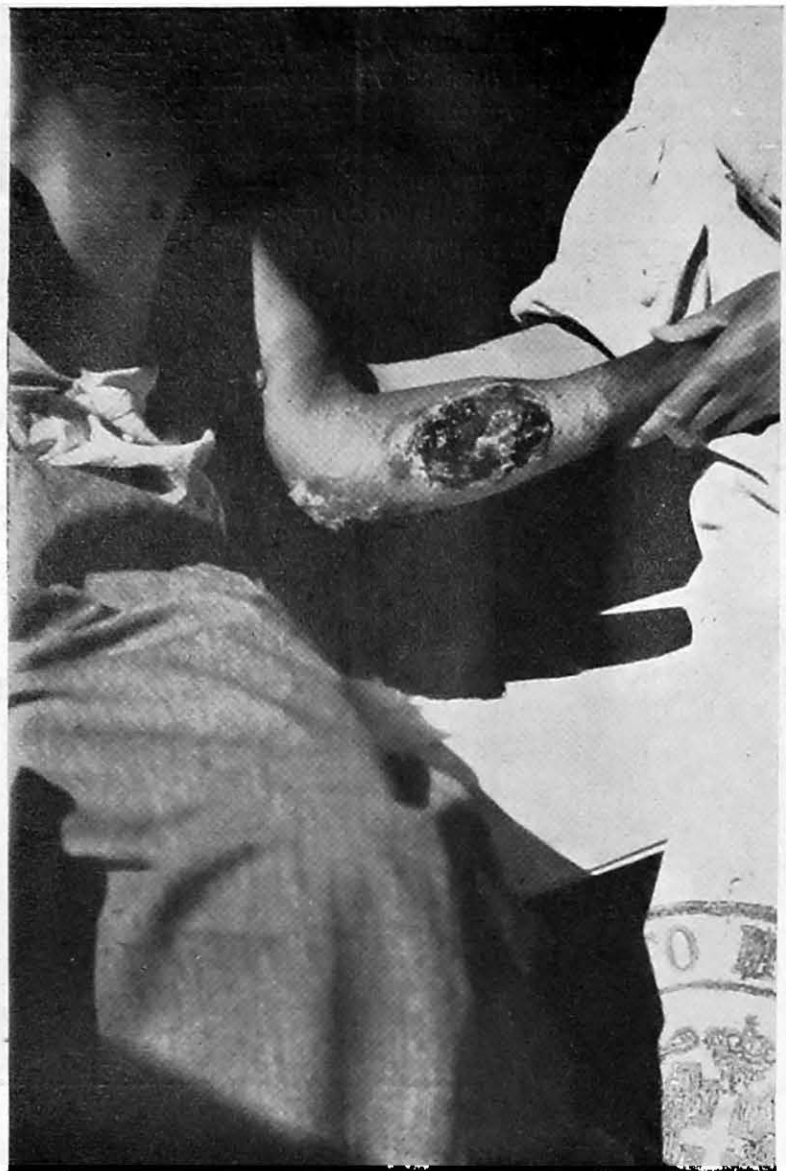
Wounded on February 29th, 1936, in  
the action at Selaclacà.

Admitted to this hospital on March  
10th, 1936.

Gunshot wound with small entrance  
on the posterior side of the middle third  
of the left forearm. Bullet passed between  
the bones. Exit on the other side of the  
anterior surface of the forearm, as large  
as the palm of a child's hand. The wound  
is undoubtedly due to an explosive or  
dum-dum bullet.

(Signed) E. ALESSANDRI, 2nd Lieut.,  
*Head of Division.*

(Signed) C. GELANZÉ, Captain,  
*Director*



### Appendix 35.

WOUND FROM DUM-DUM BULLET RECEIVED BY PRIVATE  
GINO NERI. (Selaclacà, February 29th, 1936.)

179th Field Hospital,  
Surgical Division.

PRIVATE GINO NERI, 83RD INFANTRY  
REGIMENT, 4TH COMPANY.

Admitted to this hospital on March  
10th, 1936.

Gunshot wound, with entrance on  
the inside of the left arm and exit in  
the middle and on the outside of the arm;  
fracture of the humerus. The exit  
aperture, which is large and gaping and  
has the edges turned outwards, shows  
that the wound was due to a rifle-bullet  
of the expanding, or dum-dum, type.

(Signed) E. ALESSANDRI, 2nd Lieut.,  
*Head of Division.*

(Signed) C. GELANZÉ, Captain,  
*Director.*



Appendix 37.

Appendix 36.

WOUND FROM DUM-DUM BULLET RECEIVED BY PRIVATE ANTONIO FAMA. (Selaclacà, March 2nd, 1936.)

179th Field Hospital,  
Surgical Division.

BLACKSHIRT ANTONIO FAMA,  
230TH LEGION,  
3RD ("APRIL 21ST") DIVISION.

Wounded on the morning of March 2nd near Selaclacà by a rifle-bullet of the explosive type.

Traumatic amputation of the third and fourth fingers of the left hand, at the metacarpo-phalangeal joint. Great laceration of the tissues of the palm and back of the hand, scorched by the explosion. The wound is full of small metal splinters, due to the explosion of the projectile.

(Signed) E. ALESSANDRI, 2nd Lieut.,  
Head of Division.

(Signed) C. GELANZÉ, Captain,  
Director.



Appendix 38.

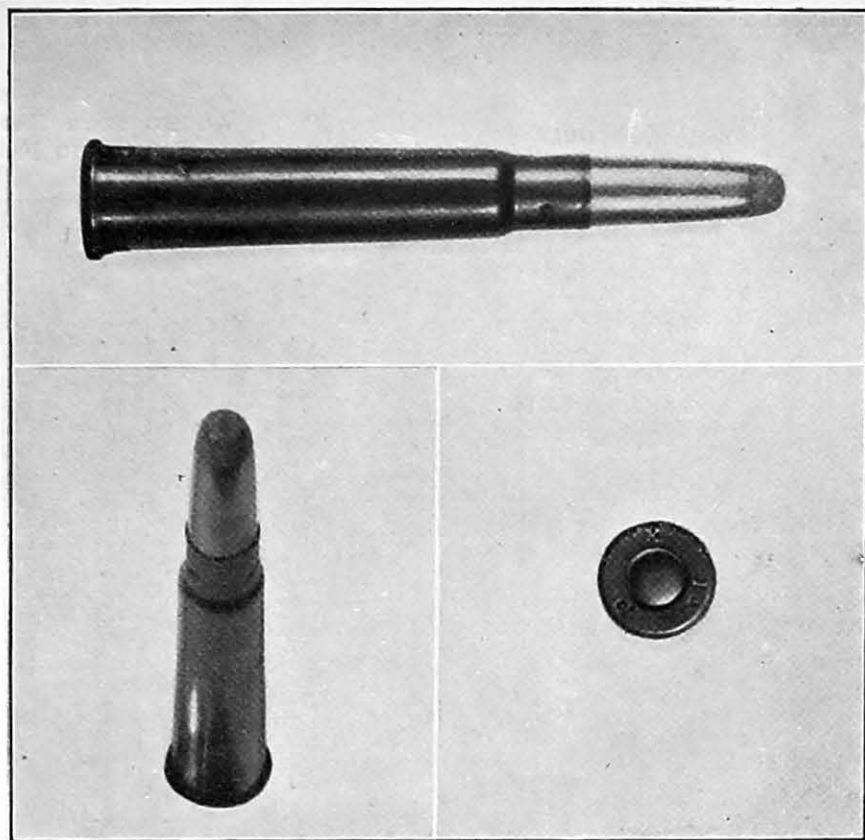
LABEL OF ONE OF THE PACKETS OF DUM-DUM (SOFT NOSE) BULLETS FROM KYNOCH'S, CAPTURED ON THE NORTHERN FRONT.



**Appendix 39.**

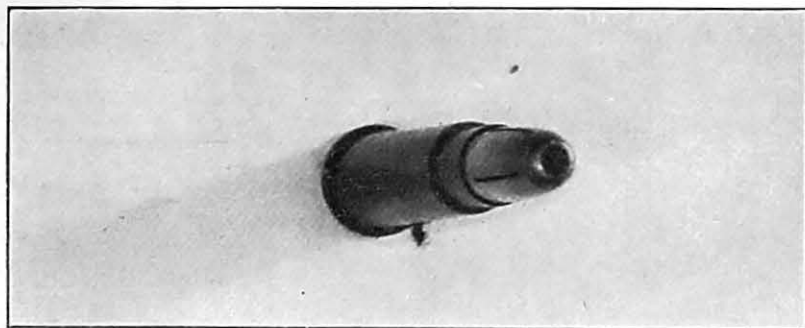
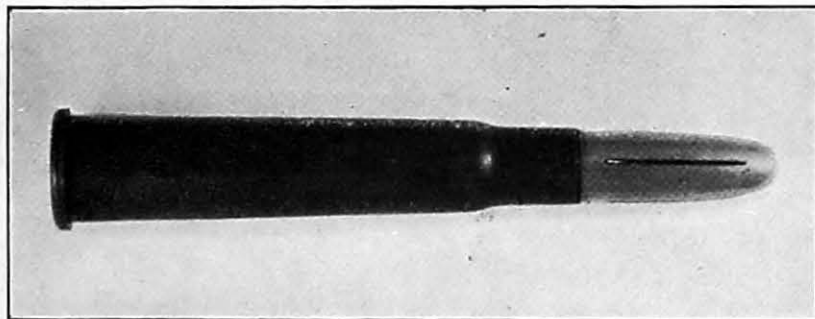
DUM-DUM (SOFT NOSE) BULLET,  
CONTAINED IN ONE OF THE PACKETS  
BEARING KYNOCH'S LABEL, CAPTURED ON  
THE NORTHERN FRONT.

(Note the leaden nose, without casing,  
and the letters K-C-VI stamped on the base.)



**Appendix 40.**

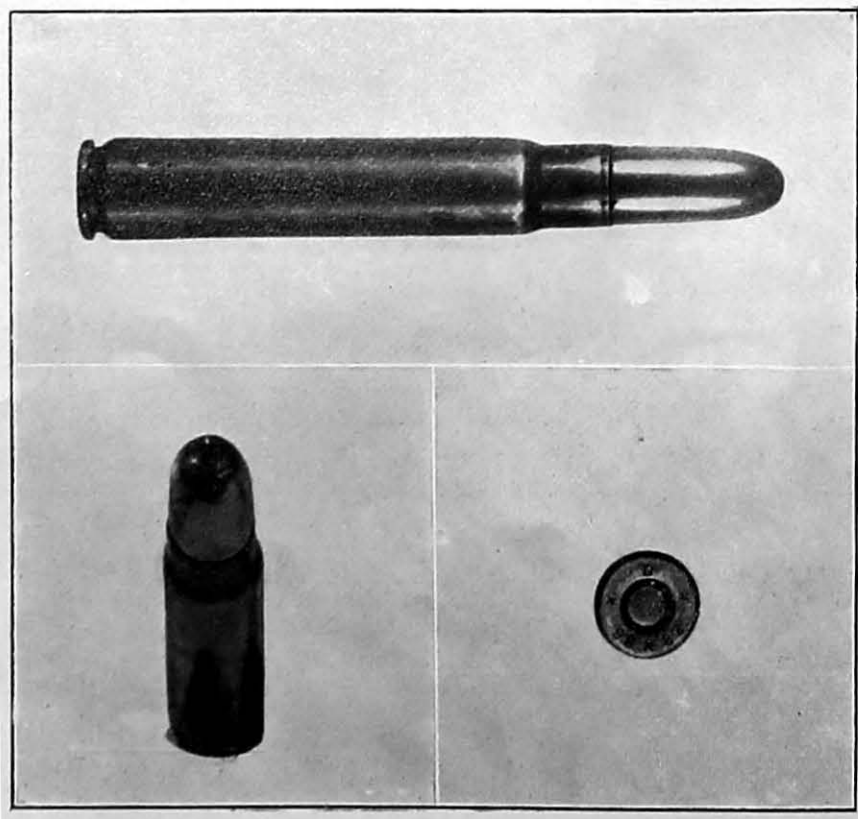
DUM-DUM BULLET CAPTURED BY  
THE ITALIAN TROOPS.  
Note the perforated nose and the  
longitudinal slit.



**Appendix 41.**

DUM-DUM BULLET CAPTURED ON THE  
NORTHERN FRONT.

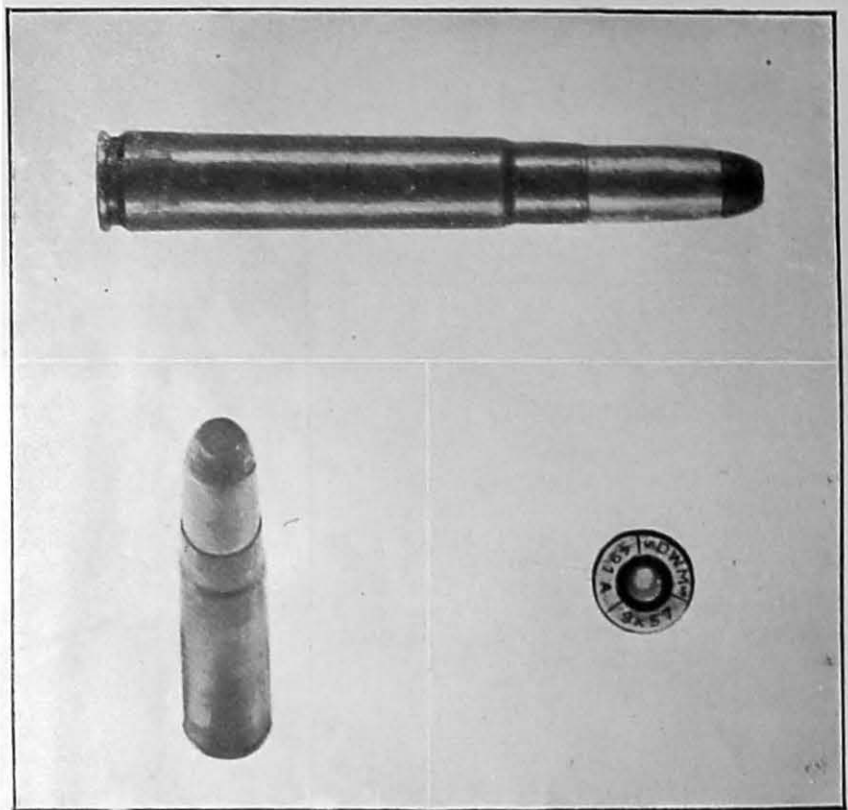
Note the leaden nose, without casing,  
and the stamps \* D \* 9.3 x 62 on the base.



**Appendix 42.**

DUM-DUM BULLET CAPTURED ON THE  
NORTHERN FRONT.

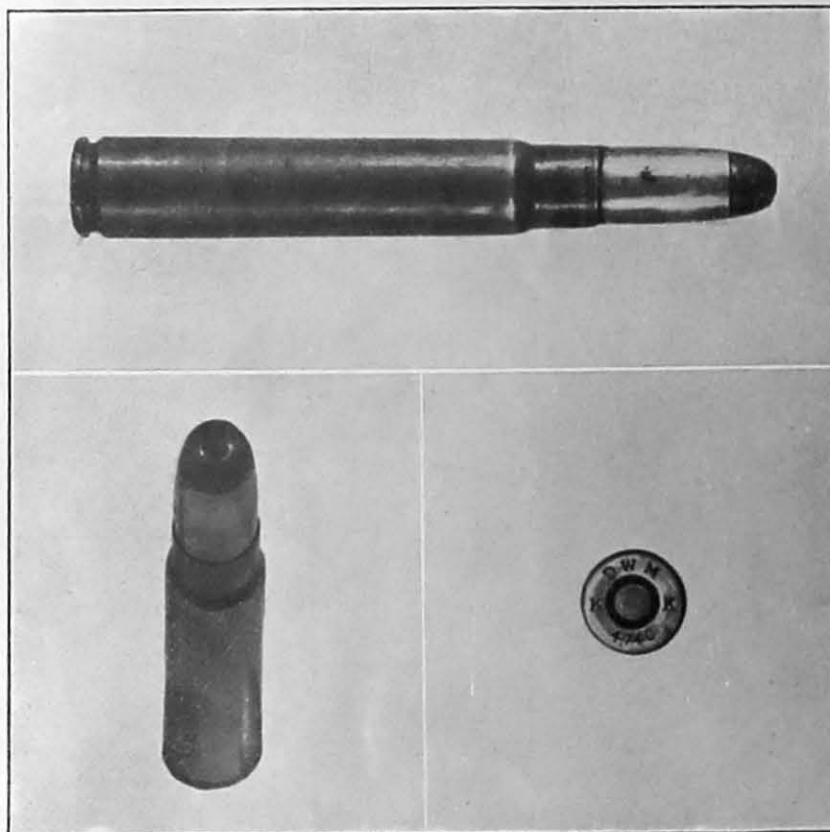
Note the leaden nose, without casing, and  
the stamps 9 × 57 — 491 A — D-W-M on  
the base.



**Appendix 43.**

DUM-DUM BULLET CAPTURED ON THE  
NORTHERN FRONT.

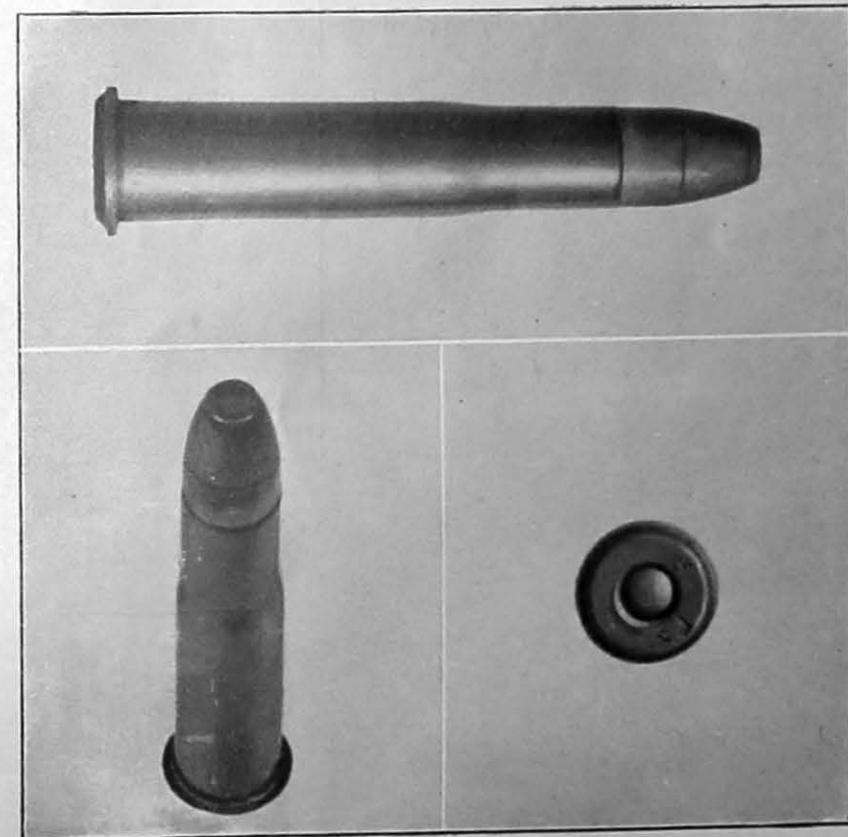
Note the leaden nose, without casing, and  
the stamps 474 C — K-K — D-W-M on  
the base.



**Appendix 44.**

DUM-DUM BULLET CAPTURED ON THE  
NORTHERN FRONT.

Note the large calibre and the upper  
extremity of lead without casing.



**Appendix 45.**

DUM-DUM BULLET CAPTURED ON THE  
NORTHERN FRONT, SIMILAR TO THE  
PREVIOUS ONE, BUT WITH DIFFERENT  
STAMPS ON THE BASE.

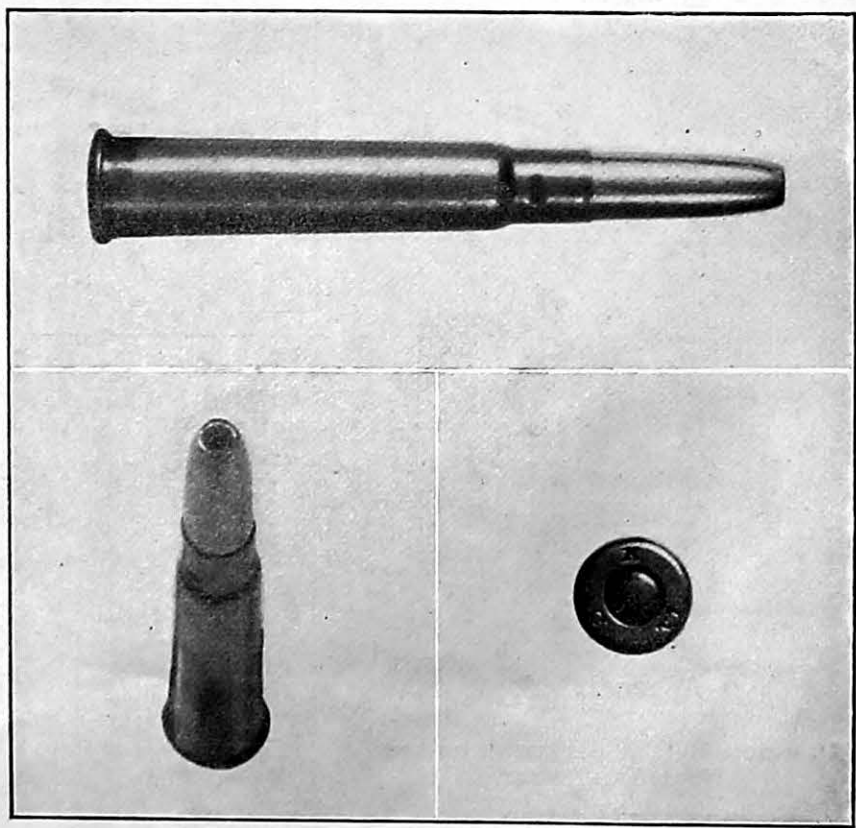
Note the large calibre, the upper  
extremity of lead without casing, and the  
incision on the nose.



**Appendix 46.**

DUM-DUM BULLET CAPTURED ON THE  
SOUTHERN FRONT.

Note the perforated nose and the stamps  
K-C-VI corresponding to those on the  
Kynoch bullets; *cf.* Appendix 39.



Appendix 47.

DUM-DUM BULLETS CONTAINED IN THE BANDOLIER OF AN ABYSSINIAN SOLDIER TAKEN PRISONER  
AFTER THE BATTLE OF LAKE ASHANGI.

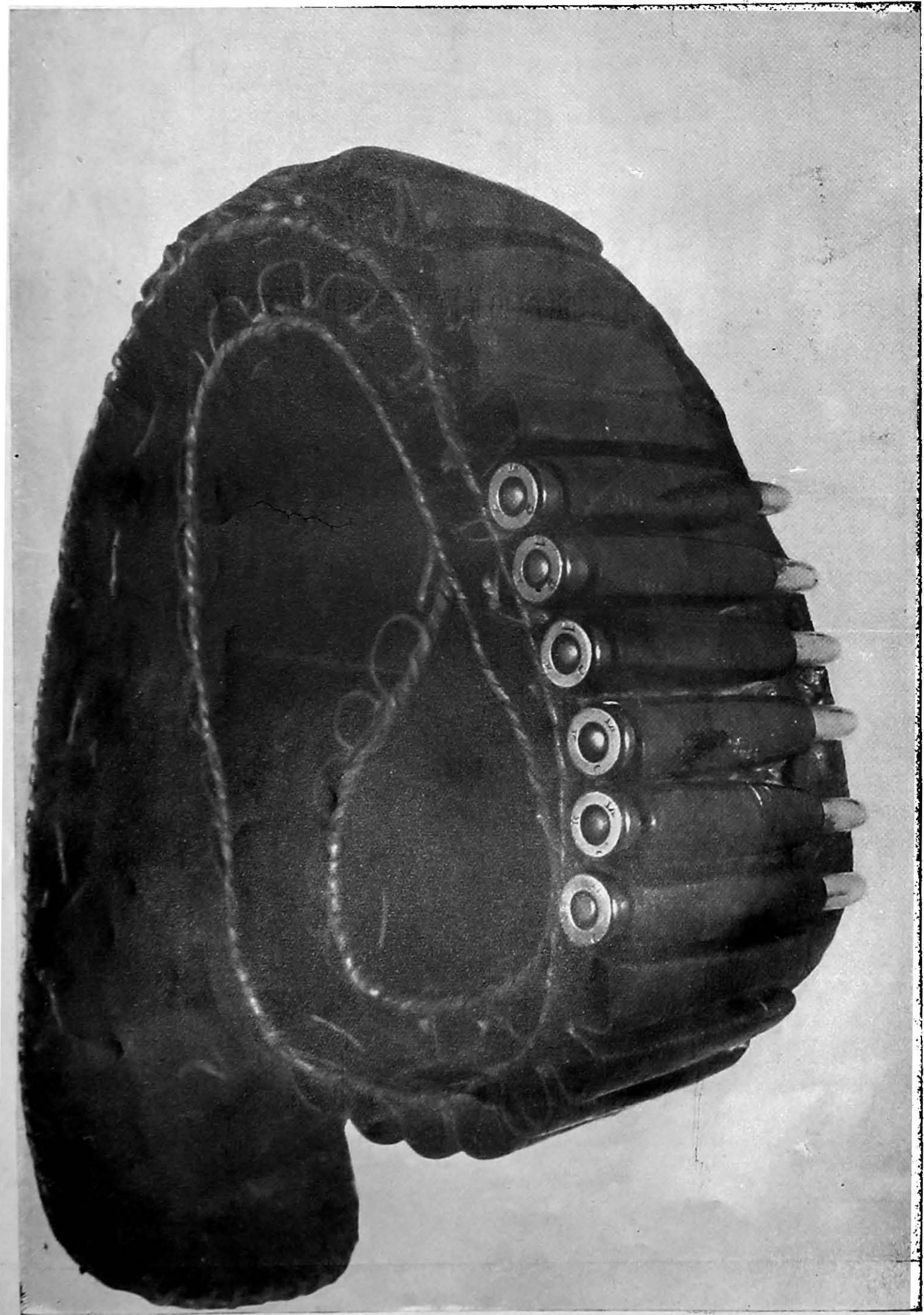
Note the perforated noses.



Appendix 48.

DUM-DUM BULLETS CONTAINED IN THE BANDOLIER OF AN ABYSSINIAN SOLDIER TAKEN PRISONER  
AFTER THE BATTLE OF LAKE ASHANGI.

The first bullet on the left is stamped E.C.II, showing that it is an Eley bullet; the others are stamped K-C-VI,  
like the bullets made by Kynoch's: *cf.* Appendix 39.



[Communicated to the Council  
and the Members of the League.]

Official No.: **C. 376. M. 247.** 1936. VII.

Geneva, September 17th, 1936.

LEAGUE OF NATIONS

**APPLICATION OF THE PRINCIPLES  
OF THE COVENANT  
OF THE LEAGUE OF NATIONS**

**STUDY OF THE PROPOSALS SUBMITTED  
BY MEMBERS OF THE LEAGUE**

*Note by the Secretary-General.*

In accordance with the recommendation adopted by the Assembly on July 4th, 1936, the Council instructed the Secretary-General "to make a first examination and classification" of any proposals which the Members of the League might wish to make in order to improve, in the spirit of the recommendation and within the limits laid down therein, "the application of the principles of the Covenant".

The following study deals with the proposals received by the Secretariat prior to September 12th.

Series of League of Nations Publications

VII. POLITICAL ✓

1936. VII. 8.



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## INTRODUCTION.

The communications regarding the application of the principles of the Covenant which are analysed in this report were received before September 12th, 1936. They came from the Governments of the following seventeen countries:

|           |                     |
|-----------|---------------------|
| Argentine | Lithuania           |
| Colombia  | New Zealand         |
| Denmark   | Norway              |
| Estonia   | Peru                |
| Finland   | Sweden              |
| France    | Switzerland         |
| Hungary   | Union of Soviet     |
| Iraq      | Socialist Republics |
| Latvia    | Uruguay             |

The present analysis aims at classifying the principal points in the communications and setting forth the definite proposals they contain, but it is none the less essential to read the replies themselves.

The points in the communications have been classified in the following fourteen chapters.

### CHAPTER I. — STATEMENTS ON TENDENCIES AND METHODS.

The Governments state in general that they appreciate the value of the League and desire its maintenance and prosperity.

As regards the rôle of the League, the obligations under the Covenant and the methods to be adopted in order to obtain better results, opinions to some extent differ.

#### SECTION I. — THE RÔLE OF THE LEAGUE.

Some Governments lay stress on some particular one of the League's functions or express regret that certain of those functions have not been adequately fulfilled.

##### 1. *Collective Security.*

Some Governments urge the importance of collective security. The Estonian Government considers that it is the main duty of the League "to supervise the operation of the system of collective security".

The Government of Iraq says that it attaches "the utmost importance" to the principles of collective security.

The Latvian Government states that "the system of collective security . . . from the outset has been, and must continue in the future to be, the chief aim and the supreme task of the League". It adds: "Any reform of the Covenant must centre on the provisions relating to repressive measures—that is to say, the question of Article 16".

The Lithuanian Government says: "The essential task of the League of Nations is to safeguard the security of its Members and the inviolability of their territories".

The Government of the Union of Soviet Socialist Republics puts forward proposals exclusively concerned with the development of collective security. Several other Governments, including those of France and New Zealand, make statements or proposals in which an important place is given to collective security.

##### 2. *Prevention of War.*

Certain Governments lay stress upon the function of preventing war and upon the effective settlement of international disputes.

The Danish and Norwegian Governments append to their communications the declaration issued by the Foreign Ministers of Denmark, Finland, the Netherlands, Norway, Spain, Sweden and Switzerland on July 1st, 1936, which includes the following passage: "In the first place, an agreement must be reached to make more definite preparations for the application of the rules in the Covenant which are designed to obviate any violation of its principles, by strengthening the preventive activities of the League".

The Norwegian Government also states that it "sets out from the idea that the primary aim of the League of Nations is to settle conflicts and to prevent war between nations"<sup>1</sup>.

The Hungarian Government stated, on July 2nd, through the mouth of M. de Velics, that it "cannot associate itself with the view that the League's task should be exclusively to ensure the

<sup>1</sup> The Norwegian Government, in another paragraph of its note, insists on the necessity "to put into more systematic practice the provisions laid down in the Covenant of the League for the prevention of conflicts", adding that it refers "to the provisions of Articles 11 to 15, 17 and 19."

strict application of the punitive provisions of the Covenant. The Hungarian Government would like to bring these punitive provisions into equilibrium with the other provisions of the Covenant which—in particular, Articles 11, 13 and 19—provide pacific and preventive means of settling disputes that may arise between States Members, and offer possibilities of remedying situations the maintenance of which might imperil world peace”.<sup>1</sup>

The Uruguayan Government says that “it seems necessary to lay greater stress on the importance of the preventive function assigned to the League”.

### 3. *Disarmament.*

Some Governments urge the importance of disarmament, since they hold that the proper application of Article 16 depends upon the application of Article 8.

For example, the declaration by the Foreign Ministers of Denmark, Finland, the Netherlands, Norway, Spain, Sweden and Switzerland, of July 1st, 1936, which the Danish and Swedish Governments appended to their communications, includes this passage: “We do not think it right that certain articles of the Covenant, especially the article dealing with the reduction of armaments, should remain a dead letter while other articles are enforced”.

The Estonian Government says: “Disarmament is the primary task of the organised international community of our day, and an indispensable preliminary condition for the reform of the Covenant”.

### 4. *Effective Application of the Covenant as a Whole.*

Some of the Governments which lay stress on one or other of the foregoing points also demand the effective and concomitant application of all the rules embodied in the Covenant.

The Danish Government, for instance, “thinks that all efforts should be combined with the object of applying as satisfactorily as possible all the rules that the Covenant contains”.

The Swedish Government says: “Mention should be made in the first place of the preventive and mediatory action of political organs, general disarmament and the organisation of means of pressure to be employed against an aggressor State”.

In his speech of July 1st, 1936, to which reference is made in the French Government's communication, M. Léon Blum said: “Undoubtedly collective security is the condition of disarmament, since no State would agree to disarm unless mutual assistance offered it a degree of certainty; but the converse is equally true. Disarmament is the condition of full collective security, for States must be substantially disarmed if arbitral awards are to be imposed and pacific sanctions are to exert their constraining power”.

## SECTION II. — MAINTENANCE OR LIMITATION OF THE OBLIGATIONS UNDER THE COVENANT.

Certain Governments explicitly pronounce in favour of maintaining or strengthening the obligations laid down in the Covenant. Others, however, would prefer those obligations to be restricted.

### I. *Maintenance or Enlargement of the Obligations under the Covenant.*

Certain Governments make declarations of principle on this point.

The French Government, as represented by M. Léon Blum,<sup>2</sup> says: “The French delegation could not . . . accept any plan for reform which would make of the League a merely academic consulting body”.

Again, M. Delbos, speaking of the Covenant on July 3rd, 1936, said: “France rejects in advance any proposal that would impair the structure or the spirit of the Covenant. There can be no question of transforming its bases but only of strengthening it by improving its application”.

The New Zealand Government says: “We are prepared to reaffirm with the utmost solemnity our continued acceptance of the Covenant as it stands”.

The Lithuanian Government observes: “In the first place, it should be made perfectly clear that there is absolutely no suggestion of impairing in any way the structure of the League, or its Covenant, or its system of collective security”.

Other Governments—*e.g.*, those of Colombia, Iraq, Latvia and the Union of Soviet Socialist Republics—implicitly adopt the same attitude, inasmuch as they make proposals which would have the effect of substantially strengthening the obligations under the Covenant.

### 2. *Restriction of the Obligations under the Covenant.*

The Argentine Government proposes “the following general principles”:

“It should be considered what provisions of the Covenant have been shown by experience to be no longer in keeping with the realities of international life, and these provisions should be given an optional character instead of the character of strict obligations.”

<sup>1</sup> The written communication from the Hungarian Government reaffirms this declaration and makes reference to the speech in which it is to be found.

<sup>2</sup> Speech in the Assembly, July 1st, 1936.

"It is desirable not to enter into undertakings going beyond those which all Members of the League are in a position to observe, in order that, in future, no article of the Covenant should fail to obtain simultaneous and collective execution."<sup>1</sup>

The Swiss Government seems to take a similar view when it says: "The Federal Council is of opinion that the question of revising or recasting the Covenant should be considered in the light of experience. Such consideration is the more necessary because the present situation is fundamentally different from that in which the Covenant was drafted. The disparity between hopes and realities has proved to be very wide, and this is largely responsible for the decline in the League's prestige".

### 3. *Intention to apply the Covenant.*

Several Governments are anxious that there should be a genuine intention to apply the Covenant.

The Finnish Government desires "that all Members of the League should declare themselves willing to observe the Covenant more strictly and completely than hitherto, and to apply all its provisions".

The Iraqi Government holds the view that "the League of Nations can avoid future failures, and can maintain and increase its usefulness and influence, only if its Members are prepared to subordinate individual interests to universal interests, accepted and defined by the Assembly".

The New Zealand Government says: "It is our belief that the Covenant as it is, or in a strengthened form, would in itself be sufficient to prevent war if the world realised that the nations undertaking to apply the Covenant actually would do so in fact".<sup>2</sup>

## SECTION III. — METHODS TO BE EMPLOYED.

The principal suggested methods of increasing the value of the League are amendments to the Covenant, accessory agreements, Assembly resolutions and national plebiscites.

### I. *Amendments to the Covenant.*

A. Most Governments are opposed, or at least not very favourable, to the idea of amending the Covenant.

The Danish Government "considers that, in the present situation, it is neither necessary nor possible to amend the Covenant".

The Finnish Government is of opinion "that the present world situation, fraught as it is with elements of conflict, is not propitious to the introduction of fundamental changes in the Covenant, especially since the views of all States as to the utility and desirability of such changes seem at present to differ so widely that any proposal involving substantial amendments would have little chance of securing the required majority".

The French Government stated, through M. Delbos,<sup>3</sup> that France would not propose any amendment to the Covenant "because it does not want to call into question any of its principles, and thereby to weaken both its influence and its action".

The Estonian Government says: "The legal system embodied in the Covenant is amply sufficient to preserve the League's authority and guarantee the security of its Members. From this standpoint, there is no need whatever to alter the Covenant itself."

The Latvian Government sees no need to amend the Covenant, and is of opinion that "in proposing to modify the provisions of the League Covenant without the necessity for such modifications having been shown by proof that the juridical structure of the Covenant is inadequate, the Members would be taking action which would inevitably lead . . . to the lessening of the League's authority and to the weakening of the guarantees of security".

The Lithuanian Government hopes "that the present wording of the articles of the Covenant will be left intact".

The Government of the Union of Soviet Socialist Republics says that "the revision of the Covenant of the League of Nations cannot at the present juncture be regarded as justified by circumstances and as likely to lead to the desired results, in view of the difficulties that would be encountered by the procedure for amending the Covenant under Article 26".

B. Other Governments are in favour of amendment as a method, or propose changes that could only be effected by amendment.

<sup>1</sup> M. Saavedra Lamas further says in the preface to the book on the Argentine pact of non-aggression and conciliation, to which the Argentine note refers: "It is painful to observe how far the reality falls short of the ideal of peace, but, if we look at things with a realistic eye, it would obviously be better to abandon by general consent any undertaking which past experience may have shown to be impossible of performance. There can be no security unless freely accepted treaties are completely and absolutely observed, and it seems idle to seek for new formulæ or new interpretations of the Covenant so long as there is no assurance that they will not be violated."

<sup>2</sup> The same Government says: "We believe that the Covenant has never yet been fully applied, and that it cannot be characterised as an ineffective instrument until it has been so applied."

<sup>3</sup> Speech in the Assembly, July 3rd, 1936.

M. Saavedra Lamas, in the preface to the book already mentioned, to which the Argentine Government's communication refers, says: "It would be much better to introduce such amendments as would make it impossible for a Member of the League ever to find itself compelled to default upon its obligations either because it is unable to fulfil them or because they are too onerous".

None the less, the Argentine Government proposes in its note that "the procedure adopted should be that of interpretative rules . . . pending the introduction of formal amendments".

It is stated in the Swiss Government's communication that "the Federal Council is of opinion that the question of revising or recasting the Covenant should be considered".

The Colombian Government does not explicitly advocate any particular method, but some of its suggestions imply amendments to the Covenant.<sup>1</sup>

The Peruvian Government proposes a considerable number of changes, most of which would involve amendments to the Covenant.

The New Zealand Government, after saying: "(3) We are prepared to reaffirm with the utmost solemnity our continued acceptance of the Covenant as it stands", adds "(4) We believe, nevertheless, that the Covenant is capable of amendment, which should take the form of strengthening rather than weakening its provisions".

## 2. *Methods aiming at strengthening, interpreting or reinforcing the Covenant without amending it.*

The Estonian Government, having observed that there is no need to amend the Covenant, adds: "The wide experience already gained may help to place upon a clearer and more definite basis the application of certain articles and the obligations they involve".

The Finnish Government is in favour of "interpreting the provisions of the Covenant in a practical manner which would render them easier to apply".

The French delegation says that "it is ready to propose or to accept any method of interpretation and adaptation which would increase the practical effectiveness of the Covenant".<sup>2</sup>

The methods suggested by Governments to attain the end in view—supplementing, interpreting or reinforcing the Covenant—are four in number:

### (a) *Accessory Agreements.*

In connection with Article 16, the French Government proposes regional agreements carrying military sanctions (see Chapter IX).

The Lithuanian Government expresses the hope "that the measures to be adopted to improve the application of the principles (of the Covenant) shall be embodied in a separate instrument".

The Government of the Union of Soviet Socialist Republics observes that its proposals in the sphere of collective security might "be adopted either in the form of an Assembly resolution or by way of a protocol open for signature by Members of the League".

### (b) *Assembly Resolutions.*

The French Government says:<sup>3</sup> "One important result would be achieved if the Assembly in September were able to adopt resolutions enabling every State to know more exactly on what support it might count from the collectivity of nations".

The Danish and Swedish Governments reproduce the above-mentioned declaration by the Foreign Ministers of seven countries, which contains the following sentence: "We think that, unless any unforeseen contingency presents itself, it would be better to adhere to a procedure whereby the Assembly would lay down rules for the application of the Covenant".

As stated above under (a), the Government of the Union of Soviet Socialist Republics suggests two methods—that of a resolution and that of a protocol.

The Uruguayan Government, on the other hand, expresses its disapproval of "mere interpretative statements". It says: "If it is considered that the time has come for an examination of the basic system of the League, a frank debate should be opened at which the different points of view already insistently expressed by international public opinion could be thoroughly discussed. In many cases, the drawback to the system of interpretations is that the meaning of the principles becomes obscured by subtleties and that an atmosphere of uncertainty is created round the guarantees which are provided and the obligations assumed by every country".

### (c) *Interpretation of the Covenant by the Permanent Court of International Justice.*

The Colombian Government proposes that "any doubts as to the interpretation of the Covenant" should be settled by the Permanent Court.

<sup>1</sup> See, for example, paragraphs 3 and 4 of the Colombian communication: "3. The reference in Article 21 of the Covenant to the Monroe Doctrine as a regional agreement would be replaced by recognition of the regional or continental agreements which would be established.

"4. The Council of the League would be composed of representatives of the Members of the League, elected by the Assembly from candidates submitted by the regional or continental associations."

<sup>2</sup> M. Blum's speech in the Assembly on July 1st, to which the French communication refers.

<sup>3</sup> M. Delbos' speech in the Assembly on July 3rd, 1936, to which the French communication refers.

(d) *Plebiscite.*

The New Zealand Government proposes that all the Members of the League should hold a national plebiscite on the application of Article 16.<sup>1</sup> Apparently, the object of this plebiscite would be to ascertain the opinion of the peoples on Article 16 as it now stands, and on the proposed changes in it.

CHAPTER II. — UNIVERSALITY.

SECTION I. — PARTICIPATION OF ALL STATES IN THE LEAGUE.

The majority of the Governments in their replies express the keen desire that the League of Nations should become universal in actual fact. One Government, without contradicting this point of view, expresses a different one, and would like the conditions of admission to the League of Nations and of resignation therefrom to be made stricter.

I. *The Aspiration to Universality.*

Eleven Governments—those of the Argentine, Denmark, Estonia, Finland, Iraq, Latvia, Lithuania, New Zealand, Norway, Sweden and Switzerland—refer to the League's lack of universality as a circumstance which renders the performance of its tasks more difficult,<sup>2</sup> or express the desire, often in categorical terms, that the League of Nations should be made universal.

As regards the means proposed to achieve this end, the following suggestions and proposals may be noted:

The Latvian Government asks that "all countries which are still outside" the League should be asked "to become members".

The Lithuanian Government says: "The League of Nations should again invite all States now absent to become members".

Finland and Norway ask that the problem should be studied. The Finnish Government says: "It is highly desirable to consider without delay the possibilities of securing the accession of States which are not yet members of the League, and the best means of doing so".

The Norwegian Government states that "immediate attention will have to be given to the question of what must be done to induce non-member States to join the League".

The Swedish Government "expresses the hope that negotiations will be undertaken with the countries which have left the League".

The Danish Government suggests that "the Assembly should ask the Council to enquire (perhaps through a special Committee) into the possibility of opening negotiations with those States which hold aloof from the League with a view to bringing them into it, and the best moment for doing so, and also any measures that may make it easier for non-member States to join the League".

The Iraqi Government simply says that "every effort should be made to induce States not now members to enter or re-enter the League".

The New Zealand Government says that every proper effort should be made to that end.

The Argentine Government wishes to ensure the universality of the League "by means of formulæ permitting the adherence or return of all the countries outside it".

The Swiss Government thinks that the entry of absent States into the League might be made easier by lightening the obligations of the Covenant. It says: "Universality, which was looked upon from the outset as an essential condition of its success, should, we think, be one of the objectives of any future reform. Consequently, such changes as may be made should render it easier for countries which are not yet members of the League to join it, and for those which have left it to return. This aim in itself is deserving of every effort and would justify changes which to some may appear in the light of sacrifices, though they are not in reality so. What the Covenant would lose in juridical substance it would gain in moral force".

<sup>1</sup> "(10) We consider that there can be no certainty of the complete and automatic operation of the Covenant unless the Governments of all Members of the League are supported, in their determination to apply it, by the declared approval of their peoples.

"(11) We propose, therefore, that all the Members of the League, and as many non-members as may be persuaded to adopt this course, should hold immediately a national plebiscite with the object of taking the opinion of their peoples on the following points:

"1. Whether they are prepared to join automatically and immediately in the sanctions contemplated by Article 16 of the Covenant against any aggressor nation nominated as such by the Council of the Assembly.

"2. Whether in such case the armed forces of their country (or such proportion as may previously have been fixed by the League) should be immediately and automatically placed at the complete disposal of the League for that purpose."

<sup>2</sup> The Swiss Government adds another consideration: "It must also be remembered", it says, "that a League that is not universal is not merely a weaker and less effective institution, but an institution whose character is liable to deteriorate. It may change from a worldwide association for the development and defence of international law—which is what it always ought to have been—into an association of States likely in the nature of things to find itself at odds with countries that do not belong to it."



The Estonian Government expresses a different opinion. It says: "While no effort should be spared to make the League more comprehensive, care should be taken to avoid any such compromise as might reduce the power of the League and weaken its influence".

2. *The Terms of Admission to, and Withdrawal from, the League.*

A. *Admission* (Article I, Paragraph 2, of the Covenant).

The Peruvian Government says: "The admission of a political entity to the League of Nations entails enquiry into whether it fulfils the following conditions:

"(a) It must be capable of keeping its international engagements; this capacity is distinct from its intention to keep them and depends largely on the degree of advancement of the legal system of the community in question. In that sense, this condition is linked with the stage of civilisation that the community has reached as reflected in its legislative system and its customs, more especially in regard to the protection of the rights of foreigners.

(b) Admission must not be granted conditionally—that is to say, a country cannot be admitted to membership of the League on condition that it makes certain specified reforms in its administrative and legal systems. It would clearly be difficult to ascertain afterwards whether such reforms had been carried out, and if they had not been carried out it would be still more difficult politically to secure the expulsion of the neglectful member.

(c) It is necessary to establish clearly whether the admission of an entity to the League is equivalent to international recognition. If so, admission carries with it the right to diplomatic intercourse and trade. If not, the paradoxical situation is that a State can only maintain relations with another State through the League organisations. The former solution seems the more satisfactory, provided always that membership of an international organisation does not restrict the freedom of States to establish or continue bilateral relations between themselves.

(d) It is also necessary to consider the problem of the status of Governments, a problem which directly affects their representation in the League. If the League admits representatives of *de facto* Governments and if they enter into relations—possibly with juridical consequences—with the representatives appointed by Governments which have not recognised their Governments, the situation is complicated and a further reservation is necessary."

B. *Withdrawal* (Article I, Paragraph 3).

The Peruvian Government says further: "Resignation has been employed by Members of the League as a political means of evading the international obligations imposed by the League. No coercive measures have been agreed upon for such cases. Obviously, however, it is not proper that a State should withdraw from the League when the League's action is opposed to that State's idea of its own interest at a given moment. Obviously, also, the attitude adopted by the bureaucratic organs of the League in such a case is influenced by the desire to secure the return of the withdrawing State to the League, and that desire makes it difficult to maintain the decisions reached."

SECTION II. — CO-OPERATION BETWEEN THE LEAGUE AND NON-MEMBER STATES.

The majority of the Governments which declared in favour of the universality of the League of Nations had in mind at the same time organised and regular co-operation with the States remaining outside the League of Nations. Statements to this effect were made by the Governments of the Argentine, Denmark, Finland, Iraq, New Zealand, Norway and Sweden.

The Finnish Government considers it desirable "to establish or intensify co-operation in many forms with such countries as are not yet prepared to join the League".

The Iraqi Government says that the Assembly should invite any State which finds it impracticable to join the League of Nations "to participate as fully as it can in the work of the League, particularly in the immediate future".

The New Zealand Government urges co-operation with non-member States chiefly in connection with collective security. It says: "We should wish also to see all the nations of the world, whether members of the League or not, invited to take part in the consideration of the terms and the application of the Covenant, or of any other universal method of collective security that may be proposed in its stead".

Denmark and Norway state that this co-operation should be mainly directed towards the prevention of war. The Danish Government suggests that the Assembly should ask the Council to enquire into "the possible forms in which countries that have not so far seen their way to join the League could co-operate in any measures that might be taken to prevent war, and in which they could take a more active and extensive part in the League's work in the economic, moral, technical and humanitarian spheres".

The Norwegian Government says, speaking of the States which do not belong to the League of Nations: "Some of them are co-operating with the League in various ways, and it is to be

hoped that they will be prepared to co-operate in the most important work of all—namely, the prevention of war”.

The Swedish Government advocates co-operation on the basis of Article 11 and draws attention to the part which might be played by the Pact of Paris in such co-operation. It says, “The Swedish Government suggests that the Council, in examining on the basis of Article 11 of the Covenant any disputes of a general political nature which may arise, should regularly endeavour to ensure the co-operation of non-member States. On the model of the procedure applied in the Sino-Japanese dispute concerning Manchuria, when a representative of the United States of America was invited to attend the meetings of the Council, non-member States might be regularly invited to send delegates to sessions of the Council when their co-operation in the examination of such disputes appears desirable. Their presence must not, of course, affect the Council’s legal situation as constituting in its ordinary composition an organ of the League of Nations, and the conditions of the participation of those Powers in the Council’s discussions should be determined by agreements which should be concluded on the subject.”

“The Swedish Government wishes to draw attention in this connection to the fact that such more regular co-operation between the Council and the non-member countries would form a natural amplification of the Pact of Paris, the provisions of which must be considered as based on the idea of a consultation between the signatory Powers when faced with a threat of a breach of this pact or when a breach has already been committed. But in spheres other than that of international politics, the League should endeavour, in future as heretofore, to ensure the universal co-operation of States and thus to combat the spirit of mistrust and anxiety which is once more threatening to divide nations, with fatal consequences.”

The Argentine Government asks that “formulæ should be sought for ensuring the co-operation of these countries (the non-member States) in efforts aimed at the maintenance of peace”. It suggests two methods of facilitating co-operation between the League of Nations and the non-Member States. First, there is the Argentine Pact of Non-aggression and Conciliation signed on October 10th, 1933, at Rio de Janeiro. We read in the preface by M. Saavedra Lamas to a work<sup>1</sup> to which the Argentine Government’s communication refers: “The Argentine Pact does not claim to replace the system set up under Articles 10 and 16 of the Covenant of the League of Nations. It is offered here in the hope that it may serve as a link between the States Members of the League and those which are not members.” Further on, the Minister for Foreign Affairs of the Argentine Republic stresses the fact that the United States of America “has acceded to the (Argentine) Pact and that it was unanimously ratified by the Senate”. He adds: “It should be pointed out that the Members of the League of Nations, by acceding to this Pact, would immediately create a juridical link between the League and the non-member States in any effort to maintain peace”. He concludes by saying: “It is necessary to bear in mind the fact, perhaps insufficiently appreciated in Europe, that the American nation made no objection to subscribing to the obligations embodied in the Argentine Pact. Consequently, this instrument proposed for universal adoption enables each acceding State to rely, for the high purpose of conciliation and harmony, on the invaluable co-operation of the great nation to which the Geneva institution indirectly owes its creation.”

The second method proposed by the Argentine Government is the generalisation of the provisions of Article 4 of the draft Treaty for the Maintenance of Peace submitted by the Argentine Republic to the Inter-American Conference, which will meet next December at Buenos Aires on the initiative of President Roosevelt. This article reads as follows: “(a) The Contracting States which are Members of the League of Nations and signatories of the Pact of Paris or the Saavedra Lamas Pact, or of both at the same time, may jointly or separately request the Contracting States which are not members of the League but are signatories of the above-mentioned pacts, to lend their co-operation in the anti-war measures or in the sanctions which the League of Nations may counsel be adopted against its Member States which have broken its Covenant; (b) the States so requested shall examine, each one through its competent agencies, whether the collaboration requested corresponds to the obligations derived from the Pact of Paris or the Saavedra Lamas Pact or whether it is called for by the spirit of the said pacts or by the dictates of international morality; in the affirmative case, they shall give their co-operation jointly or through unilateral acts of assistance; (c) in case of violation of the Pact of Paris or the Saavedra Lamas Pact by any of the High Contracting Parties which is a Member of the League of Nations, without prejudice to the sanctions prescribed by the Saavedra Lamas Pact, the other Contracting States which are likewise Members of the said institution may denounce to the latter the violation which has been committed. If the States which are not members of the League of Nations are summoned to apply measures or sanctions counselled by the said entity, they shall proceed in the manner agreed upon in paragraph (b) of this article.”

### SECTION III. — CONTINENTAL OR REGIONAL ORGANISATION OF THE LEAGUE.

In Chapter III (Composition of the Council), Chapter IX (Article 16) and Chapter XI (Regional Agreements), proposals or arguments will be found for the creation of special prerogatives or obligations applicable to a particular region, leaving the fundamental structure of the League of Nations unchanged.

<sup>1</sup> “The Argentine Pact of Non-aggression and Conciliation”, published by the Ministry for Foreign Affairs of the Argentine Republic.

Here we only deal with proposals aiming at the creation of regional or continental unions to be substituted to a greater or lesser extent for the League of Nations in the fulfilment of the functions provided for in the Covenant.

1. The Colombian Government makes the following proposals:

"(1) Decentralisation in the working of the League by the establishment of regional or continental associations or agreements—as, for example, the European Union, the Association of American Nations, etc.

"(2) The regional or continental associations would deal with problems of an exclusively regional or continental nature, and the procedure applied by them will, in the first instance, be that provided for in Article 15 if there arises between the States Members of these associations a dispute likely to lead to a rupture. The associations would also be instructed to take steps to maintain peace in case of a local war or threat of war."

The Government of Uruguay states its position as follows:

"The Uruguayan Government wishes to support a solution embodying the principle of a limited or regional organisation. The time has come to consider setting up such organisations entrusted, not only with executive functions, but also with the duty of examining and deciding how the principles of the Covenant are to be applied when controversies arise. Thus, when a conflict breaks out, the countries situated in the zone affected or those most directly interested in the consequences of the crisis will have to assume corresponding obligations, while all the other nations will subordinate themselves to the action of these countries. All this will be without prejudice to the universal character of the League, whose governing organs will always have the last word in case of serious differences."

The Uruguayan Government is careful to state that its intention is not to detract from the universal character of the League.<sup>1</sup>

2. The French Government opposes any proposals which might compromise the universality of the League of Nations.

"It would be a serious mistake," says M. Delbos, "to compromise this principle of universality. Though the interests and aspirations peculiar to each continent must be taken into account, nothing could be more unwise than to separate them. Each of them may, moreover, consider its own particular task through organs such as the Commission for European Union or the Pan-American Union, but without breaking the ties that should unite the community of peoples."<sup>2</sup>

### CHAPTER III. — COMPOSITION AND FUNCTIONS OF THE ORGANS OF THE LEAGUE.

The Argentine Government has made the following general proposal which applies to the League's organs as a whole: "The principle of the equality of all sovereign States as regards their participation in the activities of the organs of the League should be respected".

#### SECTION I. — THE COUNCIL.

Some Governments propose that the system of permanent seats should be changed.

The Argentine Government proposes that "the Council should be democratised both in its composition and operation".

In the preface to the book referred to in the communication from the Argentine Government, M. Saavedra Lamas states that: "Since 1920, the Argentine Government has formulated and reiterated the principle that the idea of a permanent Council should be ruled out and that, without sanctioning contractual inequalities, the League should merely take into consideration the positive influence exerted by the great Powers over other States".

The Colombian Government is in favour of abolishing the permanent seats and of organising the election of the Members of the Council on a regional or continental basis. It has made the following suggestion:

"The Council of the League would be composed of representatives of the Members of the League, elected by the Assembly from candidates submitted by the regional or continental

<sup>1</sup> In the Uruguayan Government's communication, the passage we have just quoted is preceded by the following remarks:

"The universal character of the League, as of the whole system of international law, must be maintained, as it is an essential condition of attaining the highest ideal of justice. Without departing from this universality, experience shows the necessity of organising limited groups, whether continental or regional, which can avert the serious conflicts that have made the full application of the provisions of the Covenant impossible, a circumstance which the Assembly recognised in paragraph 3 of its recommendation of July 4th last. This distinction in no way signifies a contradiction. Limited or regional agreements within the framework of the Covenant cannot be regarded as an innovation for which the time is not yet ripe. Since the inception of the League, they have been a subject of study, and in the development of the valuable technical work which the Geneva institution has carried on for the benefit of all nations, much important research has been done on the lines indicated. In 1921, Czechoslovakia expressed a favourable view of this idea, although the Assembly did not accept the amendment to Article 21 which was proposed. Later, the Treaty of Mutual Assistance prepared in 1923 showed a definite tendency towards an organisation on regional lines; subsequent studies led, however, to a diametrically opposite system with the Geneva Protocol, but, in the case of the latter, greater difficulties were encountered in achieving practical results. To-day, in the light of experience, conditions have changed. It seems necessary to lay greater stress on the importance of the preventive function assigned to the League, and to give more prominence to the conciliation provided for in Article 11 of the Covenant, a legal principle which has found a fertile soil in America."

<sup>2</sup> Speech made in the Assembly on July 3rd, 1936, to which the French Government's communication refers.

associations. Consequently, the distinction between the 'Principal Allied and Associated Powers' and the other Members of the League would be abolished".

The Peruvian Government urges that the permanent seats should be abolished and that all seats on the Council should be elective and should be filled by rotation. Moreover, the constitution of the Council should "be based on continental groups, the representation of each group of States Members of the League being increased or reduced according to the number of its Members".<sup>1</sup>

The Uruguayan Government has formulated the following general desiderata:

As regards the representation of States on the Council, it would no doubt be useful to find a solution ensuring a more democratic representation of every country, in accordance with the doctrines which Uruguay has always supported, and to offer America, like the other great centres of civilisation, in a definite text embodied in the Covenant, an assurance of equitable representation going further than the tacit agreement at present governing the matter. Although this is not the time to put forward such solutions, the Uruguayan Government wishes to state that in the Assembly or elsewhere it is prepared to undertake the study of any amendments which may be proposed.

## SECTION II. — THE ASSEMBLY.

As regards the Assembly, the Argentine Government proposes that "the examination of the most important questions or those affecting the League's very existence" should be reserved for that body.

## SECTION III. — THE SECRETARIAT.

The Peruvian Government states (Article 6) that: "For reasons similar to those mentioned in connection with Article 5,<sup>2</sup> it is necessary to introduce into the organisation of the League Secretariat the principle of the proportional representation of continental groups, so that there shall no longer be in practice a monopoly of certain appointments for nationals of European Powers".

## CHAPTER IV. — THE UNANIMITY RULE (ARTICLE 5).

### SECTION I. — THE GENERAL PRINCIPLE OF UNANIMITY.

The general unanimity rule as embodied in Article 5 has given rise to little comment.

1. The Uruguayan Government declares itself in favour of this rule: "The unanimity rule at present laid down also calls for consideration in connection with reform schemes. The Uruguayan Government thinks it desirable to retain this rule as an effective guarantee afforded to all nations."

The Peruvian Government<sup>3</sup>, after a critical examination of this rule, declares itself to be

<sup>1</sup> The Peruvian proposals read as follows:

"Article 4, paragraph 1. — The present composition of the Council should be completely reformed by the abolition of the distinction between permanent and non-permanent seats, and of the system whereby certain States have a right to seats on the Council, because these arrangements are contrary to the principle of international equality on which a juridical organisation like the League should be based. The political grounds on which a 'Great Powers' system was introduced into the Covenant have since changed, owing to the passing of time and the impossibility of perpetuating in so comprehensive an organisation as the League the idea that its *raison d'être* is to safeguard the particular *status quo* that happened to be created by the treaties of 1919 and 1920.

"All seats on the Council should be elective and should be filled by rotation. It is reasonable enough that some weight should be attached to the extent to which the interests of States are involved in the political interests represented by the League and in its action in different fields of international activity; but this does not necessarily mean adhering to formulæ which are inconsistent with the principle of equality and which consequently entail an invidious gradation of the influence and importance of the different countries.

"Perhaps the best way of ensuring that such influence is exerted legitimately and in proportion to the interests represented by the States concerned would be for the formation of the Council to be based on continental groups of States Members of the League, the representation of each group being increased or reduced according to the number of its Members. In that case, the desire of the continental groups to keep their representation up would be a factor in the vitality of the League.

"As regards the re-election of Members of the Council, some limits should be placed on the recent tendency to give certain countries by means of a system of indefinite re-election, what amounts to the permanent seat they were unable to obtain. If each continental group were given a certain proportion of seats to which its Members were re-eligible, it would probably be possible both to uphold the principle of equality and at the same time to enable certain countries to be represented more continuously on the Council."

<sup>2</sup> See Chapter IV.

<sup>3</sup> "Article 5, paragraph 1.

"The object of the strict rule of unanimity was to make a concession to the principle of equality which was so roughly handled in the composition of the Council and to avoid making the League into a super-State in which the will of the majority could dominate that of a minority. It is clear in practice, however, that the will of a single State is sufficient to prevent a decision upon which the peace of the world or important political, economic or social interests may depend. In other cases, the certainty that one State will dissent is enough to force the League to frame its decisions in an ineffectual form.

"It is impossible to ignore the serious difficulty that States may find themselves liable to international obligations which they may regard as incompatible with their most justifiable and legitimate interests. There can therefore be no

in favour of its maintenance, though it proposes that it be set aside in the case of Article 15.<sup>1</sup>

2. The Norwegian Government, on the other hand, states that: "A drawback which has made itself felt . . . is that the rule of Article 5 regarding the unanimity of decisions has been maintained in too mechanical a manner."

It mentions several cases (Articles 11 to 14) to which, in its opinion, the unanimity rule should not apply.<sup>2</sup> It adds that, should it be impossible to secure the adoption of an Assembly resolution laying it down that a majority of the votes would be sufficient for the application of Article 11 with a view to conciliation, it proposes that the following clause be inserted in Article 5: "Unanimity is not required for mere mediation or conciliation in disputes between two or more States, nor for friendly action with a view to averting the risk of international conflicts".

## SECTION II. — APPLICATION OF THE UNANIMITY RULE IN PARTICULAR CASES.

It has been variously proposed that in stated cases the unanimity rule should be interpreted in a particular way (for example, that in counting the votes those of the parties to a dispute should not be taken into account), that it should be agreed not to apply this rule or that it should, by some means or other, be waived.

These proposals, which relate in the main to Articles 10, 11, 14, 15 and 19, will be described in the chapters dealing with those articles.

## CHAPTER V. — THE REDUCTION AND LIMITATION OF ARMAMENTS (ARTICLE 8).

In this chapter, we do not propose to mention the statements by various Governments relating to the general position occupied by disarmament in the system of the League,<sup>3</sup> or the relations between Article 8 and Article 16 of the Covenant.<sup>4</sup>

### SECTION I. — PROPOSALS AIMING AT A SETTLEMENT OF THE QUESTION.

#### I. *Necessity for reopening the Question.*

The Governments of Denmark, Finland, France, Iraq, Norway and Sweden express the opinion that the question should be taken up again with a view to its settlement.

The Danish Government places the following proposal at the head of its observations regarding the League's activities:

"At the September session, the Assembly will resume consideration of the armament question, with a view to bringing the present competition in armaments to a standstill as soon as circumstances permit."

The Finnish Government "regards the setting of a limit to the competition in armaments which is now taking place, more especially among the great Powers, and the strict application of the principles laid down in Article 8 as one of the League's most urgent duties".

The French Government, as represented by M. Blum, urges the necessity of solving simultaneously the two problems of collective security and disarmament.<sup>5</sup>

The Government of Iraq says: "It is an urgent need that the question of disarmament should be re-examined".

The Norwegian Government states: "No one can fail to be aware of the terrible danger presented by the tremendous armaments which are being built up in the majority of countries. The Covenant of the League of Nations in Article 8 drew attention to the fact that 'the maintenance of peace requires the reduction of national armaments', and experience has shown only too clearly that armaments themselves create a growing distrust between States, thus sowing the seed of discord and conflict. It must therefore be the duty of the Members of the League of Nations to renew their efforts to advance the cause of disarmament, and to conduct this task to a successful issue they must seek the co-operation of the States not members of the League".

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question of making any exception to the unanimity rule, but it might be accompanied by conditions that would enable the Council to take any necessary decisions under Article 15 (when this has been satisfactorily amended) by a two-thirds majority."

<sup>1</sup> See Chapter VIII, Section III.

<sup>2</sup> See Chapters VI and VIII.

<sup>3</sup> See Chapter I, Section I.

<sup>4</sup> See Chapter IX.

<sup>5</sup> Speech in the Assembly on July 1st, 1936.

The Swedish Government "wishes to emphasise the importance it attaches to the League of Nations making a fresh examination of the possibility of a general reduction of armaments".

2. *Institution of a Permanent Disarmament Commission.*

Three Governments make a suggestion on this subject.

The Danish Government states: "Consideration will naturally be given, in accordance with the projects of the Conference for the Reduction and Limitation of Armaments, to the appointment of a Permanent Commission, consisting of one representative of each State, for the purpose of collecting the necessary information from Governments, as soon as political conditions are favourable, in order to lay before the Council plans of the kind contemplated in Article 8 of the Covenant, which can be submitted to the various Governments for their consideration and decision. It is understood that any country may make its acceptance of such plans conditional upon their acceptance by certain other countries and upon the observance of the agreed provisions by those countries".

The Finnish Government says: "To this end, it seems necessary to re-open the already carefully considered question of setting up a Permanent Disarmament Commission on which all countries would be represented".

The Norwegian Government submits an alternative: either a Permanent Conference or a Permanent Commission. It says: "If it is desired to achieve anything practical in the matter of disarmament, it will certainly be necessary either to adopt the proposal of the Union of Soviet Socialist Republics to make of the Conference for the Reduction and Limitation of Armaments a permanent institution, continually dealing with the question involved here, or to establish a new Permanent Commission consisting of a representative of each country to discuss these questions. My Government desires that this idea should be carried into effect as soon as possible, and presumes that States not belonging to the League of Nations will be invited to participate".

3. *Conclusion of a Convention on the Manufacture of and Trade in Arms.*

Four Governments who ask that the question of disarmament should be re-examined consider that one of the first duties will be to conclude a convention on the manufacture of and trade in arms.

The Danish Government makes the following proposal:

"The report of the Committee for the Regulation of the Trade in and Manufacture of Arms and Implements of War, dated April 13th, 1935 (document Conf. D. 168), will be studied by the Assembly with a view to the preparation of a draft convention, which can be adopted on the understanding that States shall be entitled to make their acceptance conditional upon the acceptance of other States named."

The Finnish Government observes that the Permanent Disarmament Commission "could most appropriately inaugurate its work by endeavouring to secure the adoption of the existing projects for a Convention providing for the supervision of the manufacture of and trade in arms and implements of war".

The Norwegian Government desires to point out "how necessary it is to render effective the plan for the supervision of the manufacture of and trade in arms".

The Swedish Government asks that the League of Nations should "endeavour to secure, as an important part of a plan of disarmament, the application of an international Convention on the supervision of the manufacture of and trade in arms and implements of war".

4. *Creation of an International Force.*

The New Zealand Government states: "We are prepared to agree to the institution of an international force under the control of the League or to the allocation to the League of a definite proportion of the armed forces of its Members to the extent, if desired, of the whole of those forces—land, sea and air".

SECTION II. — PROPOSAL TO RETAIN ONLY PARAGRAPH I OF ARTICLE 8.

The Peruvian Government makes the following proposal for omitting paragraphs 2 *et seq.* of Article 8:

"Events have shown that the League is powerless to carry through a reduction of national armaments. The long and barren history of the preparatory Committees and the Disarmament Conference demonstrate that such a serious and complicated problem cannot be solved by academic formulæ. The only effective steps that have been taken in the matter of disarmament since the great war are international acts that have been accomplished outside the League's sphere of influence. It would be more honest to admit this and to cut out of the Covenant

any suggestion of the method to be followed in order to achieve disarmament or perpetuate it and all references to the exchange of information about armaments, and only to retain the declaration of principle in paragraph 1 ”.

## CHAPTER VI. — THE PREVENTION OF WAR BY MEANS OF ARTICLE II.

### SECTION I. — APPLICATION OF ARTICLE II.

#### I. *Reinforcement of the League's Preventive Action.*<sup>1</sup>

The Government of Uruguay states: “ It seems necessary to lay greater stress on the importance of the preventive function assigned to the League, and to give more prominence to the conciliation provided for in Article II of the Covenant ”.

#### 2. *League Intervention at an Early Stage.*

The Norwegian Government considers it to be “ of primary importance to reinforce the League of Nations power to intervene in any matter liable to create dangerous conflicts or to lead to war—to intervene in good time before even the thought of war has arisen ”.

The Swedish Government says: “ Experience shows that the League of Nations should intervene at as early a stage as possible of the dispute, and should endeavour, by its mediating action and the organisation of effective measures, to avoid an aggravation of the dispute and to prevent the latter from leading to a rupture ”.

The Swiss Government is prepared to give “ its most sympathetic consideration ” to proposals made “ for the prompter and more effective application of Article II ”.

#### 3. *Votes taken under Article II.*

Some Governments suggest either that the votes of the parties concerned should not count, or that the rule of unanimity should be abolished.

#### A. *The Votes of the Parties to be ignored in reckoning Unanimity.*

The Colombian Government makes this suggestion: “ The votes to be taken under Articles 10 and 11 of the Covenant would not include the votes of the aggressor States or of the States constituting a danger of war ”.

The Estonian Government says: “ Apart from the question of non-aggression, the preventive measures contemplated in the Covenant should be extended. With reference more particularly to Article 11, paragraph 1, consideration should be given to the advisability of not allowing the contending parties to vote on the question of taking preventive measures to avert a conflict or discontinuing any coercive measures ”.

With regard to Article 11, the Finnish Government observes: “ To facilitate the application of that and certain other articles, it should be agreed that, in cases where the Covenant requires unanimity, the votes of the contending parties should not be counted ”.

As regards this article, the French Government desires “ to prevent abuse of the unanimity rule ”. Its views are expressed in the speech by M. Delbos<sup>2</sup> to which the French Government's communication refers: “ Let us first take Article 11. The Covenant places upon the Council, in the event of a threat of war, the duty of taking any action that may be deemed wise and effectual to safeguard the peace of nations. But the legal practice in virtue of which any decision taken must—apart from specified exceptions—be unanimous has here led to the most singular consequences. For any State threatening peace can by its vote hold up all pacific action. That is a paradox, an absurdity that has long ago been denounced and to which more than a year ago a Committee of the Council vainly sought to put an end.

“ The French Government, however, does not attack the unanimity rule in general; it does not forget that the League of Nations respects the sovereignty of States. Moreover, the assent of those concerned is essential when there is a proposal to take measures which have to be applied upon their own territory or which, in any case, call for their collaboration. But, if efforts at conciliation should fail, the pacific action of the Council must not be paralysed by the attitude of the one already contemplating aggression. It is important that the Council should be able to place every obstacle in the way of the impending war, and its action should not be made subject to the vote of the State that wishes to provoke war.

“ The French Government refuses to believe that an over-formalism should have the effect of depriving Article 11 of all real efficacy.”

The Swedish Government says: “ As different opinions exist concerning the interpretation of the unanimity rule contained in Article 5 of the Covenant in regard to decisions to be taken under Article 11, the Swedish Government is prepared to give its assistance in defining the scope

<sup>1</sup> We have already seen that some Governments have laid stress on the importance of the preventive function of the League of Nations (Chapter I, Section 1, paragraph 2).

<sup>2</sup> Speech made before the Assembly on July 3rd, 1936.

of this rule. The Swedish Government would be glad if it could be expressly laid down that the votes of the parties should not count in reckoning unanimity when the Council, on the basis of Article II, recommends measures to prevent the aggravation of a dispute".

The Danish Government suggests that the votes of the parties should not be counted, but seems to have in mind a special case when it asks that, "in the voting on invitations to the parties, where the present rules would require unanimity, the votes of the parties themselves shall not be reckoned in determining unanimity."

#### B. *Abolition of the Unanimity Rule in respect of the Application of Article II.*

Latvia and Norway propose this.

The Latvian Government says: "Consideration should be given to the question of the more effective application of paragraph 1 of Article II of the Covenant, and the possibility of omitting the unanimity rule should be examined".

The Norwegian Government, with regard to a possible method of applying Article II, says that it "does not see the necessity of asking for a unanimous decision in cases in which the Council or Assembly may take the initiative of reconciliation or mediation under Article II". It adds: "It would perhaps be well for the Assembly to adopt a special resolution stating that a simple majority of votes would be sufficient in that case, since there would be no 'decision' of the nature provided for in Article 5".<sup>1</sup>

#### C. *Majority Decision as to the League of Nations' Intervention in a Conflict.*

The Finnish Government makes a proposal that seems to be connected with Article II—namely, the previous question whether the League should deal with a given dispute. The Finnish Government thinks that: "For a decision that the League shall intervene in a dispute, a simple majority should suffice, at all events as a general rule".

In this connection, the Swedish Government observes: "It should be remembered that, according to the provisions of Article 5, paragraph 2, unanimity is not required for a decision of the Council to take cognisance of a dispute".

#### 4. *Rules for the Application of Article II.*

The Danish Government proposes the setting-up of a "committee to frame rules for the operation of Article II, in order to facilitate its application at an early stage if a dangerous situation should develop".

The Finnish Government suggests that "steps should be taken forthwith to frame more detailed rules for the application of Article II of the Covenant, so that disputes of the kind to which it refers can be settled at an early stage on the basis of that article".

The Swedish Government mentions the 1927 resolution and the report to which this resolution refers: "Many proposals have been laid before the Assembly for strengthening the powers of the Council, acting on the basis of Article II, in preventing open disputes. Mention may be made of the resolution adopted by the Assembly in 1927, recommending to the Council, as a valuable guide for the application of Article II, to adopt a report approved by the Council Committee on the method or rules suitable for accelerating the framing of the decisions to be taken by the Council in order to fulfil the obligations of the Covenant".

#### 5. *Replacement of Rapporteurs.*

The Government of Iraq suggests, with a view to improving the application of the principles of the Covenant, that the question should be discussed of "replacing, in the proceedings of the Council and the Assembly, a *rapporteur* who fails within a given time to bring disputing Members to agreement".

### SECTION II. — THE CONVENTION OF SEPTEMBER 26TH, 1931, TO IMPROVE THE MEANS OF PREVENTING WAR.

Several Governments feel that this Convention should be the complement of Article II; though it has not yet come into force, it has received numerous accessions.

The Danish Government suggests that the Council should appeal to the Members of the League to ratify this Convention within six months and should endeavour to obtain the accession of non-member States.

The Finnish Government considers that the Convention of September 26th, 1931, "though in appearance perhaps less categorical on the subject of violations of another State's territory, it would nevertheless help to reduce the danger of war if it were fairly applied, and that, in these

<sup>1</sup> We have seen that the Norwegian Government proposes a modification of Article 5 if the Assembly is not prepared to adopt this suggestion.



circumstances, States should be asked to ratify or accede to it, at all events provided that they are assured of the accession of all their immediate neighbours ”.

The Norwegian Minister for Foreign Affairs says: “ In order to prevent conflicts from degenerating into open war, States should, I think, agree to adopt the General Convention to improve the Means of preventing War, signed at Geneva on September 26th, 1931. Norway ratified this Convention in 1932, and my Government would be glad to see a greater number of States accede to it ”.

The Swedish Government thinks that, if the Convention “ secured general acceptance, an important step forward would be made ”.

## CHAPTER VII. — CO-ORDINATION OF THE COVENANT OF THE LEAGUE OF NATIONS WITH OTHER PACTS.

### SECTION I. — THE PACT OF PARIS—ARTICLE 12 OF THE COVENANT OF THE LEAGUE OF NATIONS.

#### 1. *Bringing the Covenant of the League of Nations into Harmony with the Pact of Paris.*

The Argentine Government suggests that the Covenant of the League of Nations be co-ordinated with the Pact of Paris and indicates the reasons for such action, together with the procedure to be adopted (see Section II).

The Estonian Government says that “ the best way of enforcing the principle of non-aggression would be to bring the Covenant and the Paris Pact into harmony ”.

2. The Peruvian Government makes the following observation regarding Article 12 of the Covenant:

“ Paragraph 1 of this article admits in a negative form of the possibility that a Member of the League may resort to war after an award or decision given by the Council on a dispute referred to it for settlement. Such a provision is incompatible with the Paris Pact and with the general system of outlawing war represented by the Covenant.

“ Articles 12 and 13 should be supplemented by a clause laying down that, failing an agreement between the parties to a dispute as to its political or legal character, the Council shall decide what kind of procedure is to be followed. This is the only way to ensure that conflicts shall be settled by peaceful means.”

### SECTION II. — THE ARGENTINE PACT OF OCTOBER 10TH, 1933.

The Argentine Government suggests that the Covenant of the League of Nations should be co-ordinated with both the Pact of Paris and the Argentine Pact of Non-aggression and Conciliation. For this purpose, it advocates “ full independence being conferred on the Committee appointed to study this question, instead of making its work dependent on the problem of disarmament ”. It adds: “ Such co-ordination will make it possible to unify the world’s pacific efforts owing to the fortunate fact that the Pact of Paris has had the approval of nearly every country and that the Argentine Pact has been approved by the whole American continent, including the Senate of the United States and the Brazilian Parliament, and that in Europe numerous countries have acceded to it ”.

(See Chapter II, Section II, on the collaboration of the League of Nations with States non-members, where this question has already been dealt with.)

## CHAPTER VIII. — PACIFIC SETTLEMENT OF DISPUTES.

*Note.* — Special chapters are devoted to Article 11, which provides for the settlement of international disputes through conciliatory action by the Council, and Article 19, which lays down a special procedure for a certain type of dispute (see Article 11, Chapter VI; Article 19, Chapter X).

(See also Chapter I, Section I. — The Rôle of the League, (2) Prevention of War.)

### SECTION I. — GENERAL METHODS FOR THE PACIFIC SETTLEMENT OF DISPUTES.

1. Two Governments are in favour of developing the methods of conciliation and arbitration. The Estonian Government says: “ It would be desirable to find methods of generalising and further defining the procedure of conciliation and arbitration . . . ”.

The Latvian Government points out that “ the possibility of making the procedure of conciliation and arbitration more and more general still exists, although political disputes cannot always be settled by that means ”.

2. The Swiss Government states that "there is room for improvement in the methods of pacific settlement (the methods of the Covenant), especially those designed to appease political conflicts".

3. The New Zealand Government believes it "improper to enforce a system of preventing war without at the same time setting up adequate machinery for the ventilation and, if possible, rectification of international grievances", and would support "the establishment of an acceptable tribunal for that purpose".

4. The Government of Iraq would wish to see discussed "the question of a fuller application of Article 13 of the Covenant, especially to disputes of the kind mentioned in paragraph 2 of that Article".<sup>1</sup>

## SECTION II. — THE PERMANENT COURT OF INTERNATIONAL JUSTICE.

### I. *Organisation of the Court* (Article 14).

The Peruvian Government is in favour of deleting the first part of this article, which has become superfluous, and to introduce other provisions. It says: "The first part of this article, which refers to plans for the establishment of a Permanent Court of International Justice, is now superfluous. In the redrafting of the article, it would be desirable to add a statement of the fundamental principles underlying the organisation of the Court—namely: (a) Its elective character; (b) Proportional representation of continental groups, without prejudice to the proportional representation of different legal systems or to the personal and non-political qualification of the judges; (c) Compatibility between the League Court and any other regional or continental court that may be established".

### 2. *Requests to the Court for Advisory Opinions* (Article 14).

The Governments of Denmark, Finland, Norway and Sweden recommend that decisions to ask the Court for an advisory opinion should be taken by a majority vote.

The Finnish Government says: "At all events as a general rule, a simple majority should suffice for a decision that the . . . Permanent Court of International Justice shall be asked for an advisory opinion".

The Norwegian Government states that there is no reasonable justification "for applying the rule of unanimity in this case".

## SECTION III. — PROCEDURE UNDER ARTICLE 15.

The Peruvian Government says: "It has been suggested in connection with Article 15 that the Council's decision under paragraph 4 of this article should be taken by a two-thirds majority in order to prevent the dissent of a single Member of the Council, not being one of the parties, from holding up the entire system of international co-operation provided for by the Covenant".

## CHAPTER IX. — OBLIGATIONS UNDER ARTICLES 10 AND 16.

### SECTION I. — ARTICLE 10.

#### 1. *Relations between Article 10 and Article 16.*

The Argentine Government suggests that "the necessary correspondence should be established between the measures of Article 10 and the sanctions laid down in Article 16 of the Covenant".

#### 2. *The Unanimity Rule.*

The Government of Colombia urges that "the votes to be taken under Articles 10 and 11 of the Covenant" should "not include the votes of the aggressor States or of the States constituting a danger of war".

The Lithuanian Government "thinks that it is desirable to examine the possibility of enabling decisions to be taken more easily under Articles 10 and 16 of the Covenant by modifying the rule of unanimity".

#### 3. *The Practical Consequences of Article 10.*

The Government of Peru desires that the present wording of Article 10 be amplified by a condemnation of wars of aggression and a refusal to recognise territorial acquisitions brought about by force (American Declaration of August 3rd, 1932), and in order to give practical effect

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<sup>1</sup> This paragraph relates to disputes which are generally suitable for submission to arbitration or judicial settlement.

to the latter principle, "the League and its subordinate bodies should be prohibited from considering any questions arising out of the exercise of unlawful territorial jurisdiction".<sup>1</sup>

#### 4. *Treaties of Non-Aggression.*

The Estonian Government states that "it would be desirable to find methods of generalising and further defining . . . the system of treaties of non-aggression, both bilateral and collective".

### SECTION II. — ARTICLE 16.

#### I. THE ATTITUDE OF GOVERNMENTS TO ARTICLE 16.

1. Several Governments have confirmed or shown by their declarations or proposals that, in their view, collective security was the essential element, or one of the most important elements, in the Covenant. This is true of Estonia, France, Iraq, Latvia, Lithuania and the Union of Soviet Socialist Republics (see Chapter I, Section I, 1).

Some of the above-mentioned Governments state that, if the guarantees under Article 16 are to be effective, it is essential that their application should be ensured in advance.

The Estonian Government declares: "As for the punitive powers of the League under Article 16, it would seem that their future place in the general system of the Covenant depends upon the manner in which they would be used. This is a very serious question, calling for special study. The safeguards represented by the existence of those powers cannot be valid and effective unless the general application of the measures involved is assured in advance".

The Government of Iraq states: "It is . . . essential that Members of the League should know in advance, in as much detail as possible, what assistance may be expected by them from their fellow-Members in case of aggression".

The Government of Latvia declares: "The repressive measures that can be employed by the League are of a political, economic and military nature, and it is only when their effective application is assured in advance that the League's guarantees of security can be regarded as real, because, on the one hand, if States know for certain beforehand that repressive measures will be employed, this will add considerably to the value of the various preventive measures, and, on the other hand, in extreme cases, due respect for the League's authority can only be ensured by the application of all the repressive measures available."

2. Several Governments make the application of Article 16 contingent on certain conditions.

(a) The Government of Peru declares: "If it were possible to separate the conflict—almost in the nature of a world-wide conflagration—that developed in consequence of the action taken by the League in regard to the Italo-Ethiopian dispute and the peculiar character of that dispute from a bilateral and regional standpoint, we should have to admit that there was an obvious disproportion between the two. If, after a reform of the Covenant, the necessary conditions for the admission of countries to the League and the obligations resulting from their admission were clearly determined, it would be possible to eliminate a new disproportion due principally, not to any difference in the degree or type of civilisation, but to the contrast between a definite organised civilisation and a shapeless community still plunged in barbarism.

"Not until the legal equality provided for by the Covenant is reinforced by an equal fitness to elaborate and enforce the law will breaches of international duties established by the Covenant entail for all Members of the League consequences identical from the legal standpoint, however much they may differ in power and geographical position".

(b) The Hungarian Government, as we have seen (Chapter I, Section I, 2), wishes the "punitive clauses of the Covenant to be brought into equilibrium with the provisions of Articles 11, 13 and 19".

(c) The Governments of Denmark, Finland, Norway and Sweden discern a close connection between Article 16 and Article 8 on armaments and consider that failure to apply Article 8 cannot but react on the application of Article 16.

The four Governments refer to the declaration of the Foreign Ministers of seven countries, dated July 1st, 1936,<sup>2</sup> in which it is stated:

"We do not think it right that certain articles of the Covenant, especially the article dealing with the reduction of armaments, should remain a dead letter, while other articles are enforced . . . ."

<sup>1</sup> The Peruvian Government's statement reads as follows:

"Article 10. — The existing formula should be retained, because it is the corner-stone of the juridical organisation of the League. The Council's duty of advising upon the means by which the obligation embodied in this article shall be fulfilled is sufficiently elastic to allow of those means being limited to diplomatic and political action, without the compulsory measures which have been shown by certain circumstances to be incapable of universal application.

"To that formula, however, there should be added another formula condemning wars of aggression, as in the Paris Pact of 1928, and refusing to recognise territorial acquisitions brought about by force, as in the American Declaration of August 3rd, 1932.

"Since such non-recognition may also prove inoperative in the face of the indifference of conquering States to the legal attitude of the other Members of the League, provision should be made for an effective sanction in that the League and all its subordinate bodies should be prohibited from considering any questions arising out of the exercise of unlawful territorial jurisdiction or any problems directly relating in any way to the conquered territory."

<sup>2</sup> Denmark, Finland, Netherlands, Norway, Spain, Sweden, Switzerland.

" Though not forgetting that rules for the application of Article 16 were adopted in 1921, we would place it on record that, so long as the Covenant as a whole is applied only incompletely and inconsistently, we are obliged to bear that fact in mind in connection with the application of Article 16." <sup>1</sup>

3. Three Governments—Argentine, Peru, Switzerland—throw doubts on the principle of collective security and the practical value of its application under existing conditions,

In the opinion of the Argentine Government "it should be considered what provisions of the Covenant have been shown by experience to be no longer in keeping with the realities of international life, and these provisions should be given an optional character instead of the character of strict obligations".

The Government of Peru expresses a similar view in the following passage: "It should also be borne in mind that, in the case of a conflict in which a country has no direct practical interest, public opinion in that country is apt to object to being obliged to take part in collective action which it does not regard as having any political utility or any moral necessity superior to its own necessity of self-preservation in all its various aspects".

The Swiss Government's objection is that, in its view, the sanctions system creates inequalities, inasmuch as sanctions cannot be applied in all cases, and because the risks entailed by sanctions are not identical for every Power. It says: "The sanctions instituted by Article 16 have given rise to objections in many countries, and to objections that were perfectly justified. They have been applied in some cases and not in others, and there are clear cases in which they never could be applied. Hence they create inequalities that are only too marked. Although the obligations assumed by each party are theoretically identical, their effects differ greatly according to whether they apply to a great Power or to a country with more limited resources. It seems to us essential that a fairer balance should be established between the risks incurred by the former and by the latter. For a small country, the application of Article 16 may be a matter of life or death. Consideration ought therefore to be given to the idea of recasting that article; it would be worth while to pursue the enquiries undertaken by the International Blockade Commission in 1921".

The Swiss Government, in conclusion, declares that "Switzerland cannot be held to sanctions which, in their nature and through their effects, would seriously endanger her neutrality". <sup>3</sup>

## II. ECONOMIC AND FINANCIAL SANCTIONS (ARTICLE 16, PARAGRAPH 1).

### I. *General Observation by the Swedish Government.*

The Swedish Government considers that the application of economic and financial sanctions depends on general political factors. It states: "In accordance with Article 16 of the Covenant, the Members of the League undertook, in the case of a war covered by that article, to participate in economic and financial sanctions. As stated above and as indicated in the Assembly's recommendation, the provisions concerning economic and financial sanctions have never actually

<sup>1</sup> The communication from the Finnish Government contains the following statement: "Some of its articles (the Covenant), such as Article 16, may be difficult to put into effect until certain other articles, such as Article 8, have been adequately applied".

The Norwegian Government declares: "There is a further reason for renewing the efforts to put an end to the armaments race and proceed gradually to disarmament. It seems obvious enough that the more heavily individual States are armed, the greater difficulty the League of Nations will have in taking effective steps against those which, despite the articles of the Covenant of the League or despite the Paris Pact of 1928, resort to war against other States. In any case, we are not entitled to expect that the various Members will be very willing to comply with a Council recommendation inviting them to 'contribute to the armed forces to be used to protect the covenants of the League' so long as they are obliged to reckon with a situation in which the aggressor State will be strong enough to defy the whole power of the League. Disarmament in reality constitutes one of the conditions of the whole system of sanctions, and it is only natural that many States should make the reservations regarding participation in sanctions which the Foreign Ministers of several States, including mine, communicated to the Press on July 1st last."

The Swedish Government states: "The efficacy of the system of collective security under the Covenant depends to a large extent on the application of the principles of the Covenant concerning general disarmament. Article 16 of the Covenant, however, has hitherto been applied only in an incomplete and inconsistent manner."

"The Swedish Government considers that it will have to take these circumstances into account in future in cases where it is desired to apply Article 16."

<sup>2</sup> The following is taken from M. Saavedra Lamas' preface to the book referred to in the communication from the Argentine Government:

"Recent events have confirmed the view that the League of Nations is not and cannot be a super-State capable of imposing its will on the Member States. Although the obligations laid down in the Covenant are definite; some States instinctively object to the obligation to use their own resources and armed forces in disputes in which they are not implicated or only indirectly concerned. Similarly, though the countries asked to sign it acceded to the Covenant without reservations, experience has shown that the joint application of certain measures of coercion designed to guarantee peace runs counter to the deeply ingrained feeling of sovereignty. This is probably the reason why it has been impossible fully to apply sanctions or the procedure laid down in Articles 10 and 16 of the Covenant, though they certainly contain definite and very clearly worded provisions. . . . Possibly the failure to give universal effect to the sanctions laid down in Article 16 is one of the reasons why they have proved ineffective, but the fact that they are rigorous and comprehensive is also a reason why States not implicated in a dispute feel unable to give them full effect."

<sup>3</sup> The communication from the Swiss Government states: "If, notwithstanding the criticisms it incurs, Article 16 should be retained substantially in its present form, or if the risks it involves should be made still greater, Switzerland would be obliged to call attention once again to her peculiar position, which the Council of the League, in the Declaration of London of February 13th, 1920, described as unique. The Federal Council must in any case point out once more that Switzerland cannot be held to sanctions which, in their nature and through their effects, would seriously endanger her neutrality. That perpetual neutrality is established by age-old tradition and all Europe joined in recognising its unquestionable advantages over a hundred years ago."

been applied in full. In certain cases, no sanctions have been enforced against the aggressor. In the only case in which Article 16 was applied, sanctions were only imposed partially and by degrees. Various factors have contributed to this attitude on the part of the League, the chief ones being the tension which prevails in the general political situation, the incompleteness of the League and the continual increase in national armaments.

"The Swedish Government does not consider it possible to ensure the effective application of economic and financial sanctions simply by means of the adoption of modified texts. Unless the obstacles in the way of the application of the Covenant referred to above are removed, it is to be feared that, in a future conflict, difficulties will arise regarding the effective application of economic and financial sanctions, notwithstanding the relevant provisions of the Covenant."

## 2. Preparations for the Application of Economic and Financial Sanctions.

(a) Two Governments advocate the framing of plans for the application of the sanctions to be imposed.

The Estonian Government, referring to economic sanctions, observes: "A detailed plan ought to be prepared beforehand, embodying all the measures and forms of action that States Members should promptly take in order to make sanctions against the covenant-breaking State as effective as possible".

The Latvian Government suggests that "the best course to follow" would be "to draw up beforehand a definite plan predetermining the action of the Members of the League in the event of a violation of the Covenant"<sup>1</sup>.

(b) Two Governments urge that the Members of the League of Nations should enact beforehand the legislative provisions required under their Constitutions to enable sanctions to be applied at the proper moment.

The Government of Iraq says: "An attempt should be made by all States Members of the League to adopt a code of economic and financial measures to be taken by them as and when occasion arises. To this end, all Governments should secure power in advance under their respective Constitutions to enforce these measures without delay".

The Government of the Union of Soviet Socialist Republics suggests: "States Members undertake to enact, immediately on the entry into force of the present resolution (of the present Protocol), such provisions as may be necessary under their constitutional laws to ensure in advance the application in good time of any measures which may be decided upon in connection with economic and financial sanctions".

## 3. Conditions for the Application of Economic and Financial Sanctions.

*Cross reference.* — Sub-section IV of the present section contains proposals regarding the decisions which the Council would be called upon to take in order to make the application of sanctions obligatory.

### (a) Automatic Sanctions.

The Government of Colombia proposes: "The economic and financial sanctions referred to in Article 16 would come into force automatically as soon as the competent organs of the League had determined the aggressor and without the need for further decisions by the Governments"<sup>2</sup>.

The Estonian Government thinks that the application of sanctions should so far as possible be automatic.

The Government of New Zealand considers the automatic operation of sanctions to be one of the conditions of their effectiveness.<sup>3</sup>

### (b) Total or Partial Rupture of Economic, Financial and Other Relations, as provided for in Article 16, Paragraph 1.

The New Zealand Government thinks that, to be effective, sanctions must "take the form of the complete boycott contemplated by Article 16". It says further: "We are prepared to take our collective share in the application, against any future aggressor, of the full economic sanctions contemplated by Article 16".

Other Governments recommend or agree to the more or less gradual application of the measures provided for in Article 16, paragraph 1.

The Latvian Government remarks in this connection: "It is obvious, however, that, until the League has a worldwide membership, very definite limits restricting the real efficacy of these

<sup>1</sup> The Latvian Government states further: "The immediate cessation of all imports should be provided for in advance, and a list of products, the export of which would at once be prohibited as soon as Article 16 is applied, should also be drawn up beforehand".

<sup>2</sup> The question of determining the aggressor will be discussed below (same section, No. V, 2). Though there is no need to consider this question at present, the Colombian Government's proposal means that a State which regards another State as an aggressor must automatically apply sanctions.

<sup>3</sup> The New Zealand Government states: "We believe that the sanctions contemplated by the present Covenant will be ineffective in the future as they have been in the past (1) unless they are made immediate and automatic; (2) . . ."

measures will be set to the application of political and economic sanctions. If, for instance, all relations between the nationals of the Members of the League and those of the covenant-breaking State are prohibited, this measure will be ineffective unless the covenant-breaking State is thereby completely isolated. Similarly, as regards the severance of all financial, commercial and personal relations between the nationals of the covenant-breaking State and those of any other State, the actual possibilities and the practical incidence of such measures must be considered ”.

The Government of Peru observes: “ The enumeration of the sanctions provided for in Article 16 should be clear and their application gradual. There will then be no need to argue about the advisability of certain measures, and they can be applied separately according to circumstances ”.

The Government of the Union of Soviet Socialist Republics contemplates the possibility of a gradual application of Article 16, paragraph 1, when it suggests that “. . . the Council shall decide, by the majority indicated in paragraph II, as to the application of the measures contemplated in Article 16, paragraphs 1 and 3, of the Covenant, *and, as to their extent and their execution* ”.

(c) *Differentiation between States in the Application of Sanctions.*

The Government of Peru suggests that the application of sanctions be recommended “ only to such States as can put them into effective operation. It is absurd and harmful to international relations to insist on sanctions being applied by States which, owing to the small extent of their trade or financial relations with the covenant-breaking State or to their geographical remoteness, cannot cause it any trouble, but whose attitude can provoke an undesirable moral tension ”.

The Government of the Union of Soviet Socialist Republics makes the following proposal: “ The Council may, should this be necessary in order to secure the plan of concerted action or to reduce the losses it would entail for certain Members of the League, postpone wholly or in part, in respect of certain States, the entry into operation of the measures contemplated in Article 16, paragraph 1, of the Covenant ”.

(d) *Measures to be taken against a Member of the League of Nations failing to impose the Sanctions laid down in Article 16, Paragraph 1.*

The Government of the Union of Soviet Socialist Republics suggests that “ any Member of the League who fails to participate in economic and financial sanctions may be subjected to measures of Customs and trade discrimination on the part of the other States Members ”.

(e) *Observation on the Trade in Arms.*

The Government of Peru remarks: “ It is also essential that the prohibition to sell arms to the covenant-breaking belligerent should not affect only such countries as are mere transit countries while the countries manufacturing or actually supplying the arms can draw profits from the trade, leaving to the other countries the responsibility of stopping or preventing it ”.

III. DIRECT NON-MILITARY ASSISTANCE TO THE VICTIM OF AGGRESSION.

1. *Political, Financial and Economic Assistance.*

The communication of the Lithuanian Government contains the following remark: “ The Lithuanian Government is of opinion that the universal assistance to be afforded to a victim of aggression, in the political, economic and financial fields, should not be limited to negative acts against the covenant-breaking State. It should also be positive in the form of political, financial and economic assistance to be granted to the victim of aggression. The Lithuanian Government desires, in this connection, to refer to the principles embodied in the Convention on Financial Assistance to be afforded to the victim of aggression ”.

2. *The Convention of October 2nd, 1930, for Financial Assistance.*

The Danish Government makes the following proposal: “ The Council will appeal to all those States Members which have not ratified the Convention of October 2nd, 1930, for Financial Assistance ”.

The Estonian Government observes: “ The Financial Assistance Convention might prove most valuable in the event of a breach of the Covenant, and those of its clauses which delay its entry into force should therefore be promptly reviewed ”.

The Finnish Government observes: “ In order to increase the guarantees of security, the Council might ask those States which have signed the Financial Assistance Convention of October 2nd, 1930, to agree to the deletion of Article 35, so that the Convention can be put into force independently of the hoped-for Disarmament Convention. The Council might then request

all States which have not ratified the Financial Assistance Convention, or have not even acceded to it, to do so as quickly as possible ”.

The Latvian Government observes: “ Another possible means of rendering collective action more effective in the event of a violation of the Covenant would be to bring about the entry into force of the Convention on Financial Assistance; the conditions to which the entry into force of that Convention is at present subject might be re-examined and further steps taken to hasten its ratification ”.

The Swedish Government comments as follows on the Convention of October 2nd, 1930, for Financial Assistance and the Convention of September 26th, 1931, to strengthen the Means of preventing War: “ These texts contain valuable ideas by which the Council might be guided in its action for the prevention of war and, if the above-mentioned Conventions secured general acceptance, an important step forward would be made ”.

#### IV. MILITARY SANCTIONS.

##### I. *The Provisions of the Covenant regarding Military Sanctions.*

###### A. *The View that these Sanctions should not be Obligatory.*

Most of the Governments which have expressed an opinion categorically reject the idea of inserting the obligation of military sanctions in the Covenant or state that the Covenant in its present form represents the maximum obligations which they accept or admit that the universal obligation of sanctions is at present impracticable. Consequently, the countries taking this view propose the conclusion of treaties of mutual assistance in addition to the Covenant.

(a) The Argentine Government considers that “ it should be understood that the latter (military measures) will not be binding on Members not implicated in the dispute, or only having an indirect interest therein ”.

(b) The Governments of Denmark, Norway and Sweden state that they are not prepared to assume any commitments other than those at present contained in the Covenant.<sup>1</sup>

The Swedish Government makes the following observations: “ As regards the guarantee of security provided for in Article 16, paragraph 2, of the Covenant relating to military sanctions . . . the Swedish Government is unable to draw from the lessons taught by recent experience the conclusion that the provisions in question should be tightened up by making the application of military sanctions on the part of the Members of the League compulsory in the event of an act of aggression committed against one of them. It need only point out that, in the case of the conflicts which have broken out during the last years, the Members of the League were not even prepared to apply in full the economic and financial sanctions which are at present compulsory ”.

(c) The Estonian Government says: “ As regards military sanctions, it seems doubtful whether military aid can be secured on worldwide lines ”.

It therefore proposes a regional organisation of collective security.

The French Government takes the same view when it emphasises “ the necessity of making a new arrangement in regard to the Covenant by restricting to the Powers which are nearest, geographically or politically, to the Power that is attacked the risk involved by any military assistance rendered to a State that is a victim of aggression ”, while the Government of the Union of Soviet Socialist Republics submits a system of pacts of mutual assistance.

###### B. *The View that Military Sanctions should be Universally Obligatory.*

The New Zealand Government says: “ We are prepared, to the extent of our power, to join in the collective application of force against any future aggressor ”.

In referring to general sanctions, it further states that they will be ineffective “ unless any sanctions that may be applied are supported by the certainty that the Members of the League applying these sanctions are able and, if necessary, prepared to use force against force ”.

###### C. *The View that Military Sanctions should be Continentally Obligatory.*

The Colombian Government states: “ The military sanctions would be obligatory only for the States situated in the same continent as the aggressor ”.

###### D. *Proposal to substitute Authorisations for the Recommendations provided for in Article 16, Paragraph 2.*

The Peruvian Government writes: “ As regards military sanctions, the Council’s power to recommend to the Governments concerned what effective military force they shall contribute to

<sup>1</sup> The Danish Government states: “ It is improbable that the Danish Government will see its way to assume any commitments, whether general or regionally limited, other than those which, in our view, are contained in the Covenant ”.

The Norwegian Government states: “ The Northern countries are already regularly exchanging views on questions relating to the League, but they do not feel it necessary to convert this collaboration into a regional pact, and I am quite sure that, in the present state of the world, there is not one of them which would be prepared to undertake obligations going beyond those already resulting from the Covenant ”.

The Swedish Government writes: “ As for the idea of strengthening the League’s system of security by concluding regional agreements relating to military sanctions, the Swedish Government—without expressing any opinion as to the value of the conclusion between other countries of regional agreements of this kind from the point of view of safeguarding peace—simply wishes to state that for its part it is not prepared to undertake obligations other than those at present laid down in the Covenant, even if those obligations are confined to a specific regional zone.”

any coercive action should be struck out of the Covenant. It might be replaced by the power to authorise the use of military force by a State applying for such authorisation for the purpose of protecting the covenants of the League. This would increase the sense of direct responsibility in such countries, and it would not be possible for them to desire to set collective action in motion for the benefit of private interests."

## 2. *Regional Pacts of Mutual Assistance.*

### A. *The System.*

The French Government expounds the principle of the system which consists in strengthening the Covenant by means of optional agreements and averting the risk that economic sanctions may be applied in vain.

It states that: "As regards Article 16, it is a question of bringing about a closer relationship between measures of economic and financial pressure and the application of military measures, while giving full value to the system of regional understandings".<sup>1</sup>

Military action is to be taken only by those "Powers which are nearest geographically or politically to the Power which is attacked" and "the risk involved by any military assistance rendered to a State that is a victim of aggression" will thus be restricted to those Powers alone.

In the French Government's view, the term "regional understanding" should be taken to mean "any group of Powers whose union is based upon geographical situation or upon a community of interests".

### B. *The Positions adopted by Governments.*

(a) A number of Governments are in favour of regional pacts of assistance.

The Estonian Government states that: "It seems doubtful whether military aid can be secured on world-wide lines. That being so, it is essential that collective security should be organised regionally . . ."

The Iraqi Government states that: "It appears to the Royal Iraqi Government that the recent failure of the principle of collective security was due in great part to the absence of any agreement upon military measures to be taken in aid of a Member attacked, and that this absence of agreement was due in turn to the remoteness of many Members from the scene of conflict. It is therefore proposed that while obligations to enforce economic and financial measures should remain worldwide, obligations to take military measures should be regional in scope and agreed upon in advance among States whose geographical position gives each an immediate and overwhelming interest in the fate of any of the others . . . These regional agreements would specify the military measures each party would be prepared to take to assist another party the victim of aggression, and they would contain an undertaking in any event to comply immediately with any recommendations of the Council under Articles 10 and 16 of the Covenant."

This Government proposes that such regional agreements should be open to the accession of Members of the League which are geographically remote: "The more powerful Members of the League would consider how far, in view of their territorial or political interests, they could participate in such regional agreements in remote parts of the world."

The Latvian Government states that: "As regards the application of military sanctions, the incompleteness of the League is a less weighty factor than in the case of the adoption of political and economic measures. Political and geographical conditions are what matter most here: the former are important in that the indivisibility of certain political problems, a threat to any of the separate elements of which is sufficient to endanger general peace, must be borne in mind; the importance of geographical conditions, from the point of view of the application of military measures, is self evident and needs no comment."

The Lithuanian Government appears to be in favour of regional understandings, as it states that: "They should merely supplement the general obligations arising under the Covenant in order to make these general obligations more effective".

The Government of the Union of Soviet Socialist Republics has submitted a number of proposals concerning the application of Article 16, with a view to incorporating mutual assistance agreements within the framework of the Covenant. These agreements are mentioned in paragraphs IV, V, VI, VII, XI of the Soviet communication. Paragraph XI states that: "Mutual assistance agreements between States concerned in the maintenance of security in specific areas shall be recognised as constituting a supplementary guarantee of security within the framework of the Covenant . . ."

(b) The New Zealand Government, after observing that it does not "accept the desirability of regional pacts", adds that it is prepared to support them, stating that: "We do not accept the desirability of regional pacts, but, if Members of the League generally approve of such pacts,

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<sup>1</sup> In his speech before the Assembly, referred to in the communication from the French Government, M. Delbos stated that: "Our urgent duty is, therefore, to seek the methods best calculated to bring into closer relationship within the application of the Covenant those measures which are intended for the exertion of economic and financial pressure and those which are devoted to the use of military means. In our view, it is in the organisation of new regional understandings or in the tightening-up of those which already exist, that a solution may be found . . ."

"With such a system, nations will know exactly on what support they can count in all cases—regional support made definite and strengthened, to which there would be superimposed the obligations of the international community as defined by the Covenant."



we should be prepared to support a collective system in which all Members of the League, while accepting the immediate and universal application of the economic sanctions contemplated by Article 16, nevertheless, if they desired to do so, restricted to defined areas their undertaking to use force.

"In such a case we consider that the question of the use of force in defined areas should also be made the subject of national plebiscites."

(c) Other States, such as Denmark, Norway and Sweden, which for their part are not prepared to assume obligations going further than those laid down in the Covenant in its present form, are willing to accept mutual assistance pacts under certain conditions referred to below.

#### C. *Conditions to be fulfilled by Regional Pacts of Assistance.*

Governments which are in favour of regional pacts, like those which are willing to accept them without proposing to participate in them usually stipulate that these pacts shall satisfy certain conditions.

(a) *Open Accession.* — The Iraqi Government observes that: "These agreements as initially concluded should be open to accession by other States."

(b) *Conclusion of Pacts under the Auspices of the League or Supervision of their Execution by the League.*

The Danish Government states that: "As regards the idea of regional pacts, we would urge that they should conform to the principles of the Covenant and should be under the control of the League".

The Estonian Government states that: "It is essential that collective security should be organised regionally, but always in the spirit of the League and under its ægis. As parts of a coherent system, and as stating more precisely the general obligations of the League, such agreements would make it far more effective in practice."

The Finnish Government states that: "As to the possibilities offered by regional associations, it need hardly be pointed out that such associations could only be formed in accordance with the principles of the Covenant and could only operate under League control".

The Norwegian Government states that: "It should be stipulated as a *conditio sine qua non* that they actually constitute part of the League's activities—in other words, States which bind themselves to mutual assistance in that way must not usurp the right to decide for themselves whether action should be taken under Article 16, and should not take measures against an aggressor State unless authorised to do so by the Council."<sup>1</sup>

The Government of the Union of Soviet Socialist Republics proposes that "the following agreements which have been, or may in future be, concluded between two or more States should be recognised as constituting a supplementary guarantee of security within the framework of the Covenant:

"(1) Agreements which embody an undertaking to assist any signatory only when the latter is the victim of aggression;

"(2) Agreements which make assistance obligatory in the same cases in which the Covenant itself acknowledges the right to furnish assistance;

"(3) Agreements which are registered and published in conformity with Article 18 of the Covenant."

(c) *Regional Pacts should be complementary, not substitutive.* — The Latvian Government states that: "In any case it should be emphasised that regional obligations should merely *supplement* the general obligations resulting from the Covenant, with a view to making the latter more effective; the argument that regional obligations should be *substituted* for general obligations can in no case be accepted. The effect would be to create an artificial policy of alliances and groups which might prove a greater danger to peace than present circumstances.

"For these reasons, the Latvian Government is of opinion that the obligations resulting from Article 16 should be maintained in full, and that the efficacy of this article can only be increased by means of additional or supplementary contractual undertakings on the part of the Members of the League."

The Lithuanian Government states that: "In connection with the principle of the universality of the League, the Lithuanian Government considers that the help to be given to a Member victim of an aggression should also be of a universal nature. Regional obligations should therefore merely supplement the general obligations arising under the Covenant in order to make these general obligations more effective."

#### D. *Application of Regional Pacts.*

(See same section, IV.)

<sup>1</sup> This passage in the Norwegian communication is preceded by the following:

"I have already laid stress on the necessity of strengthening the preventive activities of the League. If this were done, the coercive measures provided for under Article 16 of the Covenant might even be dispensed with. Those activities are, in any case, essential to that end. I agree, however, that it would be a good thing to discuss how the measures in question could be made effective. It has been suggested in various quarters that the general provisions of Article 16 should be superseded by separate regional pacts of mutual assistance against States which resort to war. On July 3rd last, in the Assembly, I expressed some doubt as to the advisability of such pacts, as I feared that they might lead only too easily to alliances such as those with which we were familiar before the war, in which case the pacts would increase rather than avert the risk of war. I understand, however, the grounds on which these regional pacts were proposed, and do not deny their possible utility."

V. APPLICATION OF ARTICLE 16 AND OF THE PACTS OF MUTUAL ASSISTANCE.

I. *Procedure of the Council.*

Several Governments mention two points: the rapidity with which the Council is called upon to intervene and the conditions of voting by the Council.

(a) *Time-limits.*

The Iraqi Government says, as regards regional agreements: "These regional agreements should provide for active co-operation between the parties with a view to the Council's recommendation being made in the shortest possible time".

The Lithuanian Government says: "Noting also that the efficacy of the help afforded to a Member attacked by a covenant-breaking State will depend in most cases on the promptness with which it is rendered, the Lithuanian Government believes that it is necessary to lay down that the duration of the procedure previous to the actual coming into play of the safeguards of the Covenant shall be reduced to a strict minimum."

The Government of the Union of Soviet Socialist Republics proposes that:

"I. In the event of a war against a Member of the League, the Council shall be summoned not later than three days after the notification thereof to the Secretary-General.

"II. Within three days of its convocation, the Council shall reach a decision as to the existence of circumstances calling for the application of Article 16 of the Covenant."

(b) *Conditions of Voting.*

Several Governments propose that the Council's decision need not be taken unanimously.

The Estonian Government says: "Since those safeguards must operate as automatically as possible, consideration should be given to the advisability of abandoning the principle of unanimity in decisions reached under Article 16".

The Lithuanian Government considers "that it is desirable to examine the possibility of enabling decisions to be taken more easily under Articles 10 and 16 of the Covenant by modifying the rule of unanimity".

The Government of the Union of Soviet Socialist Republics makes the following proposal: "Such decision (by the Council) shall be recognised to have been taken if at least three quarters of the members present (not including the representatives of the attacked State and the State denounced) vote in favour of it".

Another Government, the Latvian Government, simply proposes that the votes of the parties should not be counted in reckoning unanimity. It says: ". . . Any reform of the Covenant must centre round the provisions relating to repressive measures—that is to say, the question of Article 16 . . . It would appear necessary to provide that, in the case of decisions taken under this article, the votes of the parties to the dispute should not be counted for the unanimous vote".

2. *Rules to be followed and Definitions to be applied.*

(a) *Rules.*

The Lithuanian Government thinks that: "The procedure for deciding that an aggression has been committed should be improved by making it speedy and by providing clear and quite unmistakable definitions and injunctions".

The Swedish Government says: ". . . It should be emphasised . . . that the resolutions adopted by the Assembly in 1921 lay down the guiding principles concerning the powers of supervision belonging to the Council with regard to the loyal application of Article 16.

(b) *Definitions.*

Several Governments refer to the definition of the aggressor.

The Estonian Government says: "Special attention ought . . . to be paid to defining aggression and determining the aggressor; if such definitions could be more generally applied, the League's collective action might be considerably strengthened".

The Iraqi Government says: "The Royal Iraqi Government would welcome any agreed definition of such terms as 'aggression' and 'resort to war'".

The Latvian Government says: "The obligations relating to non-aggression embodied not only in the League Covenant but also in many bilateral treaties and in certain important collective instruments might be developed and made still more definite. In this connection, special importance attaches to the definition of aggression and the aggressor, the adoption of which would facilitate and justify collective action, both preventive and repressive, on the part of the League."

The Government of the Union of Soviet Socialist Republics concludes its communication as follows: "I think I should add that, in the opinion of the Government of the Union of Soviet Socialist Republics, the putting into operation of these principles would be facilitated if it were also stipulated that, for the purpose of the application of Article 16 of the Covenant, any State which has committed any act coming within the categories specified in the report on the definition of aggression submitted on May 24th, 1933, by the Committee on Security of the Conference for the Reduction and Limitation of Armaments shall be regarded as having resorted to war".

The Argentine Government seems to express a point of view differing from that of the above-mentioned Governments when it says that "the previous determination of the aggressor in each case and according to circumstances should be laid down as a condition of all sanctions".

### 3. *Effect of the Council's Recommendation.*

The Government of the Union of Soviet Socialist Republics proposes that the Council's recommendation should have the following effect:

" III. As soon as the Council has established the existence of circumstances calling for the application of Article 16, the State which has resorted to war shall, *ipso facto*, be deemed to be in a state of war with all the Members of the League, and to be subject to measures (sanctions) intended to enforce the obligations of the League.

" IV. Military sanctions shall be taken by the States parties to the mutual assistance agreements operative in the particular case, and by such States as may choose to conform to the recommendation made by the Council as provided in Article 16, paragraph 2, of the Covenant, by the majority indicated in paragraph II above.

" VII. The States Members undertake not to regard as acts of aggression any military sanctions taken by signatories of the mutual assistance agreements or by other Members of the League in virtue of paragraph IV above.

" VIII. Independently of the question of the application of military sanctions to the aggressor State, the Council shall decide, by the majority indicated in paragraph II, as to the application of the measures contemplated in Article 16, paragraphs 1 and 3, of the Covenant, and as to their extent and their execution, and such decision shall be binding upon all States Members."

### 4. *When the Council makes no Recommendation.*

The Iraqi Government says that regional agreements "might provide also for the measures to be taken in case the Council, for whatever reason, issues no recommendation or fails to reach a unanimous decision".

The Government of the Union of Soviet Socialist Republics says:

" V. Failure on the part of the Council to reach a decision as mentioned in paragraph II above shall not prejudice the immediate execution, by the States parties to the mutual assistance agreements, of their obligations to afford assistance under the conditions laid down in those agreements".

### 5. *Effect of the Declaration that a State of War exists.*

The Government of the Union of Soviet Socialist Republics proposes that, even before the Council's decision, notice addressed to the Secretary-General that a war has broken out authorises certain preparations. Its proposal reads as follows:

" VI. From the moment at which the Secretary-General is notified, with a view to the summoning of the Council, of a war against a State Member, the States parties to the mutual assistance agreements operative in the particular case shall be entitled to take all necessary steps to prepare their armed forces to furnish assistance under the terms of those agreements".

### 6. *The Geneva Protocol.*

The Iraqi Government says that it "would be glad to see a reconsideration of the Protocol for the Pacific Settlement of Disputes, commonly called the Geneva Protocol".

The New Zealand Government says: "We are prepared to accept, in principle, the provisions proposed for the Geneva Protocol of 1924 as one method of strengthening the Covenant as it exists".

## CHAPTER X. — REVISION OF TREATIES (ARTICLE 19):

### 1. *General Declarations.*

The Argentine Government suggests that "the absolute respect due to international treaties should be reaffirmed, subject to the right of revision laid down in the Covenant itself".

We have seen (Chapter I, Section I) that the Hungarian Government stated, through M. de Velics: "The Hungarian Government would like to bring these punitive provisions (the punitive provisions of the Covenant) into equilibrium with the other provisions of the Covenant, which—in particular Articles 11, 13 and 19—provide pacific and preventive means of settling disputes that may arise between States Members and offer possibilities of remedying situations the maintenance of which might imperil world peace".

The Government of Iraq says: ". . . No real attempt has been made to discuss effectively those post-war conditions which are regarded as unjust by some States, or to apply in any practical way the principles of equity contained in the Covenant. On the other hand, meetings at Geneva

have been used by some States for partisan ends and not for real deliberation for the purpose of achieving a satisfactory settlement of grievances."

The New Zealand Government says: "We believe that the Peace Treaties of the Great War carried within themselves the germs of future conflicts. We realise the enormous (but not insuperable) difficulties of reconsidering the status established by those Treaties and for our part we are prepared in the most genuine and broadminded spirit to join in such a reconsideration."

## 2. *Proposals advanced.*

### A. *Adoption of a Stricter Formula.*

The Peruvian Government states: "The Assembly's power to advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world should be superseded by a more precise formula enabling the Assembly to take action of its own accord or through bodies appointed by it. Otherwise, the principle of *rebus sic stantibus*, which should be upheld in the interests of peace and international order, cannot operate, because it depends on the unchecked will of a State whose interest it may be to prevent its operation."

### B. *The Unanimity Rule.*

The Peruvian Government suggests that unanimity should be superseded by a two-thirds majority. "Here again", it says, "it is desirable that an exception should be made to the unanimity rule and that decisions should be taken by a two-thirds majority."

The Norwegian Government says: "I should . . . like to point out that Article 19, which simply speaks of 'advising' the Members of the League to discuss amicably questions likely to 'endanger the peace of the world', and does not confer upon the League the power to take 'decisions' suggests a prudent and moderate method of which advantage could be taken without the agreement of all the Members being required."

### C. *Participation of Non-Member States in a General Reconsideration of the Peace Treaties.*

The New Zealand Government says: "For any general reconsideration of the Peace Treaties, we should wish to see all the nations of the world, whether Members of the League or not, invited to take part."

## CHAPTER XI. — REGIONAL UNDERSTANDINGS (ARTICLE 21).

*References.* — 1. Chapter II (Universality), Section III (Continental or Regional Organisation of the League of Nations), contained proposals for changing the structure of the League; Chapter IX, Sections II, IV, 2, dealt with the question of regional pacts of mutual assistance.

2. There are two proposals relating to Article 21, one from Colombia and the other from Peru.

The Government of Colombia says: "The reference in Article 21 of the Covenant to the Monroe doctrine as a regional agreement would be replaced by recognition of the regional or continental agreements which would be established".

The Government of Peru, in the same connection, proposes a substantial modification in Article 21, since "the Monroe doctrine is not a regional understanding but a unilateral rule of the foreign policy of the United States". It adds: "It (this doctrine) cannot therefore be held up as an example of such understandings. Successive administrations in the United States have always construed it in this sense. Latin America does not recognise it as an international obligation affecting her, and when the question of its enforcement has arisen, the United States has declared that it had the sole right to invoke it and to decide as to the propriety of applying it."

The Government of Peru desires, in addition, that regional agreements should be declared by the Council to be consistent with the Covenant. It says: "Regional understandings, agreements or pacts are, in principle, to be highly recommended, especially in connection with the possibilities of Article 16, in regard to the application of sanctions, but within a legal system such as that of the League such agreements or understandings should be explicitly declared by the Council to be consistent with the Covenant".

## CHAPTER XII. — COLONIAL MANDATES (ARTICLE 22).

The Government of Iraq says: "There is an urgent need that . . . the possibility of extending the application of the principles of the mandates system should be examined . . . For the examination of these questions, it is desirable to set up commissions to elucidate the facts in each case and to report to the Assembly. There is ample provision in the Covenant for this step." It adds: ". . . In formulating a plan for the extension of the mandates system, the

continuous development of the peoples under mandate should be provided for in the most explicit and practical manner ”.

### CHAPTER XIII. — FORMS OF INTERNATIONAL CO-OPERATION.

In the statement by the Foreign Ministers of Denmark, Finland, the Netherlands, Norway, Spain, Sweden and Switzerland, published on July 1st, 1936, which is reproduced in the communications from Denmark and Sweden, it is stated that: “ The League’s activities in all political and economic spheres, which have been partially paralysed by recent crises, must be resumed, and an attempt must be made to progress towards the solution of the main problems of the day ”.

#### SECTION I. — CO-OPERATION IN THE ECONOMIC SPHERE.

##### 1. *The General Question of International Trade.*

The Danish Government, in referring to bilateral commercial agreements, makes the following proposal: “ The Assembly will instruct the Economic Committee to prepare a survey showing how far bilateral trade agreements have met the wishes expressed by certain past Assemblies in regard to the expansion of international trade, and, if possible, to base upon that survey proposals for ways and means of taking action on those lines ”.

The Finnish Government says: “ One way to make it easier for countries to supply their own needs within their present frontiers, and so to reduce the number of disputes due to economic circumstances, would seem to be to intensify the League’s activities in the direction of facilitating international trade ”.

The Government of Iraq says: “ It is an urgent need that questions of . . . tariffs, quotas and other restrictions on international trade should be examined. For the examination of these questions, it is desirable to set up commissions to elucidate the facts and to report to the Assembly ”.

The Norwegian Government is in favour of conferences dealing with various economic questions. It says: “ It considers that it would be useful, in the first place, to organise international conferences to deal with certain economic questions. The failure of the London Conference of 1933 to achieve positive results was perhaps due in part to the fact that it aimed too high, and there would probably be more chance of success if the League arranged separate conferences to deal with particular economic questions.”

The New Zealand Government says: “ We realise the important effect of economic conditions on the peace of the world and we should wish, also, that a world-wide survey of such conditions should be undertaken at the same time ”.

##### 2. *Raw Materials.*

The Danish Government makes the following proposal: “ A committee of experts will be appointed to enquire into the scope of the question of free and equal access to the markets for raw materials from colonial areas and, should this appear necessary, to draft an international convention securing such access ”.

The Government of Iraq mentions “ raw materials ” among the questions which should be urgently examined.

The Norwegian Government says: “ There is, however, another economic question which brooks no delay, as it is closely bound up with the risk of war. I refer to the question of raw materials for industry, and particularly raw materials coming from colonies. At the Assembly of September 1935, this question was referred to by the first delegate of the United Kingdom, because it was pertinent to the Italo-Ethiopian conflict, and a far-reaching international discussion of it at the earliest possible moment appears to be logical and necessary.”

##### 3. *Surplus Populations and Colonial Possessions.*

The Government of Iraq mentions these two questions among those which should be urgently examined.

#### SECTION II. — CO-OPERATION IN THE FINANCIAL SPHERE.

The Danish Government makes the following proposal: “ We propose that the question of an agreement on monetary conditions such as may provide a firmer foundation for international trade should be placed on the agenda of the September session of the Assembly. With the backing of the statements that may be made at the Assembly, this problem should be referred to the Financial and Economic Committees, which should have the assistance of representatives of the

Bank for International Settlements at Basle. An attempt should be made to secure the participation of non-member States in the work of these Committees, since their co-operation will be an important factor in the solution of the problem. It should thus be possible to frame a draft Convention which the various countries could accept conditionally upon its acceptance by certain other countries."

The Norwegian Government says: "One of the questions that naturally arise is that of a general stabilisation of currencies, and a successful effort to settle this question would undoubtedly improve international relations. Nevertheless, I am not quite sure that the world situation is as yet sufficiently favourable for a general discussion of this kind."

### SECTION III. — CO-OPERATION IN BRINGING ABOUT A CLOSER UNDERSTANDING BETWEEN PEOPLES.

The Governments of Denmark, New Zealand and Norway make various proposals with the same object.

The Danish Government says: "The September Assembly will consider means of:

"(a) Securing the general acceptance of the Convention on the Use of Broadcasting in the Cause of Peace, which will be concluded as the outcome of the Conference called for September 17th, where both Member and non-member States will be represented;

"(b) Continuing the work begun at the first two Press Conferences, at Copenhagen in 1932 and at Madrid in 1933 respectively;

"(c) Organising propaganda more actively than has yet been done, with the help of literature, the Press, broadcasting, and the cinema, and in conjunction with the private organisations pursuing like aims, in favour of a better mutual understanding between peoples, in order to strengthen the spirit of peace and develop international co-operation."

The New Zealand Government says: "We feel that the peoples of the world, as distinct from their Governments, should be afforded every possible facility for following the transactions of the League, and that all appropriate League discussions and decisions should accordingly be broadcast by short-wave radio."

The Norwegian Government observes: "I should like to allude briefly to the importance of what is known as moral disarmament, which aims at abolishing antagonisms between nations and creating a spirit of good-will among them. For this purpose, the support of the Press, broadcasting, literature, and the schools should be enlisted. I would point out that the Northern countries have already agreed to censor history text-books to ensure that the information they contain is correct and fosters agreement between neighbouring countries. This practical example should be followed by other nations, as it may help to develop the mentality calculated to give life and strength to international institutions working on behalf of peace."

### CHAPTER XIV. — SEPARATION OF THE COVENANT FROM THE PEACE TREATIES.

The Government of Iraq says: "The incorporation of the Covenant in the Treaty of Versailles and other treaties concluded after the war of 1914-1918, tends to associate it with advantages gained by the victorious nations at the expense of those which were defeated. The formal connection of the Covenant with these treaties should be ended."

The New Zealand Government says: "We are prepared to agree to a proposal that the Covenant of the League should be separated from these peace treaties."

### CHAPTER XV. — INTERPRETATION OF THE COVENANT.

The Colombian Government makes the following proposal: "Any doubts as to the interpretation of the Covenant would be settled, at the request of any Member of the League, by the Permanent Court of International Justice."

Geneva, September 17th, 1936.

LEAGUE OF NATIONS

**APPLICATION OF THE PRINCIPLES OF THE  
COVENANT OF THE LEAGUE OF NATIONS**

**COMMUNICATIONS FROM GOVERNMENTS**

received up to September 12th, 1936, in reply to the Secretary-General's  
Circular Letter 124, of July 7th, 1936.<sup>1</sup>

*Future communications from Governments will be distributed to the Assembly  
when received.*

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<sup>1</sup> The Siamese Government informed the Secretary-General, by a communication dated July 29th, that it would not, for the moment, avail itself of the opportunity to offer any concrete proposals regarding the application of the principles of the Covenant.

The communication from the Chinese Government, received after September 12th, has been distributed as document A.32.1936.VII.

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| Series of League of Nations Publications |
| VII. POLITICAL ✓                         |
| 1936. VII. 9.                            |

C.L.124.1936.VII.

I.

The Secretary-General of the League of Nations has the honour to draw the attention of Members of the League to the following recommendation adopted by the Assembly on July 4th, 1936:

" The Assembly,

" (1) Having met again on the initiative of the Government of the Argentine Republic, and in pursuance of the decision to adjourn its session taken on October 11th, 1935, in order to examine the situation arising out of the Italo-Ethiopian dispute;

" (2) Taking note of the communications and declarations which have been made to it on this subject;

" (3) Noting that various circumstances have prevented the full application of the Covenant of the League of Nations;

" (4) Remaining firmly attached to the principles of the Covenant, which are also expressed in other diplomatic instruments such as the declaration of the American States dated August 3rd, 1932, excluding the settlement of territorial questions by force;

" (5) Being desirous of strengthening the authority of the League of Nations by adapting the application of these principles to the lessons of experience;

" (6) Being convinced that it is necessary to strengthen the real effectiveness of the guarantees of security which the League affords to its Members:

" Recommends that the Council:

" (a) Should invite the Governments of the Members of the League to send to the Secretary-General, so far as possible before September 1st, 1936, any proposals they may wish to make in order to improve, in the spirit or within the limits laid down above, the application of the principles of the Covenant;

" (b) Should instruct the Secretary-General to make a first examination and classification of these proposals;

" (c) Should report to the Assembly at its next meeting on the state of the question."

On July 4th, 1936, the Council instructed the Secretary-General to give effect to the above recommendation.

In order that he may carry out the first examination which he has been instructed to undertake under paragraph (b) of the recommendation, the Secretary-General would be grateful to the Government of..... if it would send to him, if possible before September 1st, 1936, any proposals which that Government might wish to make in conformity with paragraph (a) of the recommendation.

Geneva, July 7th, 1936.

II. COMMUNICATIONS FROM GOVERNMENTS.

C.347.M.223.1936.VII.

I. THE NEW ZEALAND GOVERNMENT.<sup>1</sup>

Wellington, July 16th, 1936.

In accordance with the resolution of the Assembly of the League on July 4th, 1936, and anticipating the formal request from the Council (as is necessary in the circumstances of New Zealand if the proposals of the New Zealand Government are to be received by the Secretary-General before September 1st next), I have the honour to forward herewith an expression of the views of the New Zealand Government on the Covenant of the League of Nations:

1. We believe in the first place that there is no material fault in the existing provisions of the Covenant and that the difficulties that have arisen, and that may arise in the future, are due to the method and the extent of its operation.

2. We believe that the Covenant has never yet been fully applied and that it cannot be characterised as an ineffective instrument until it has been so applied.

<sup>1</sup> In forwarding the communication of the Government of New Zealand, the High Commissioner stated that:

" Since the letter now enclosed was signed by my Prime Minister, I have received a direction from him to add that, in the event of the proposals being generally regarded as not immediately practicable, the Government of New Zealand will not demur to the consideration of progress by stages, or indeed of alternative proposals."



3. We are prepared to reaffirm with the utmost solemnity our continued acceptance of the Covenant as it stands.

4. We believe, nevertheless, that the Covenant is capable of amendment, which should take the form of strengthening rather than of weakening its provisions.

5. We are prepared to accept, in principle, the provisions proposed for the Geneva Protocol of 1924 as one method of strengthening the Covenant as it exists.

6. We are prepared to take our collective share in the application, against any future aggressor, of the full economic sanctions contemplated by Article 16, and we are prepared, to the extent of our power, to join in the collective application of force against any future aggressor.

7. We believe that the sanctions contemplated by the present Covenant will be ineffective in the future as they have been in the past—

(1) Unless they are made immediate and automatic;

(2) Unless economic sanctions take the form of the complete boycott contemplated by Article 16;

(3) Unless any sections that may be applied are supported by the certainty that the Members of the League applying the sanctions are able and, if necessary, prepared to use force against force.

8. It is our belief that the Covenant as it is, or in a strengthened form, would in itself be sufficient to prevent war if the world realised that the nations undertaking to apply the Covenant actually would do so in fact.

9. We are prepared to agree to the institution of an international force under the control of the League or to the allocation to the League of a definite proportion of the armed forces of its Members to the extent, if desired, of the whole of those forces—land, sea and air.

10. We consider that there can be no certainty of the complete and automatic operation of the Covenant unless the Governments of all Members of the League are supported, in their determination to apply it, by the declared approval of their peoples.

11. We propose, therefore, that all the Members of the League, and as many non-members as may be persuaded to adopt this course, should hold immediately a national plebiscite with the object of taking the opinion of their peoples on the following points:

(1) Whether they are prepared to join automatically and immediately in the sanctions contemplated by Article 16 of the Covenant against any aggressor nation nominated as such by the Council of the Assembly;

(2) Whether in such case the armed forces of their country (or such proportion as may previously have been fixed by the League) should be immediately and automatically placed at the complete disposal of the League for that purpose.

12. We do not accept the desirability of regional pacts, but, if Members of the League generally approve of such pacts, we should be prepared to support a collective system in which all Members of the League, while accepting the immediate and universal application of the economic sanctions contemplated by Article 16, nevertheless, if they desired to do so, restricted, to defined areas, their undertaking to use force.

13. In such a case, we consider that the question of the use of force in defined areas should also be made the subject of national plebiscites.

14. We believe it improper to enforce a system of preventing war without at the same time setting up adequate machinery for the ventilation and, if possible, rectification of international grievances, and we would support the establishment of an acceptable tribunal for that purpose.

15. We believe that the Peace Treaties of the Great War carried within themselves the germs of future conflicts. We realise the enormous (but not insuperable) difficulties of reconsidering the status established by those Treaties and for our part we are prepared in the most genuine and broadminded spirit to join in such a reconsideration.

16. As a first step we are prepared to agree to a proposal that the Covenant of the League should be separated from these Peace Treaties.

17. For any general reconsideration of the Peace Treaties we should wish to see all the nations of the world, whether Members of the League or not, invited to take part.

18. We should wish also to see all the nations of the world, whether Members of the League or not, invited to take part in the consideration of the terms and the application of the Covenant, or of any other universal method of collective security that may be proposed in its stead.

19. We realise the important effect of economic conditions on the peace of the world and we should wish, also, that a worldwide survey of such conditions should be undertaken at the same time.

20. We feel that the peoples of the world, as distinct from their Governments, should be afforded every possible facility for following the transactions of the League, and that all appropriate League discussions and decisions should accordingly be broadcast by short-wave radio.

21. Finally, although we believe that a collective peace system that is not supported by all the nations of the world is better than no collective peace system at all, yet we are convinced that no such system can be entirely satisfactory until it is universal and that every proper effort should be made to that end.

(Signed) M. J. SAVAGE,  
Prime Minister.

C.329.M.206.1936.VII.

## 2. THE FRENCH GOVERNMENT.

[Translation.]

Paris, August 14th, 1936.

On July 7th, in accordance with the recommendation adopted on the 4th of the same month by the Assembly of the League of Nations, you were good enough to request the French Government to send in to you, if possible by September 1st, any proposals that it might think fit to submit with a view to improving the application of the principles of the Covenant, in the spirit of, and within the limits laid down by, the recommendation in question.

I need not say that the problem before the Assembly is receiving the very particular attention of the Government of the Republic, and that on two occasions in the days preceding the vote of July 4th the French representatives had the honour to lay before the Assembly our general ideas on the matter.

On July 1st, M. Léon Blum, President of the Council of Ministers, affirming France's attachment to the system of collective security, emphasised the necessity for making a new arrangement in regard to the Covenant by restricting "to the Powers which are nearest, geographically or politically, to the Power that is attacked" the risk involved by any military assistance rendered to a State that is a victim of aggression.

On July 3rd, I myself urged the necessity for increasing the authority of the League without sacrificing any of "the essential principles of responsibility and collective action which are embodied in the Covenant", while at the same time perfecting the application of the Covenant and endeavouring to evolve a practical method of increasing the effectiveness of the League. I explained that, in the French Government's opinion, there was no occasion to amend the Covenant and that the immediate action must bear upon the conditions governing preventive action (Article 11) and those governing punitive action (Article 16). I defined the French conception of this twofold problem. As regards Article 11, it is a question of preventing the abuse of the unanimity rule, and as regards Article 16, of bringing about a closer relationship between measures of economic and financial pressure and the application of military measures, while giving full value to the system of regional understandings. By this last term is meant "any group of Powers whose union is based upon geographical situation or upon a community of interests".

The Government of the Republic still adheres to these conceptions.

In these circumstances, and since many of the Governments of States Members of the League have not yet taken up a definite attitude on a problem which affects the fundamental principles of the Covenant, the Government of the Republic is loath for the moment to enter into a more detailed account of its own views. As, however, its proposals have in fact already been submitted for consideration to the Members of the League for more than a month, and accordingly it is possible that they may be referred to in the observations which some of them may wish to submit, the French Government must reserve the right, before the Assembly meets, to revise or add to its previous statements in any way that may appear to it to be necessary.

(Signed) Yvon DELBOS.

C.342.M.217.1936.VII.

## 3. THE URUGUAYAN GOVERNMENT.

[Translation from the Spanish.]

Montevideo, August 18th, 1936.

The Minister for Foreign Affairs has the honour to acknowledge receipt to the Secretary-General of the League of Nations of his note C.L.124.1936.VII, dated July 7th, 1936, communicating the recommendation approved by the Assembly on July 4th, 1936, and requesting the Uruguayan Government, in accordance with the wish expressed in that recommendation, to inform him of any proposals it might wish to make in order to improve the application of the Covenant of the League of Nations in the spirit and within the limits laid down by the Assembly.

The Uruguayan Government, in considering on these lines the possibilities of undertaking a reform of the Covenant, feels it to be its duty to reiterate its firm adherence to the principles and ideals on which the League of Nations was founded, these being closely bound up with the

legal conscience of Uruguay and forming, as has already been recognised, a solid American tradition designed to secure the adoption throughout the world of the regime of international co-operation instead of the old system of the balance of power and alliances. The hopes which humanity reposed in the foundation of the League should induce the men of to-day to defend an institution which was so ardently desired.

The entry into force of the Covenant marked one of the most notable conquests of the human will in its steadfast determination to achieve solutions of justice and equity in relations between peoples. That instrument therefore commands the greatest respect at the present juncture. All the Members of the League have assumed the responsibility of upholding those solid pillars based on the noblest aspirations of justice and peace. With a sense of responsibility must be combined the stimulus of certain factors which exercise a strong influence in contemporary life, for it must be recognised that the private interests of the citizen in each country are bound up to-day, not only with events that take place at home, but also with occurrences abroad whose influence extends beyond the frontiers. This makes it still more important for the Governments to obtain the international legal guarantees which were aimed at when the League of Nations was created. To carry on the plan of universal solidarity initiated seventeen years ago, it is therefore necessary to reflect on the obstacles which have arisen and to seek a means of avoiding them.

The Uruguayan Government notes that, in the spirit and within the limits laid down in the Assembly's recommendation of July 4th, 1936, the problem of amendments to the Covenant must be confined, in this consultation now being carried on by the Secretariat, to certain principles on which the Covenant is based, and it therefore does not think it necessary to go into a full examination of the whole status of the League. As regards the representation of States on the Council, it would no doubt be useful to find a solution ensuring a more democratic representation of every country in accordance with the doctrines which Uruguay has always supported, and to offer America, like the other great centres of civilisation, in a definite text embodied in the Covenant, an assurance of equitable representation going further than the tacit agreement at present governing the matter. Although this is not the time to put forward such solutions, the Uruguayan Government wishes to state that, in the Assembly or elsewhere, it is prepared to undertake the study of any amendments which may be proposed.

Stated in concrete form, as it is in the Assembly recommendation, the problem of the application of the present principles seems to refer principally to Articles 10 and 16 of the Covenant with the idea of adapting them to the lessons of experience. It is a matter of great satisfaction to Uruguay that a closer link has been established between the American doctrine of August 3rd, 1932, and the provisions of the Covenant. These principles might be stated somewhat more definitely in the text of that instrument and might be embodied in the form of amendments rather than in mere interpretative statements. If it is considered that the time has come for an examination of the basic system of the League, a frank debate should be opened at which the different points of view already insistently expressed by international public opinion could be thoroughly discussed. In many cases, the drawback to the system of interpretations is that the meaning of principles becomes obscured by subtleties and that an atmosphere of uncertainty is created round the guarantees which are provided and the obligations assumed by every country. The rules for the application of Article 16 approved by the Assembly in 1921 are worthy of being retained, and efforts should be continued to embody them more fully within the Covenant itself. Due account should be taken of the special positions in which the Members of the League may find themselves in specific cases, as Uruguay pointed out in the statement made by Dr. Pedro Manini y Rios on September 26th, 1921, during the Assembly's session.<sup>1</sup>

The unanimity rule at present laid down also calls for consideration in connection with reform schemes. The Uruguayan Government thinks it desirable to retain this rule as an effective guarantee offered to all nations.

The universal character of the League, as of the whole system of international law, must be maintained, as it is an essential condition of attaining the highest ideal of justice. Without departing from this universality, experience shows the necessity for organising limited groups, whether continental or regional, which can avert the serious conflicts that have made the full application of the provisions of the Covenant impossible, a circumstance which the Assembly recognised in paragraph (3) of its recommendation of July 4th last. This distinction in no way signifies a contradiction. Limited or regional agreements within the framework of the Covenant cannot be regarded as an innovation for which the time is not yet ripe. Since the inception of the League, they have been a subject of study, and in the development of the valuable technical work which the Geneva institution has carried on for the benefit of all nations, much important research has been done on the lines indicated. In 1921, Czechoslovakia expressed a favourable view of this idea, although the Assembly did not accept the amendment to Article 21 which was proposed.<sup>2</sup> Later, the Treaty of Mutual Assistance prepared in 1923 showed a definite tendency towards an organisation on regional lines; subsequent studies led, however, to a diametrically opposite system with the Geneva Protocol, but in the case of the latter greater difficulties were encountered in achieving practical results. To-day, in the light of experience, conditions have changed. It seems necessary to lay greater stress on the importance of the preventive functions assigned to the League and to give more prominence to the conciliation provided for in Article 11 of the Covenant, a legal principle which has found a fertile soil in

<sup>1</sup> See Records of the Second Ordinary Session of the Assembly, Plenary Meetings, pages 411 and 412.

<sup>2</sup> See Records of the Second Ordinary Session of the Assembly, Plenary Meetings, pages 830 *et seq.*

America. The Uruguayan Government wishes to support a solution embodying the principle of a limited or regional organisation. The time has come to consider setting up such organisations, entrusted, not only with executive functions, but also with the duty of examining and deciding how the principles of the Covenant are to be applied when controversies arise. Thus, when a conflict breaks out, the countries situated in the zone affected or those most directly interested in the consequences of the crisis will have to assume corresponding obligations, while all the other nations will subordinate themselves to the action of these countries. All this will be without prejudice to the universal character of the League, whose governing organs will always have the last word in case of serious differences.

The Uruguayan Government is confident that, in the course of the discussions to which the elucidation of such problems will give rise, an opportunity will be provided to state fully the considerations suggested by a study of definite proposals.

C.343.M.218.1936.VII.

#### 4. THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS.

[Translation.]

Moscow, August 22nd, 1936.

In accordance with the recommendation adopted by the Assembly on July 4th last, you asked the Government of the Union of Soviet Socialist Republics to communicate to you any proposals it might have to make with a view to improving the application of the principles of the Covenant.

In response to this invitation, and making reference to the observations I have already had occasion to offer when this question was discussed at the Council meeting on June 26th and the Assembly meeting on July 1st, 1936, I have the honour to inform you that the revision of the Covenant of the League of Nations cannot at the present juncture be regarded as justified by circumstances and as likely to lead to the desired results, in view of the difficulties that would be encountered by the procedure for amending the Covenant under Article 26. At the same time, I have the honour to lay before you the following bases, which, if accepted, would, in my Government's opinion, contribute to the more precise and effective application of the principles of the Covenant in the sphere of collective security, and which might, with that object, be adopted either in the form of an Assembly resolution or by way of a Protocol open for signature by the Members of the League.

I. In the event of a war against a Member of the League, the Council shall be summoned not later than three days after the notification thereof to the Secretary-General.

II. Within three days of its convocation, the Council shall reach a decision as to the existence of circumstances calling for the application of Article 16 of the Covenant.

Such decision shall be recognised to have been taken if at least three-quarters of the members present (not including the representatives of the attacked State and the State denounced) vote in favour of it.

III. As soon as the Council has established the existence of circumstances calling for the application of Article 16, the State which has resorted to war shall *ipso facto* be deemed to be in a state of war with all the Members of the League and to be subject to measures (sanctions) intended to enforce the obligations of the League.

IV. Military sanctions shall be taken by the States parties to the mutual assistance agreements operative in the particular case, and by such States as may choose to conform to the recommendation made by the Council as provided in Article 16, paragraph 2, of the Covenant, by the majority indicated in paragraph II above.

V. Failure on the part of the Council to reach a decision as mentioned in paragraph II above shall not prejudice the immediate execution, by the States parties to the mutual assistance agreements, of their obligations to afford assistance under the conditions laid down in those agreements.

VI. From the moment at which the Secretary-General is notified, with a view to the summoning of the Council, of a war against a State Member, the States parties to the mutual assistance agreements operative in the particular case shall be entitled to take all necessary steps to prepare their armed forces to furnish assistance under the terms of those agreements.

VII. The States Members undertake not to regard as acts of aggression any military sanctions taken by signatories of the mutual assistance agreements or by other Members of the League in virtue of paragraph IV above.

VIII. Independently of the question of the application of military sanctions to the aggressor State, the Council shall decide, by the majority indicated in paragraph II, as to the application of the measures contemplated in Article 16, paragraphs 1 and 3, of the Covenant, and as to their extent and their execution, and such decision shall be binding upon all States Members.

The Council may, should this be necessary in order to secure the plan of concerted action or to reduce the losses it would entail for certain Members of the League, postpone wholly or in part, in respect of certain States, the entry into operation of the measures contemplated in Article 16, paragraph 1, of the Covenant.

IX. Any Member of the League which fails to participate in economic and financial sanctions may be subjected to measures of Customs and trade discrimination on the part of the other States Members.

X. States Members undertake to enact, immediately on the entry into force of the present resolution (of the present Protocol), such provisions as may be necessary under their constitutional laws to ensure in advance the application in good time of any measures which may be decided upon in connection with economic and financial sanctions.

XI. Mutual assistance agreements between States concerned in the maintenance of security in specific areas shall be recognised as constituting a supplementary guarantee of security within the framework of the Covenant. The following agreements which have been, or may in future be, concluded between two or more States shall be recognised as constituting such a supplementary guarantee:

- (1) Agreements which embody an undertaking to assist any signatory only when the latter is the victim of aggression;
- (2) Agreements which make assistance obligatory in the same cases in which the Covenant itself acknowledges the right to furnish assistance;
- (3) Agreements which are registered and published in conformity with Article 18 of the Covenant.

I think I should add that, in the opinion of the Government of the Union of Soviet Socialist Republics, the putting into operation of these principles would be facilitated if it were also stipulated that, for the purpose of the application of Article 16 of the Covenant, any State which has committed any act coming within the categories specified in the report on the definition of aggression submitted on May 24th, 1933, by the Committee on Security of the Conference for the Reduction and Limitation of Armaments shall be regarded as having resorted to war.

(Signed) M. LITVINOFF.

C.348.M.224.1936.VII.

#### 5. THE LATVIAN GOVERNMENT.

[Translation.]

Riga, August 26th, 1936.

With reference to your communication dated July 7th of this year and to the recommendation adopted by the Assembly on July 4th, the Latvian Government, confining itself to certain observations on the problem briefly known as the reform of the League Covenant, wishes to convey to you the following:

1. The question of the reform of the Covenant has acquired new and immediate importance on account of a concrete fact—namely, the failure of the collective action undertaken in the Italo-Ethiopian conflict. It is therefore only logical, as was moreover observed in the Assembly's recommendation of July 4th, to bear in mind, in the first place, the lessons taught by experience in this particular case and to endeavour to ascertain, in the light of that experience, in precisely what way the League Covenant has failed to operate satisfactorily.

2. The questions which arise in this connection and to which an answer must be found both in order to fix the precise scope of the problem and to enable proposals to be made in accordance with the Assembly's recommendation, may be grouped according to their nature in two different categories, since, on the one hand, we have to deal with the juridical structure of the Covenant and, on the other, with its practical application.

3. Although, in the Latvian Government's view, this is clearly shown by the spirit of the recommendation adopted by the sixteenth Assembly, that Government wishes to emphasise once again that it regards the juridical system of the League Covenant as entirely adequate to safeguard the authority of the League and to guarantee the security of its Members. The Latvian Government does not therefore see the necessity for introducing amendments into the Covenant for that purpose. In this connection, it would also like to point out that it shares the view of those Governments which consider that, in proposing to modify the provisions of the League Covenant without the necessity for such modifications having been shown by proof that the juridical structure of the Covenant is inadequate, the Members would be taking action which would inevitably lead to the opposite result—namely, to the lessening of the League's authority and to the weakening of the guarantees of security.

4. For these reasons, the Latvian Government will confine itself to defining the actual circumstances which, in its opinion, prevent the system of collective security, which from the outset has been and must continue in future to be the chief aim and the supreme task of the League, from becoming really effective.

5. Among these circumstances, we would mention, in the first place, the fact that the League is not universal, or at least not sufficiently universal. On that account, all considerations relating to collective security, both in its preventive and in its repressive aspect, are affected by uncertainty, due to ignorance of the point of view and action of States not members of the League.

In future, therefore, the Members of the League should do their utmost to make it as worldwide as possible by inviting all countries which are still outside it to become Members.

6. In addition to this difficulty, there are other circumstances which have prevented the Covenant from becoming more effective in the direction of collective security, although many of them are rightly attributable to the incompleteness of the League. It should not be forgotten that any proposal for the "improvement of the application of the principles of the Covenant" can only be a palliative, as it must be adapted to the present political situation of the League—that is, it must take account of the absence of some of the most important factors influencing world policy.

7. As regards the reform of the Covenant, chief attention should, of course, be paid to the means of preventing war. It is unnecessary to speak of the obligation to disarm, since failure to carry out this obligation is not due to any defects in the provisions of the Covenant. Moreover, the possibility of making the procedure of conciliation and arbitration more and more general still exists, although political disputes cannot always be settled by that means. The obligations relating to non-aggression, embodied not only in the League Covenant but also in many bilateral treaties and in certain important collective instruments, might be developed and made still more definite. In this connection, special importance attaches to the definition of aggression and the aggressor, the adoption of which would facilitate and justify collective action, both preventive and repressive on the part of the League. Similarly, consideration should be given to the question of the more effective application of paragraph 1 of Article 11 of the Covenant, and the possibility of omitting the unanimity rule should be examined.

8. Nevertheless, any reform of the Covenant must centre round the provisions relating to repressive measures—that is to say, the question of Article 16—and in the first place it would appear to be necessary to provide that, in the case of decisions taken under this article, the votes of the parties to the dispute should not be counted for the unanimous vote.

9. The repressive measures that can be employed by the League are of a political, economic and military nature, and it is only when their effective application is assured in advance that the League's guarantees of security can be regarded as real, because, on the one hand, if States know for certain beforehand that repressive measures will be employed, this will add considerably to the value of the various preventive measures and, on the other hand, in extreme cases, due respect for the League's authority can only be ensured by the application of all the repressive measures available.

10. It is obvious, however, that, until the League has a worldwide membership, very definite limits restricting the real efficacy of these measures will be set to the application of political and economic sanctions. If, for instance, all relations between the nationals of the Members of the League and those of the covenant-breaking State are prohibited, this measure will be ineffective unless the covenant-breaking State is thereby completely isolated. Similarly, as regards the severance of all financial, commercial and personal relations between the nationals of the covenant-breaking State and those of any other State, the actual possibilities and the practical incidence of such measures must be considered. It would appear that, in present circumstances, the best course to follow would be to draw up beforehand a definite plan predetermining the action of the Members of the League in the event of a violation of the Covenant. The immediate cessation of all imports should be provided for in advance, and a list of products, the export of which would at once be prohibited as soon as Article 16 is applied, should also be drawn up beforehand.

11. Another possible means of rendering collective action more effective in the event of a violation of the Covenant would be to bring about the entry into force of the Convention on Financial Assistance; the conditions to which the entry into force of that Convention is at present subject might be re-examined and further steps taken to hasten its ratification.

12. As regards the application of military sanctions, the incompleteness of the League is a less weighty factor than in the case of the adoption of political and economic measures. Political and geographical conditions are what matter most here: the former are important in that the indivisibility of certain political problems, a threat to any of the separate elements of which is sufficient to endanger general peace, must be borne in mind; the importance of geographical conditions from the point of view of the application of military measures is self-evident and needs no comment.

13. In any case, it should be emphasised that regional obligations should merely *supplement* the general obligations resulting from the Covenant, with a view to making the latter more effective; the argument that regional obligations should be *substituted* for general obligations can in no case be accepted. The effect would be to create an artificial policy of alliances and groups which might prove a greater danger to peace than present circumstances.

14. For these reasons, the Latvian Government is of opinion that the obligations resulting from Article 16 should be maintained in full and that the efficacy of this article can only be increased by means of additional or supplementary contractual undertakings on the part of the Members of the League.

(Signed) V. MUNTERS.

6. THE ARGENTINE GOVERNMENT.

[*Translation from the Spanish.*]

Geneva, August 28th, 1936.

In accordance with the resolution adopted on July 4th last by the Assembly of the League of Nations, I have the honour to inform you that my Government, in reply to the request for assistance in improving the application of the principles of the Covenant, thinks it desirable to put forward a few suggestions immediately, while reserving the right to take part in due course, through its delegates to the Assembly, in the study of any proposals which may be submitted by other countries.

The attached pamphlet,<sup>1</sup> specially published as a contribution to the study of the Covenant of the League of Nations, contains a Preface signed by His Excellency Dr. Carlos Saavedra Lamas, Minister for Foreign Affairs, in which he expressly emphasises the necessity for strengthening the League of Nations in order to ensure a more perfect application of its Statute.

In the light of reason and experience, my Government proposes the following general principles:

The universality of the League of Nations should be ensured by means of formulæ permitting the adherence or return of all the countries outside it, or at any rate formulæ should be sought for ensuring the co-operation of these countries in efforts aimed at the maintenance of peace.

The Council should be democratised both in its composition and operation, while reserving to the Assembly the examination of the most important questions or those affecting the League's very existence.

The principle of the equality of all sovereign States as regards their participation in the activities of the organs of the League should be respected.

It should be considered what provisions of the Covenant have been shown by experience to be no longer in keeping with the realities of international life, and these provisions should be given an optional character instead of the character of strict obligations.

It is desirable not to enter into undertakings going beyond those which all the Members of the League are in a position to observe, in order that in future no article of the Covenant should fail to obtain simultaneous and collective execution.

The absolute respect due to international treaties should be reaffirmed, subject to the right of revision laid down in the Covenant itself.

The necessary correspondence should be established between the measures of Article 10 and the sanctions laid down in Article 16 of the Covenant.

The previous determination of the aggressor in each case and according to circumstances should be laid down as a condition of all sanctions.

The procedure adopted should be that of interpretative rules of an emergency character, pending the introduction of formal amendments, as was done in 1921 in the case of the principles governing the use of the economic weapon, and as was proposed in 1923 for the use of military measures; it should be understood that the latter will not be binding on Members not implicated in the disputes, or only having an indirect interest therein.

The Covenant of the League of Nations should be co-ordinated with the Kellogg Pact and the Argentine Pact against war, full independence being conferred on the Committee appointed to study this question, instead of making its work dependent on the problem of disarmament. Such co-ordination will make it possible to unify the world's pacific efforts owing to the fortunate fact that the Kellogg Pact has had the approval of nearly every country and that the Argentine Pact has been approved by the whole American continent, including the Senate of the United States of America and the Brazilian Parliament, and that in Europe numerous countries have acceded to it.

The generalisation of the provisions of Article 4 of the draft treaty for the maintenance of peace, submitted by the Argentine Republic to the Inter-American Conference which will meet next December at Buenos Aires on the initiative of President Roosevelt, should be suggested. This article reads as follows: "*(a)* The Contracting States which are Members of the League of Nations and signatories of the Kellogg Pact or the Saavedra Lamas Pact, or of both at the same time, may jointly or separately request the Contracting States which are not members of the League but are signatories of the above-mentioned Pacts, to lend their co-operation in the anti-war measures or in the sanctions which the League of Nations may counsel be adopted against its Member States which have broken its Covenant; *(b)* the States so requested shall examine, each one through its competent agencies, whether the collaboration requested corresponds to the obligations derived from the Kellogg Pact or the Saavedra Lamas Pact or whether it is called for by the spirit of the said Pacts or by the dictates of international morality; in the affirmative case, they shall give their co-operation jointly or through unilateral acts of assistance; *(c)* in case of violation of the Kellogg Pact or the Saavedra Lamas Pact by any one of the High Contracting Parties which is a Member of the League of Nations, without prejudice to the sanctions prescribed by the Saavedra Lamas Pact, the other Contracting States which are likewise Members of the said institution may denounce to the latter the violation which has been committed. If the States which are not members of the League of Nations are summoned to apply measures or sanctions counselled by the said entity, they shall proceed in the manner agreed upon in paragraph *(b)* of this article."

(Signed) E. RUIZ GUIÑAZÚ,  
*Argentine Minister, Permanent Delegate  
accredited to the League of Nations.*

<sup>1</sup> This pamphlet is at the disposal of delegates in the Secretariat Library.

C.361.M.236.1936.VII.

7. THE ESTONIAN GOVERNMENT.

[*Translation.*]

Tallinn, August 29th, 1936.

In accordance with the recommendation adopted by the Assembly on July 4th, 1936, you asked the Government of the Republic to send you, before September 1st, 1936, any proposals it might wish to make with a view to improving the application of the principles of the Covenant in the spirit and within the limits indicated in the recommendation. The Government of the Republic has given this question due attention, and I have the honour to communicate to you its provisional views on the subject.

Although the Assembly's recommendation is based on the same principle, the Government of the Republic wishes to make it clear that, in its opinion, the legal system embodied in the Covenant is amply sufficient to preserve the League's authority and guarantee the security of its Members. From this standpoint, there is no need whatever to alter the Covenant itself; but the wide experience already gained may help to place upon a clearer and more definite basis the application of certain articles and the obligations they involve.

The normal enforcement of the Covenant presupposes, of course, that the preliminary conditions which were looked upon as natural when it was framed, and in the absence of which its operation is impeded, are fulfilled. I refer to the universality of the Covenant and to the obligation of general disarmament. Disarmament is the primary task of the organised international community of our day, and an indispensable preliminary condition for the reform of the Covenant. At the same time, while no effort should be spared to make the League more comprehensive, care should be taken to avoid any such compromise as might reduce the power of the League and weaken its influence.

Inasmuch as it is still the main duty of the League to supervise the operation of the system of collective security, every effort should be made to improve the means of preventing war. It would be desirable to find methods of generalising and further defining the procedure of conciliation and arbitration and the system of treaties of non-aggression, both bilateral and collective. The best way of enforcing the principle of non-aggression would be to bring the Covenant and the Paris Pact into harmony. Special attention ought also to be paid to defining aggression and determining the aggressor; if such definitions could be more generally applied, the League's collective action might be considerably strengthened.

Apart from the question of non-aggression, the preventive measures contemplated in the Covenant should be extended. With reference more particularly to Article II, paragraph 1, consideration should be given to the advisability of not allowing the contending parties to vote on the question of taking preventive measures to avert a conflict or discontinuing any coercive measures.

As for the punitive powers of the League under Article 16, it would seem that their future place in the general system of the Covenant depends upon the manner in which they would be used. This is a very serious question, calling for special study. The safeguards represented by the existence of those powers cannot be valid and effective unless the general application of the measures involved is assured in advance. Since those safeguards must operate as automatically as possible, consideration should be given to the advisability of abandoning the principle of unanimity in decisions reached under Article 16. When economic sanctions were to be imposed, moreover, a detailed plan ought to be prepared beforehand, embodying all the measures and forms of action that States Members should promptly take in order to make sanctions against the covenant-breaking State as effective as possible. In this direction, the Financial Assistance Convention might prove most valuable in the event of a breach of the Covenant, and those of its clauses which delay its entry into force should therefore be promptly reviewed.

As regards military sanctions, it seems doubtful whether military aid can be secured on worldwide lines. That being so, it is essential that collective security should be organised regionally, but always in the spirit of the League and under its ægis. As parts of a coherent system, and as stating more precisely the general obligations of the League, such agreements would make it far more effective in practice.

(Signed) Dr. AKEL.

C.354.M.230.1936.VII.

8. THE LITHUANIAN GOVERNMENT.

[*Translation.*]

Kovno, August 29th, 1936.

With reference to the communication which Your Excellency was good enough to send to me on July 7th last, I have the honour to inform you as follows:

1. The Government of the Republic of Lithuania considers, in accordance with the recommendation adopted by the last Assembly, that the only action necessary in the question of the so-called reform of the League of Nations is to endeavour to improve the application of the principles of the Covenant. It believes in consequence—and in view of a certain confusion in the mind of the public regarding this matter—that, in the first place, it should be made perfectly clear that there is absolutely no suggestion of impairing in any way the structure of the League or



its Covenant, or its system of collective security. It must be clear from the very beginning of the discussion that, if an endeavour to improve the application of the principles of the Covenant fails—however improbable such failure may seem—every effort must be made to ensure that the League of Nations as it at present exists shall not be materially or morally involved in such failure.

2. Being persuaded of the necessity, in making any proposals as a result of the Assembly's recommendation of July 4th last, for carefully bearing the above considerations in mind, the Lithuanian Government feels that it should first express a hope that the present wording of the articles of the Covenant will be left intact and that the measures to be adopted to improve the application of the principles shall be embodied in a separate instrument.

3. The general structure of the Covenant and its system of collective security being rightly based on the principle of universality, the Lithuanian Government thinks that the League of Nations should again invite all States now absent to become Members.

4. Being convinced that the essential task of the League of Nations is to safeguard the security of its Members and the inviolability of their territories, and noting also that the efficacy of the help afforded to a Member attacked by a covenant-breaking State will depend in most cases on the promptness with which it is rendered, the Lithuanian Government believes that it is necessary to lay down that the duration of the procedure previous to the actual coming into play of the safeguards of the Covenant shall be reduced to a strict minimum. The Lithuanian Government thinks that the procedure for deciding that an aggression has been committed should be improved by making it speedy and by providing clear and quite unmistakable definitions and injunctions.

5. The Lithuanian Government thinks that it is desirable to examine the possibility of enabling decisions to be taken more easily under Articles 10 and 16 of the Covenant by modifying the rule of unanimity.

6. In connection with the principle of the universality of the League, the Lithuanian Government considers that the help to be given to a Member victim of an aggression should also be of a universal nature. Regional obligations should therefore merely supplement the general obligations arising under the Covenant in order to make these general obligations more effective.

7. The Lithuanian Government is of opinion that the universal assistance to be afforded to a victim of aggression, in the political, economic and financial fields, should not be limited to negative acts against the Covenant-breaking State. It should also be positive in the form of political, financial and economic assistance to be granted to the victim of aggression. The Lithuanian Government desires, in this connection, to refer to the principles embodied in the Convention on financial assistance to be afforded to the victim of aggression.

(Signed) S. LOZORAITIS,  
*Minister for Foreign Affairs.*

C.353.M.229.1936.VII.

#### 9. THE NORWEGIAN GOVERNMENT.

[*Translation.*]

Oslo, August 29th, 1936.

Your circular letter of July 7th last issued in conformity with the Assembly's decision of July 4th has been discussed by me with the other Foreign Ministers of the Scandinavian countries, first in writing and then at a meeting which took place on August 20th, and you will see from the reply I am sending you to-day on behalf of the Norwegian Government that the principal points contained therein correspond to those which will appear in the replies of the other Northern-European Governments.

The Norwegian Government sets out from the idea that the primary aim of the League of Nations is to settle conflicts and to prevent war between nations, and that the Covenant of the League has laid the foundation of an international system which might give practical effect to this idea. There are, no doubt, points in the Covenant which it would have been desirable to express otherwise, and I shall note one of those points later; but I think that, at the present juncture, it is not much use entering upon a discussion of those points; any endeavour to secure the adoption of changes in the Covenant would be a protracted and perhaps fruitless task, at any rate as regards changes of any consequence, and the world situation is so precarious that rapid action is essential if the aim which we all desire, that of making the League of Nations an effective instrument for the organisation of peace between nations, is to be achieved.

The Norwegian Government considers it of primary importance to reinforce the League of Nations' power to intervene in any matter liable to create dangerous conflicts or to lead to war—to intervene in good time before even the thought of war has arisen. Here are two points to which my Government attaches the greatest importance:

1. No one, I suppose, can fail to be aware of the terrible danger presented by the tremendous armaments that are being built up in the majority of countries. The Covenant of the League of Nations, in Article 8, drew attention to the fact that "the maintenance of peace requires the

reduction of national armaments", and experience has shown only too clearly that armaments themselves create a growing distrust between States, thus sowing the seeds of discord and conflict. It must therefore be the duty of the Members of the League of Nations to renew their efforts to advance the cause of disarmament, and, to conduct this task to a successful issue, they must seek the co-operation of the States not members of the League.

There is a further reason for renewing the efforts to put an end to the armaments race and proceed gradually to disarmament. It seems obvious enough that the more heavily individual States are armed the greater difficulty the League of Nations will have in taking effective steps against those which, despite the articles of the Covenant of the League or despite the Paris Pact of 1928, resort to war against other States. In any case, we are not entitled to expect that the various Members will be very willing to comply with a Council "recommendation" inviting them to "contribute to the armed forces to be used to protect the covenants of the League" so long as they are obliged to reckon with a situation in which the aggressor State will be strong enough to defy the whole power of the League. Disarmament in reality constitutes one of the conditions of the whole system of sanctions, and it is only natural that many States should make the reservations regarding participation in sanctions which the Foreign Ministers of several States, including mine, communicated to the Press on July 1st last.

If it is desired to achieve anything practical in the matter of disarmament, it will certainly be necessary either to adopt the proposal of the Union of Soviet Socialist Republics to make of the Conference for the Reduction and Limitation of Armaments a permanent institution continually dealing with the questions involved here, or to establish a new permanent commission consisting of a representative of each country to discuss these questions. My Government desires that this idea should be carried into effect as soon as possible, and presumes that States not belonging to the League of Nations will be invited to participate.

I would point out at the same time how necessary it is to render effective the plan for the supervision of the manufacture of and trade in arms.

2. It is equally important to put into more systematic practice the provisions laid down in the Covenant of the League for the prevention of conflicts. I refer to the provisions of Articles 11 to 15, 17 and 19.

A drawback which has made itself felt in this connection is that the rule of Article 5 regarding the unanimity of decisions has been maintained in too mechanical a manner. The Norwegian delegation at Geneva has already pointed out that, in Norway's opinion, there can be no reasonable justification for applying this rule to the question of asking the Permanent Court of International Justice to give advisory opinions on individual disputes under Article 14. Nor does my Government see the necessity for asking for a unanimous decision in cases in which the Council or the Assembly may take the initiative of reconciliation or mediation under Article 11. As regards this latter question, it would perhaps be well for the Assembly to adopt a special resolution stating that a simple majority of votes would be sufficient in that case, since there would be no "decision" of the nature provided for in Article 5.

In case, however, the Assembly should not agree with this view, I have drafted the following clause to be inserted in Article 5, which should make the matter quite clear:

"Unanimity is not required for mere mediation or conciliation in disputes between two or more States, nor for friendly action with a view to averting the risk of international conflicts."

Rules of this kind will, I think, make it easier for the League to intervene in disputes and to settle them *before* they reach the danger-point at which States are already in open conflict and consider that their honour is involved in their contrary claims.

I should also like to point out that Article 19, which simply speaks of "advising" the Members of the League to discuss amicably questions likely to "endanger the peace of the world" and does not confer upon the League the power to take "decisions", suggests a prudent and moderate method of which advantage could be taken without the agreement of all the Members being required.

In order to prevent conflicts from degenerating into open war, States should, I think, agree to adopt the General Convention to improve the Means of preventing War, signed at Geneva on September 26th, 1931. Norway ratified this Convention in 1932, and my Government would be glad to see a greater number of States accede to it.

Nevertheless, my Government fully realises that rules and regulations are not enough and that a solution must be found for practical problems which at present lead to discord between States. It considers that it would be useful in the first place to organise international conferences to deal with certain economic questions. The failure of the London Conference of 1933 to achieve positive results was perhaps due in part to the fact that it aimed too high, and there would probably be more chance of success if the League arranged separate conferences to deal with particular economic questions.

One of the questions that naturally arise is that of a general stabilisation of currencies, and a successful effort to settle this question would undoubtedly improve international relations. Nevertheless, I am not quite sure that the world situation is as yet sufficiently favourable for a general discussion of this kind. There is, however, another economic question which brooks no delay, as it is closely bound up with the risk of war; I refer to the question of raw

materials for industry, and particularly raw materials coming from colonies. At the Assembly of September 1935, this question was referred to by the first delegate of the United Kingdom because it was pertinent to the Italo-Ethiopian conflict, and a far-reaching international discussion of it at the earliest possible moment appears to be logical and necessary.

Attention might also be drawn to other international questions which should be discussed in their turn in order to prevent open conflict, but I do not propose to mention them here. It would, I think, be dangerous to attack too many at a time, and it might be better to see first of all whether *one* can be satisfactorily settled.

I have already laid stress on the necessity for strengthening the preventive activities of the League. If this were done, the coercive measures provided for under Article 16 of the Covenant might even be dispensed with. Those activities are, in any case, essential to that end. I agree, however, that it would be a good thing to discuss how the measures in question could be made effective. It has been suggested in various quarters that the general provisions of Article 16 should be superseded by separate regional pacts of mutual assistance against States which resort to war. On July 3rd last, in the Assembly, I expressed some doubt as to the advisability of such pacts, as I feared that they might lead only too easily to alliances such as those with which we were familiar before the war, in which case the pacts would increase rather than avert the risk of war. I understand, however, the grounds on which these regional pacts were proposed and do not deny their possible utility. But it should be stipulated as a *conditio sine qua non* that they actually constitute part of the League's activities—in other words, States which bind themselves to mutual assistance in that way must not usurp the right to decide for themselves whether action should be taken under Article 16, and should not take measures against an aggressor State unless authorised to do so by the Council. The Northern countries are already regularly exchanging views on questions relating to the League, but they do not feel it necessary to convert this collaboration into a regional pact, and I am quite sure that, in the present state of the world, there is not one of them which would be prepared to undertake obligations going beyond those already resulting from the Covenant.

The question has, of course, an important political aspect; the political danger involved in the plan will continue to increase so long as large and powerful States—in Europe, Asia and America—remain outside the League.

All things considered, there is one fact which we come up against in regard to the League's activities as a whole—namely, that the League is not yet worldwide. That is why unremitting attention should be paid to the question of what must be done to induce non-member States to join the League. Some of them are co-operating with it in various ways, and it is to be hoped that they will be prepared to co-operate in the most important work of all—namely, the prevention of war. My Government is of opinion that the Assembly should begin at once—this year—to make preparations for the studies and discussions which might lead to the universality of the League.

In conclusion, I should like to allude briefly to the importance of what is known as "moral disarmament", which aims at abolishing antagonisms between nations and creating a spirit of good-will among them. For this purpose, the support of the Press, broadcasting, literature, and the schools should be enlisted. I would point out that the Northern countries have already agreed to censor history textbooks to ensure that the information they contain is correct and fosters agreement between neighbouring countries. This practical example should be followed by other nations, as it may help to develop the mentality calculated to give life and strength to international institutions working on behalf of peace.

(Signed) Halvdan KOHT.

C.357.M.233.1936.VII.

#### 10. THE SWEDISH GOVERNMENT.

[Translation.]

Stockholm, August 29th, 1936.

[I Annex.]

In a recommendation adopted by the Assembly of the League of Nations on July 4th, 1936, the Assembly declared that it was desirous of strengthening the authority of the League of Nations by adapting the application of the principles of the Covenant to the lessons of experience. On the same occasion, the Assembly also expressed the conviction that it was necessary to strengthen the real effectiveness of the guarantee of security which the League afforded to its Members. The Assembly further recommended the Council to invite the Governments of the Members of the League to send you, so far as possible before September 1st, 1936, any proposal they might wish to make in order to improve, in the spirit or within the limits laid down by the Assembly, the application of the principles of the Covenant.

In a Circular Letter dated July 7th, 1936 (124.1936.VII), you requested the Swedish Government, in accordance with the Council's decision, to send you, if possible before September 1st, 1936, any proposals it might desire to make in conformity with the above-mentioned recommendation. In reply to this request, I have the honour to communicate to you the following on behalf of my Government.

The questions under consideration were discussed at the meeting of the Ministers for Foreign Affairs of the four Northern countries which took place at Copenhagen on August 20th, 1936. As a result of these discussions, the Swedish Government desires to put forward certain general considerations which, in its opinion, deserve to be borne in mind when the present problem comes to be discussed.

1. In the Swedish Government's opinion, it is clear that the failure of the League of Nations to achieve universality is preventing the League from functioning in conformity with the principles of the Covenant. My Government expresses the hope that negotiations will be undertaken with countries which have left the League with a view to securing their return to the League as Members. Furthermore, the Swedish Government suggests that the Council, in examining on the basis of Article 11 of the Covenant any disputes of a general political nature which may arise, should regularly endeavour to ensure the co-operation of non-member States. On the model of the procedure applied in the Sino-Japanese dispute concerning Manchuria, when a representative of the United States of America was invited to attend the meetings of the Council, non-member States might be regularly invited to send delegates to sessions of the Council when their co-operation in the examination of such disputes appears desirable. Their presence must not, of course, affect the Council's legal situation as constituting in its ordinary composition an organ of the League of Nations, and the conditions of the participation of these Powers in the Council's discussions should be determined by agreements which should be concluded on the subject.

The Swedish Government wishes to draw attention in this connection to the fact that such more regular co-operation between the Council and the non-member countries would form a natural amplification of the Briand-Kellogg Pact, the provisions of which must be considered as based on the idea of a consultation between the signatory Powers when faced with a threat of a breach of this Pact or when a breach has already been committed. But in spheres other than that of international politics, the League should endeavour in future, as heretofore, to ensure the universal co-operation of States and thus to combat the spirit of mistrust and anxiety which is once more threatening to divide nations, with fatal consequences.

2. In the Swedish Government's opinion, experience shows that the League of Nations should intervene at as early a stage as possible of the dispute and should endeavour, by its mediating action and the organisation of effective measures to avoid an aggravation of the dispute, to prevent the latter from leading to a rupture. Many proposals have been laid before the Assembly for strengthening the powers of the Council acting on the basis of Article 11 in preventing open disputes. Mention may be made of the resolution adopted by the Assembly in 1927, recommending to the Council, as a valuable guide for the application of Article 11, to adopt a report approved by the Council Committee on the method or rules suitable for accelerating the framing of the decisions to be taken by the Council in order to fulfil the obligations of the Covenant. Moreover, the Assembly approved in 1930 a Convention on Financial Assistance, which was intended to come into force at the same time as a general plan for the reduction of armaments, and in 1931 a Convention to strengthen the Means of preventing War. These texts contain valuable ideas by which the Council might be guided in its action for the prevention of war and, if the above-mentioned Conventions secured general acceptance, an important step forward would be made.

3. As different opinions exist concerning the interpretation of the unanimity rule contained in Article 5 of the Covenant in regard to decisions to be taken under Article 11, the Swedish Government is prepared to give its assistance in defining the scope of this rule. The Swedish Government would be glad if it could be expressly laid down that the votes of the parties should not count in reckoning unanimity when the Council, on the basis of Article 11, recommends measures to prevent the aggravation of a dispute. It should be recalled in this connection that, according to the provisions of Article 5, paragraph 2, unanimity is not required for a decision of the Council to take cognisance of a dispute, and the same applies—in the Swedish Government's opinion—to a decision by the Council to ask, when examining a dispute, for an advisory opinion from the Permanent Court of International Justice.

4. In the Swedish Government's opinion, it is inadmissible that certain articles of the Covenant, and especially the article on the reduction of armaments, should remain a dead letter while other articles are applied. The Swedish Government wishes to emphasise the importance it attaches to the League of Nations' making a fresh examination of the possibilities of a general reduction of armaments, and to its endeavouring to secure, as an important part of a plan of disarmament, the application of an international convention on the supervision of the manufacture of and trade in arms and implements of war. The efficacy of the system of collective security under the Covenant depends to a large extent on the application of the principles of the Covenant concerning general disarmament. Article 16 of the Covenant, however, has hitherto been applied only in an incomplete and inconsistent manner.

The Swedish Government considers that it will have to take these circumstances into account in future in cases where it is desired to apply Article 16. It refers in this connection to the declaration of the Foreign Ministers of Denmark, Finland, the Netherlands, Norway, Spain, Sweden and Switzerland published at Geneva on July 1st, 1936, the text of which is attached to this letter.

In recalling each Government's right to judge of the conditions of the applicability of Article 16, and the above declaration of certain Governments as far as it concerns the right to examine the scope of sanctions in each particular case, it should be emphasised here that the resolutions adopted by the Assembly in 1921 laid down guiding principles concerning the powers of supervision belonging to the Council with regard to the loyal application of Article 16.

As regards the guarantee of security provided for in Article 16, paragraph 2, of the Covenant relating to *military sanctions*, the Swedish Government has already on several occasions stated its interpretation of those provisions (see, for instance, the letters sent to the Secretary-General on June 1st, 1923). The Swedish Government is unable to draw from the lessons taught by recent experience the conclusion that the provisions in question should be tightened up by making the application of military sanctions on the part of the Members of the League compulsory in the event of an act of aggression committed against one of them. It need only point out that, in the case of the conflicts which have broken out during the last few years, the Members of the League were not even prepared to apply in full the economic and financial sanctions which are at present compulsory. As for the idea of strengthening the League's system of security by concluding regional agreements relating to military sanctions, the Swedish Government—without expressing any opinion as to the value of the conclusion between other countries of regional agreements of this kind from the point of view of safeguarding peace—simply wishes to state that, for its part, it is not prepared to undertake obligations other than those at present laid down in the Covenant, even if those obligations are confined to a specific regional zone.

In accordance with Article 16 of the Covenant, the Members of the League undertook, in the case of a war covered by that article, to participate in *economic and financial sanctions*. As stated above and as indicated in the Assembly's recommendation, the provisions concerning economic and financial sanctions have never actually been applied in full. In certain cases no sanctions have been enforced against the aggressor. In the only case in which Article 16 was applied, sanctions were only imposed partially and by degrees. Various factors have contributed to this attitude on the part of the League, the chief ones being the tension which prevails in the general political situation, the incompleteness of the League and the continual increase in national armaments.

The Swedish Government does not consider it possible to ensure the effective application of economic and financial sanctions simply by means of the adoption of modified texts. Unless the obstacles in the way of the application of the Covenant referred to above are removed, it is to be feared that, in a future conflict, difficulties will arise regarding the effective application of economic and financial sanctions, notwithstanding the relevant provisions of the Covenant.

5. In its present form, the Covenant already lays down principles which, in the Swedish Government's opinion, constitute the essential elements of an effective international organisation with a view to the maintenance of peace. Among these principles, mention should be made in the first place of the preventive and mediatory action of political organs, general disarmament and the organisation of means of pressure to be employed against an aggressor State. The Covenant has been amplified on certain important points: namely, the judicial settlement of international disputes and the extent of the prohibition to resort to war, by collective and bilateral international agreements of very wide scope. It will be seen from the foregoing that, in the Swedish Government's opinion, the provisions governing the activities of the League might be improved in certain respects. But the chief aim should be to ensure the consistent and impartial application of the principles of the Covenant and to establish universal co-operation within the framework of the League.

(Signed) K. G. WESTMAN.

#### Annex.

The Foreign Ministers of Denmark, Finland, Netherlands, Norway, Spain, Sweden and Switzerland have exchanged views on the effects of current events on the organisation and working of the League of Nations. They find themselves in agreement on the following points:

The aggravation of the international situation and the cases of resort to force that have occurred during the last few years, in violation of the Covenant of the League, have given rise in our countries to some doubt whether the conditions in which they undertook the obligations contained in the Covenant still exist to any satisfactory extent.

We do not think it right that certain articles of the Covenant, especially the article dealing with the reduction of armaments, should remain a dead letter while other articles are enforced. Although events inevitably raise the question whether the principles of the Covenant are being adequately applied, we feel that every effort should be made to ensure the success of the experiment represented by the foundation of the League as an attempt to establish an international society based upon law.

In view of the gravity of the situation with which the League is faced, we recognise that it is necessary to consider whether the Covenant could be so amended, or its application so modified, as to increase the security of States, which it is its object to ensure.

Should proposals be made for amendments to the Covenant, we are prepared to give them careful consideration. We realise, however, the practical difficulties that this method would involve. We therefore think that, unless any unforeseen contingency presents itself, it would be better to adhere to a procedure whereby the Assembly would lay down rules for the application of the Covenant.

In the first place, an agreement must be reached to make more definite preparations for the application of the rules in the Covenant which are designed to obviate any violation of its principles, by strengthening the preventive activities of the League. Though not forgetting that rules for the application of Article 16 were adopted in 1921, we would place it on record that, so long as the Covenant as a whole is applied only incompletely and inconsistently, we are obliged to bear that fact in mind in connection with the application of Article 16.

Secondly, the League's activities in all political and economic spheres, which have been partially paralysed by recent crises, must be resumed, and an attempt must be made to progress towards the solution of the main problems of the day.

C.360.M.235:1936.VII.

## II. THE COLOMBIAN GOVERNMENT.

[*Translation from the Spanish.*]

Geneva, August 31st, 1936.

The delegation of Colombia has the honour to transmit to the Secretary-General the following suggestions regarding the amendment of the Covenant which the Government of Colombia considers it desirable to make in accordance with the resolution adopted on July 4th last by the Assembly of the League:

1. Decentralisation in the working of the League by the establishment of regional or continental associations or agreements, as, for example, the European Union, the association of American nations, etc.

2. The regional or continental associations would deal with problems of an exclusively regional or continental nature, and the procedure applied by them will, in the first instance, be that provided for in Article 15 if there arises between the States Members of these associations a dispute likely to lead to a rupture. The associations would also be instructed to take steps to maintain peace in case of a local war or threat of war.

3. The reference in Article 21 of the Covenant to the Monroe doctrine as a regional agreement would be replaced by recognition of the regional or continental agreements which would be established.

4. The Council of the League would be composed of representatives of the Members of the League, elected by the Assembly from candidates submitted by the regional or continental associations. Consequently, the distinction between the Principal Allied and Associated Powers and the other Members of the League would be abolished.

5. The economic and financial sanctions referred to in Article 16 would come into force automatically as soon as the competent organs of the League had determined the aggressor and without the need for further decisions by the Governments.

6. The military sanctions would be obligatory only for the States situated in the same continent as the aggressor.

7. The votes to be taken under Articles 10 and 11 of the Covenant would not include the votes of the aggressor States or of the States constituting a danger of war.

8. Any doubts as to the interpretation of the Covenant would be settled, at the request of any Member of the League, by the Permanent Court of International Justice.

C.355.M.231:1936.VII.

## 12. THE DANISH GOVERNMENT.

[*Translation.*]

Copenhagen, August 31st, 1936.

By a Circular Letter dated July 7th, 1936, you transmitted to the Danish Government, in accordance with a decision of the Council of the League of Nations, the recommendation adopted by the Assembly on July 4th, 1936, and requested the Government to send you, if possible before September 1st, any proposals it might think fit to make in connection with that recommendation.

The questions involved were discussed at a meeting of the Foreign Ministers of the four Northern countries at Copenhagen on August 20th, 1936, and the four Ministers found themselves in agreement on all essential points.

In reply to your circular letter, I have the honour to make the following statement:

The Danish Government considers that, in the present situation, it is neither necessary nor possible to amend the Covenant, but it thinks that all efforts should be combined with the object of applying as satisfactorily as possible all the rules that the Covenant contains. I would accordingly suggest a few ideas for discussion at the September Assembly.

### A. *Efforts to make the League universal.*

Since it is, in our opinion, essential to the success of the League that it should be made more comprehensive than it now is, we suggest that the Assembly should ask the Council to enquire (perhaps through a special committee) into:

(a) The possibility of opening negotiations with those States which hold aloof from the League with a view to bringing them into it, and the best moment for doing so, and also any measures that may make it easier for non-member States to join the League;

(b) The possible forms in which countries that have not so far seen their way to join the League could co-operate in any measures that might be taken to prevent war, and in which they could take a more active and extensive part in the League's work in the economic, moral, technical and humanitarian spheres.

### B. Rules for the Application of the Provisions of the Covenant.

A Committee will be set up to frame rules for the operation of Article 11, in order to facilitate its application at an early stage if a dangerous situation should develop. These rules will provide that, in the voting on invitations to the parties, where the present rules would require unanimity, the votes of the parties themselves shall not be reckoned in determining unanimity. A majority vote will suffice to decide whether the Permanent Court of International Justice at The Hague shall be asked for an advisory opinion.

With respect to the application of Article 16, the Government would refer to the declaration of the Foreign Ministers of Denmark, Finland, the Netherlands, Norway, Spain, Sweden and Switzerland, published at Geneva on July 1st, 1936 (the text of which is enclosed), and to the speech delivered by the representative of Denmark in the Assembly on July 2nd last. As regards the idea of regional pacts, we would urge that they should conform to the principles of the Covenant and should be under the control of the League. The four Northern countries are in constant co-operation in various important spheres; in matters affecting the League they have very often acted in conjunction with the Netherlands, Spain and Switzerland, and they are ready to co-operate with any other countries which may share their views. We see no necessity for basing this co-operation on separate agreements, and in the present circumstances it is improbable that the Danish Government will see its way to assume any commitments, whether general or regionally limited, other than those which, in our view, are contained in the Covenant.

### C. The League's Activities.

The Danish Government thinks it of no less importance to intensify and develop the League's regular activities than to study the interpretation of the rules embodied in the Covenant. We therefore make the following proposals:

1. (a) At the September session, the Assembly will resume consideration of the armament question, with a view to bringing the present competition in armaments to a standstill as soon as circumstances permit.

In this connection, consideration will naturally be given, in accordance with the projects of the Conference for the Reduction and Limitation of Armaments, to the appointment of a permanent commission, consisting of *one* representative of each State, for the purpose of collecting the necessary information from Governments, as soon as political conditions are favourable, in order to lay before the Council plans of the kind contemplated in Article 8 of the Covenant, which can be submitted to the various Governments for their consideration and decision. It is understood that any country may make its acceptance of such plans conditional upon their acceptance by certain other countries and upon the observance of the agreed provisions by those countries.

(b) The report of the Committee for the Regulation of the Trade in and Manufacture of Arms and Implements of War, dated April 13th, 1935 (document Conf.D.168), will be studied by the Assembly with a view to the preparation of a draft convention, which can be adopted on the understanding that States shall be entitled to make their acceptance conditional upon the acceptance of other States named.

2. The Council will appeal to all those States Members which have not ratified the Convention of October 2nd, 1930, for Financial Assistance, and the Convention of September 26th, 1931, to improve the Means of preventing War, to ratify those Conventions within six months, and will also endeavour to secure the accession of non-member States to those Conventions.

3. (a) We propose that the question of an agreement on monetary conditions such as may provide a firmer foundation for international trade should be placed on the agenda of the September session of the Assembly. With the backing of the statements that may be made at the Assembly, this problem should be referred to the Financial and Economic Committees, which should have the assistance of representatives of the Bank for International Settlements at Basle. An attempt should be made to secure the participation of non-member States in the work of these Committees, since their co-operation will be an important factor in the solution of the problem. It should thus be possible to frame a draft convention which the various countries could accept conditionally upon its acceptance by certain other countries.

(b) The Assembly will instruct the Economic Committee to prepare a survey showing how far bilateral trade agreements have met the wishes expressed by certain past Assemblies in regard to the expansion of international trade and, if possible, to base upon that survey proposals for ways and means of taking action on those lines.

(c) A Committee of Experts will be appointed to enquire into the scope of the question of free and equal access to the markets for raw materials from colonial areas and, should this appear necessary, to draft an international convention securing such access.

4. The September Assembly will consider means of:

(a) Securing the general acceptance of the Convention on the Use of Broadcasting in the Cause of Peace, which will be concluded as the outcome of the Conference called for September 17th, where both Member and non-member States will be represented;

(b) Continuing the work begun at the first two Press Conferences, at Copenhagen in 1932 and at Madrid in 1933 respectively;

(c) Organising propaganda more actively than has yet been done, with the help of literature, the Press, broadcasting and the cinema, and in conjunction with the private organisations pursuing like aims, in favour of a better mutual understanding between peoples, in order to strengthen the spirit of peace and develop international co-operation.

(Signed) P. MUNCH.

Annex.

COMMUNIQUÉ ISSUED BY THE SEVEN EX-NEUTRAL COUNTRIES ON JULY 1ST, 1936.

[*Note by the Secretariat.* — For the identical text, see the Annex to the communication from the Swedish Government, page 15.]

C.359.M.234.1936.VII.

13. THE FINNISH GOVERNMENT.

[*Translation.*]

Helsinki, August 31st, 1936.

The Minister for Foreign Affairs of Finland has the honour to acknowledge receipt of the Circular Letter dated July 7th, 1936, whereby the Secretary-General of the League of Nations communicated to the Finnish Government, in accordance with the resolution on the subject adopted by the Council of the League, the recommendation voted by the Assembly on July 4th, 1936, with a view to improving the application of the principles of the Covenant and thus strengthening the authority of the League and increasing, in the light of recent experience, the real effectiveness of the guarantees of security which it affords to its Members.

The Secretary-General having at the same time requested the Finnish Government to send him any proposals it might wish to make on the subject, the Minister for Foreign Affairs of Finland has the honour to inform him that, at the present stage, the Finnish Government desires to make the following suggestions and observations, based on the views expressed during the preliminary conversations between the Foreign Ministers of the Northern countries at Copenhagen on August 20th.

The primary object of the League of Nations is to ensure the maintenance of peace by affording means of settling international disputes and preventing wars. Doubtless the Covenant could be so amended as to make the League's action to that end both more effective and more flexible. The Finnish Government is of opinion, however, that the present world situation, fraught as it is with elements of conflict, is not propitious to the introduction of fundamental changes in the Covenant, especially since the views of States as to the utility and desirability of such changes seem at present to differ so widely that any proposal involving substantial amendments would have little chance of securing the required majority.

The Finnish Government therefore thinks that an attempt should be made to improve the application of the principles of the League: (a) by making the League more comprehensive, (b) by interpreting the provisions of the Covenant in a practical manner which would render them easier to apply, and (c) by intensifying the League's own activities.

(a) It is highly desirable to consider without delay the possibilities of securing the accession of States which are not yet members of the League, and the best means of doing so, and, secondly, to establish or intensify co-operation in many forms with such countries as are not yet prepared to join the League.

(b) Steps should be taken forthwith to frame more detailed rules for the application of Article 11 of the Covenant, so that disputes of the kind to which it refers can be settled at an early stage on the basis of that article. To facilitate the application of that and certain other articles, it should be agreed that, in cases where the Covenant requires unanimity, the votes of the contending parties should not be counted, and also that, at all events as a general rule, a simple majority should suffice for a decision that the League shall intervene in a dispute or that the Permanent Court of International Justice shall be asked for an advisory opinion.

With respect to the application of Article 16 of the Covenant, reference may be made to the declaration on the subject made at Geneva on July 1st, 1936, by Finland, Denmark, the Netherlands, Norway, Spain, Sweden and Switzerland,<sup>1</sup> in which it is pointed out that, since the Covenant forms an indivisible whole, some of its articles, such as Article 16, may be difficult to put into effect until certain other articles, such as Article 8, have been adequately applied.

<sup>1</sup> *Note by the Secretariat.* — For the text of this declaration, see the Annex to the Swedish Government's communication, page 15.



As to the possibilities offered by regional associations, it need hardly be pointed out that such associations could only be formed in accordance with the principles of the Covenant, and could only operate under League control. The four Northern countries, for their own part, are already in constant co-operation in various spheres, and in matters affecting the League they have often acted in conjunction with the Netherlands, Spain and Switzerland, and are ready to co-operate with any other countries whose views may coincide with their own.

(c) The Finnish Government regards the setting of a limit to the competition in armaments which is now taking place, more especially among the great Powers, and the strict application of the principles laid down in Article 8 as one of the League's most urgent duties. To this end, it seems necessary to re-open the already carefully considered question of setting up a permanent disarmament commission on which all countries would be represented. That commission could most appropriately inaugurate its work by endeavouring to secure the adoption of the existing projects for a convention providing for the supervision of the manufacture of and trade in arms and implements of war.

In order to increase the guarantees of security, the Council might ask those States which have signed the Financial Assistance Convention of October 2nd, 1930, to agree to the deletion of the first paragraph of Article 35, so that the Convention can be put into force independently of the hoped-for disarmament convention. The Council might then request all States which have not ratified the Financial Assistance Convention, or have not even acceded to it, to do so as quickly as possible. With regard, also, to the Convention to improve the Means of preventing War, concluded on September 26th, 1931, the Finnish Government feels that, though in appearance perhaps less categorical on the subject of violations of another State's territory, it would nevertheless help to reduce the danger of war if it were fairly applied, and that, in these circumstances, States should be asked to ratify or accede to it, at all events provided that they are assured of the accession of all their immediate neighbours.

One way to make it easier for countries to supply their own needs within their present frontiers, and so to reduce the number of disputes due to economic circumstances, would seem to be to intensify the League's activities in the direction of facilitating international trade.

While reserving his right to amplify, if necessary, the main points set out above, the Minister for Foreign Affairs of Finland would conclude by placing upon record the opinion of the Government of his country that neither amending nor supplementing the Covenant is so important as that all Members of the League should declare themselves willing to observe the Covenant more strictly and completely than hitherto and to apply all its provisions.

(Signed) A. HACKZELL.

C.365.M.239.1936.VII.

#### 14. THE IRAQI GOVERNMENT.

Baghdad, September 1936.

1. I have the honour on behalf of the Royal Iraqi Government to acknowledge the receipt of your Circular Letter 124.1936.VII, dated July 7th, 1936, and to inform you, pursuant to paragraph (a) of the recommendation adopted by the Assembly on July 4th, 1936, of the tentative proposals of my Government designed to improve the application of the principles of the Covenant. That these proposals should be merely tentative is inevitable, first, in view of the shortness of the time for considering them, and secondly, because a comprehensive view of the circumstances in which other Governments find themselves can be attained only at Geneva. Full account must be taken of these circumstances in considering what final proposals should be made.

2. The Royal Iraqi Government holds the view that the Covenant of the League of Nations affords the best possible basis for the application of the principle of collective security, to which they attach the utmost importance. In this respect, the Covenant needs no amendment to increase its effectiveness, for, in the view of the Royal Iraqi Government, past failures to apply the principle of collective security have been due, not to the shortcomings of the Covenant, but to extraneous facts. Thus, the incorporation of the Covenant in the Treaty of Versailles and other treaties concluded after the war of 1914-1918 tends to associate it with advantages gained by the victorious nations at the expense of those which were defeated. The formal connection of the Covenant with these treaties should be ended. Again, no real attempt has been made to discuss effectively those post-war conditions which are regarded as unjust by some States, or to apply in any practical way the principles of equity contained in the Covenant. On the other hand, meetings at Geneva have been used by some States for partisan ends and not for real deliberation for the purpose of achieving a satisfactory settlement of grievances. In short, experience has shown that the pre-war mentality of Governments, based on upholding the individual interests of States against the universal interests of the international community, has not so far changed sufficiently for the conduct of States Members of the League to conform to the principles so hopefully embodied in the Covenant. The Royal Iraqi Government therefore holds the view that the League of Nations can avoid future failures and can maintain and increase

its usefulness and influence only if its Members are prepared to subordinate individual interests to universal interests, accepted and defined by the Assembly. The events of the last year encourage the hope that Members may go a long way in this direction.

3. The effective subordination of individual to universal interests requires, first of all, the strengthening of the membership of the League. Every effort should be made to induce States not now members to enter, or re-enter, the League. If any State finds this step impracticable at the moment, it should be invited by the Assembly to participate as fully as it can in the work of the League, particularly in the immediate future. This requires no amendment of the Covenant.

4. A second urgent need is that the question of disarmament should be re-examined, and for this, too, the Covenant in its present form is adequate.

5. A third urgent need is that questions of raw materials, surplus population, colonial possessions, and the possibility of extending the application of the principles of the mandates system should be examined, as also should tariffs, quotas and other restrictions on international trade, including currency restrictions. For the examination of these questions, it is desirable to set up commissions to elucidate the facts in each case and to report to the Assembly. There is ample provision in the Covenant for this step.

It should be added that, in formulating a plan for the extension of the mandates system, the continuous development of the peoples under mandate should be provided for in the most explicit and practical manner.

6. The proposals contained in the preceding paragraphs deal with questions which go to the root of present difficulties in international relations. These questions should be examined unremittingly, but, as their solution is obviously not to be achieved within any very short time, it is necessary to consider how far the application of the principles of the Covenant can be improved in the intermediate period. The following tentative proposals are directed to this end.

7. As already stated, the Royal Iraqi Government attaches the utmost importance to the principle of collective security embodied in the Covenant, and regards its maintenance and the improvement of its application as essential. Therefore, the provisions of Articles 10 to 16 of the Covenant should stand. It is, however, essential that Members of the League should know in advance, in as much detail as possible, what assistance may be expected by them from their fellow-Members in case of aggression. One step in this connection which has already been suggested, and the Royal Iraqi Government heartily endorses, is that the application of the measures proposed by the Co-ordination Committee should be studied further and be the subject of a report. When this has been done, an attempt should be made by all States Members of the League to adopt a code of economic and financial measures to be taken by them as and when occasion arises. To this end, all Governments should secure power in advance under their respective Constitutions to enforce these measures without delay.

8. It appears to the Royal Iraqi Government that the recent failure of the principle of collective security was due, in great part, to the absence of any agreement upon military measures to be taken in aid of a Member attacked, and that this absence of agreement was due in turn to the remoteness of many Members from the scene of conflict. It is therefore proposed that, while obligations to enforce economic and financial measures should remain worldwide, obligations to take military measures should be regional in scope and agreed upon in advance among States whose geographical position gives each an immediate and overwhelming interest in the fate of any of the others. The more powerful Members of the League would consider how far, in view of their territorial or political interests, they could participate in such regional agreements in remote parts of the world. These regional agreements would specify the military measures each party would be prepared to take to assist another party the victim of aggression, and they would contain an undertaking in any event to comply immediately with any recommendations of the Council under Articles 10 and 16 of the Covenant. Further, it would be desirable that these regional agreements should provide for active co-operation between the parties with a view to the Council's recommendations being made in the shortest possible time, and they might well provide also for the measures to be taken in case the Council, for whatever reason, issues no recommendation or fails to reach a unanimous decision. These agreements as initially concluded should be open to accession by other States.

9. The Royal Iraqi Government believes that by the means suggested in the preceding paragraph a repetition of the recent failure to employ military measures in application of the principle of collective security would be avoided, without prejudicing the essentially universal character of the League.

10. The Royal Iraqi Government would welcome any agreed definition of such terms as "aggression" and "resort to war", and would be glad to see a reconsideration of the Protocol for the Pacific Settlement of Disputes, commonly called the Geneva Protocol.

11. Among other questions which the Royal Iraqi Government would wish to see discussed with a view to improving the application of the principles of the Covenant are:

(a) The question of a fuller application of Article 13 of the Covenant, especially to disputes of the kind mentioned in paragraph 2 of that article.

(b) Certain questions of procedure, including the question of replacing in the proceedings of the Council and the Assembly a *rapporteur* who fails within a given time to bring disputing Members to agreement.

12. These observations are, as already stated, tentative, and the Royal Iraqi Government will examine sympathetically and in a co-operative spirit suggestions made by other Governments for improving the application of the principles of the Covenant.

(Signed) T. MUSHTAQ,  
for Ag. Minister for Foreign Affairs.

C.367.M.241.1936.VII.

#### 15. THE HUNGARIAN GOVERNMENT.

[Translation.]

Budapest, September 1st, 1936.

By your Circular Letter 124.1936.VII, of July 7th last, you were good enough to call the attention of the Royal Government of Hungary to the recommendation adopted by the Assembly on July 4th, 1936, and to request it to send you, if possible before September 1st, any proposals that it might think fit to make with a view to improving the application of the principles of the Covenant.

In response to this invitation, I have the honour to remind you that the Hungarian Government has already stated its ideas on the subject through its delegation to the last Assembly, when the latter, before terminating its proceedings, held a preliminary exchange of views on the necessity of a reform of the League.

On that occasion, it was pointed out that the Hungarian Government is most anxious that the punitive clauses of the Covenant should be brought into equilibrium with those provisions—such as, more particularly, Articles 11, 13 and 19—which afford pacific and preventive means of settling disputes that may arise between States Members and offer possibilities of remedying situations, the maintenance of which might imperil world peace.

It is in this light also that the Hungarian Government interprets the invitation you have extended to it on behalf of the Council of the League, and I propose to send you in due course a detailed statement of such observations and suggestions as the Hungarian Government may think it necessary to put forward on the subject as defined by the Assembly's recommendation.

(Signed) KANYA.

C.366.M.240.1936.VII.

#### 16. THE PERUVIAN GOVERNMENT.

[Translation from the Spanish.]

Geneva, September 2nd, 1936.

With reference to your communication of July 7th last, I am directed by the Minister for Foreign Affairs of Peru to deliver to you the attached memorandum stating the Peruvian Government's views on the problem of the improvement and the application of the Covenant of the League of Nations.

(Signed) F. TUDELA,  
Peruvian Ambassador.

#### Memorandum.

Ad Article 1, paragraph 2.

The admission of a political entity to the League of Nations entails enquiry into whether it fulfils the following conditions:

(a) It must be capable of keeping its international engagements; this capacity is distinct from its intention to keep them and depends largely on the degree of advancement of the legal system of the community in question. In that sense, this condition is linked with the stage of civilisation that the community has reached as reflected in its legislative system and its customs, more especially in regard to the protection of the rights of foreigners.

(b) Admission must not be granted conditionally: that is to say, a country cannot be admitted to membership of the League on condition that it makes certain specified reforms in its administrative and legal systems. It would clearly be difficult to ascertain afterwards whether such reforms had been carried out and, if they had not been carried out, it would be still more difficult politically to secure the expulsion of the neglectful Member.

(c) It is necessary to establish clearly whether the admission of an entity to the League is equivalent to international recognition. If so, admission carries with it the right to diplomatic intercourse and trade. If not, the paradoxical situation is that a State can only maintain relations with another State through the League organisations. The former solution seems the more satisfactory, provided always that membership of an international organisation does not restrict the freedom of States to establish or continue bilateral relations between themselves.

(d) It is also necessary to consider the problem of the status of Governments, a problem which directly affects their representation in the League. If the League admits representatives of *de facto* Governments and if they enter into relations—possibly with juridical consequences—with the representatives appointed by Governments which have not recognised their Governments, the situation is complicated and a further reservation is necessary.

*Ad Article 1, paragraph 3.*

Resignation has been employed by Members of the League as a political means of evading the international obligations imposed by the League. No coercive measures have been agreed upon for such cases. Obviously, however, it is not proper that a State should withdraw from the League when the League's action is opposed to that State's idea of its own interest at a given moment. Obviously, also, the attitude adopted by the bureaucratic organs of the League in such a case is influenced by the desire to secure the return of the withdrawing State to the League, and that desire makes it difficult to maintain the decisions reached.

*Ad Article 4, paragraph 1.*

The present composition of the Council should be completely reformed by the abolition of the distinction between permanent and non-permanent seats, and of the system whereby certain States have a right to seats on the Council, because these arrangements are contrary to the principle of international equality on which a juridical organisation like the League should be based. The political grounds on which a "Great Powers" system was introduced into the Covenant have since changed owing to the passing of time and the impossibility of perpetuating in so comprehensive an organisation as the League the idea that its *raison d'être* is to safeguard the particular *status quo* that happened to be created by the Treaties of 1919 and 1920.

All seats on the Council should be elective and should be filled by rotation. It is reasonable enough that some weight should be attached to the extent to which the interests of States are involved in the political interests represented by the League and in its action in different fields of international activity; but this does not necessarily mean adhering to formulæ which are inconsistent with the principle of equality and which consequently entail an invidious gradation of the influence and importance of the different countries.

Perhaps the best way of ensuring that such influence is exerted legitimately and in proportion to the interests represented by the States concerned would be for the formation of the Council to be based on continental groups of States Members of the League, the representation of each group being increased or reduced according to the number of its Members. In that case, the desire of the continental groups to keep their representation up would be a factor in the vitality of the League.

As regards the re-election of Members of the Council, some limits should be placed on the recent tendency to give certain countries, by means of a system of indefinite re-election, what amounts to the permanent seat they were unable to obtain. If each continental group were given a certain proportion of seats to which its Members were re-eligible, it would probably be possible both to uphold the principle of equality and at the same time to enable certain countries to be represented more continuously on the Council.

*Ad Article 5, paragraph 1.*

The object of the strict rule of unanimity was to make a concession to the principle of equality which was so roughly handled in the composition of the Council and to avoid making the League into a super-State in which the will of the majority could dominate that of a minority. It is clear in practice, however, that the will of a single State is sufficient to prevent a decision upon which the peace of the world or important political, economic or social interests may depend. In other cases, the certainty that one State will dissent is enough to force the League to frame its decisions in an ineffectual form.

It is impossible to ignore the serious difficulty that States may find themselves liable to international obligations which they may regard as incompatible with their most justifiable and legitimate interests. There can therefore be no question of making any exception to the unanimity rule, but it might be accompanied by conditions that would enable the Council to take any necessary decisions under Article 15 (when this has been satisfactorily amended) by a two-thirds majority.

*Ad Article 6.*

For reasons similar to those mentioned in connection with Article 5, it is necessary to introduce into the organisation of the League Secretariat the principle of the proportional representation of continental groups, so that there shall no longer be in practice a monopoly of certain appointments for nationals of European Powers.

*Ad Article 8.*

Events have shown that the League is powerless to carry through a reduction of national armaments. The long and barren history of the Preparatory Committees and the Disarmament Conference demonstrate that such a serious and complicated problem cannot be solved by academic formulæ. The only effective steps that have been taken in the matter of disarmament since the great war are international acts that have been accomplished outside the League's sphere of influence. It would be more honest to admit this and to cut out of the Covenant any suggestion of the method to be followed in order to achieve disarmament or perpetuate it and all references to the exchange of information about armaments, and only to retain the declaration of principle in paragraph 1.

*Ad Article 10.*

The existing formula should be retained, because it is the corner-stone of the juridical organisation of the League. The Council's duty of advising upon the means by which the obligation embodied in this article shall be fulfilled is sufficiently elastic to allow of those means being limited to diplomatic and political action, without the compulsory measures which have been shown by certain circumstances to be incapable of universal application.

To that formula, however, there should be added another formula condemning wars of aggression as in the Paris Pact of 1928, and refusing to recognise territorial acquisitions brought about by force, as in the American Declaration of August 3rd, 1932.

Since such non-recognition may also prove inoperative in the face of the indifference of conquering States to the legal attitude of the other Members of the League, provision should be made for an effective sanction in that the League and all its subordinate bodies should be prohibited from considering any questions arising out of the exercise of unlawful territorial jurisdiction or any problems directly relating in any way to the conquered territory.

*Ad Article 12.*

Paragraph 1 of this article admits in a negative form of the possibility that a Member of the League may resort to war after an award or decision given by the Council on a dispute referred to it for settlement. Such a provision is incompatible with the Paris Pact and with the general system of outlawing war represented by the Covenant.

Articles 12 and 13 should be supplemented by a clause laying down that, failing an agreement between the parties to a dispute as to its political or legal character, the Council shall decide what kind of procedure is to be followed. This is the only way to ensure that conflicts shall be settled by peaceful means.

*Ad Article 14.*

The first part of this article, which refers to plans for the establishment of a Permanent Court of International Justice, is now superfluous. In the redrafting of the article, it would be desirable to add a statement of the fundamental principles underlying the organisation of the Court, namely:

- (a) Its elective character;
- (b) Proportional representation of continental groups, without prejudice to the proportional representation of different legal systems or to the personal and non-political qualification of the judges;
- (c) Compatibility between the League Court and any other regional or continental Court that may be established.

*Ad Article 15.*

It has been suggested in connection with Article 5 that the Council's decision under paragraph 4 of this article should be taken by a two-thirds majority in order to prevent the dissent of a single Member of the Council, not being one of the parties, from holding up the entire system of international co-operation provided for by the Covenant.

*Ad Article 16.*

If it were possible to separate the conflict—almost in the nature of a worldwide conflagration—that developed in consequence of the action taken by the League in regard to the Italo-Ethiopian dispute and the peculiar character of that dispute from a bilateral and regional standpoint, we should have to admit that there was an obvious disproportion between the two. If, after a reform of the Covenant, the necessary conditions for the admission of countries to the League and the obligations resulting from their admission were clearly determined, it would be possible to eliminate a new disproportion due principally, not to any difference in the degree or type of

civilisation, but to the contrast between a definite organised civilisation and a shapeless community still plunged in barbarism.

Not until the legal equality provided for by the Covenant is reinforced by an equal fitness to elaborate and enforce the law will breaches of international duties established by the Covenant entail for all Members of the League consequences identical from the legal standpoint, however much they may differ in power and geographical position.

The enumeration of the sanctions provided for in Article 16 should be clear and their application gradual. There will then be no need to argue about the advisability of certain measures, and they can be applied separately according to circumstances and recommended only to such States as can put them into effective operation. It is absurd and harmful to international relations to insist on sanctions being applied by States which, owing to the small extent of their trade or financial relations with the covenant-breaking State or to their geographical remoteness, cannot cause it any trouble, but whose attitude can provoke an undesirable moral tension.

It should also be borne in mind that, in the case of a conflict in which a country has no direct practical interest, public opinion in that country is apt to object to being obliged to take part in collective action which it does not regard as having any political utility or any moral necessity superior to its own necessity of self-preservation in all its various aspects.

As regards military sanctions, the Council's power to recommend to the Governments concerned what effective military force they shall contribute to any coercive action should be struck out of the Covenant. It might be replaced by the power to authorise the use of military force by a State applying for such authorisation for the purpose of protecting the covenants of the League. This would increase the sense of direct responsibility in such countries, and it would not be possible for them to desire to set collective action in motion for the benefit of private interests.

It is also essential that the prohibition to sell arms to the covenant-breaking belligerent should not affect only such countries as are mere transit countries while the countries manufacturing or actually supplying the arms can draw profits from the trade, leaving to the other countries the responsibility of stopping or preventing it.

#### Ad Article 19.

The Assembly's power to advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world should be superseded by a more precise formula enabling the Assembly to take action of its own accord or through bodies appointed by it. Otherwise, the principle of *rebus sic stantibus*, which should be upheld in the interests of peace and international order, cannot operate because it depends on the unchecked will of a State whose interest it may be to prevent its operation.

Here, again, it is desirable that an exception should be made to the unanimity rule and that decisions should be taken by a two-thirds majority.

#### Ad Article 21.

This article calls for substantial modification. The Monroe doctrine is not a regional understanding, but a unilateral rule of the foreign policy of the United States of America and cannot therefore be held up as an example of such understandings. Successive administrations in the United States have always construed it in this sense. Latin America does not recognise it as an international obligation affecting her, and when the question of its enforcement has arisen, the United States have declared that they had the sole right to invoke it and to decide as to the propriety of applying it.

Regional understandings, agreements or pacts are in principle to be highly recommended, especially in connection with the possibilities of Article 16, in regard to the application of sanctions, but within a legal system such as that of the League such agreements or understandings should be explicitly declared by the Council to be consistent with the Covenant.

C.364.M.238.1936.VII.

### 17. THE SWISS GOVERNMENT.

[Translation.]

Berne, September 4th, 1936.

In compliance with the recommendation adopted by the Assembly on July 4th last, we have the honour to inform you that we have given the most careful attention to the first declarations made at Geneva on the subject of the reform of the League of Nations. The Federal Council is of opinion that the question of revising or recasting the Covenant should be considered in the light of experience. Such consideration is the more necessary because the present situation is fundamentally different from that in which the Covenant was drafted. The disparity between hopes and realities has proved to be very wide, and this is largely responsible for the decline in the League's prestige.

For the moment, the Government of the Confederation does not propose to make any definite suggestions on any particular point that may seem to call for reform. It will give its careful consideration to any ideas that may appear likely to strengthen the League's authority, but it would urge the vital importance of approaching the whole question of reform from the standpoint of universality.

Although several new States have joined the League, other Members have left it; nor does it include all the countries whose participation was expected at the time of its foundation. Universality, which was looked upon from the outset as an essential condition of its success, should, we think, be one of the objectives of any future reform. Consequently, such changes as may be made should render it easier for countries which are not yet members of the League to join it, and for those which have left it to return. This aim in itself is deserving of every effort and would justify changes which to some may appear in the light of sacrifices, though they are not really so. What the Covenant would lose in juridical substance it would gain in moral force. In any case, so long as several great Powers remain outside it, the League can scarcely hope to achieve those economic tasks which form one of its fundamental objectives.

It must also be remembered that a League that is not universal is not merely a weaker and less effective institution, but an institution whose character is liable to deteriorate. It may change from a worldwide association for the development and defence of international law—which is what it always ought to have been—into an association of States likely, in the nature of things, to find itself at odds with countries that do not belong to it.

It would be a mistake to suppose that an inadequate membership could be counterbalanced by the coercive powers provided by the Covenant. The sanctions instituted by Article 16 have given rise to objections in many countries, and to objections that were perfectly justified. They have been applied in some cases and not in others, and there are clear cases in which they never could be applied. Hence they create inequalities that are only too marked. Although the obligations assumed by each party are theoretically identical, their effects differ greatly according to whether they apply to a great Power or to a country with more limited resources. It seems to us essential that a fairer balance should be established between the risks incurred by the former and by the latter. For a small country, the application of Article 16 may be a matter of life or death. Consideration ought therefore to be given to the idea of recasting that article; it would be worth while to pursue the enquiries undertaken by the International Blockade Commission in 1921.

Furthermore, improvements in the Covenant would be desirable in connection with the prevention of war. In particular, there is room for improvement in the methods of pacific settlement, especially those designed to appease political conflicts. It has already been announced that definite proposals will be made for the prompter and more effective application of Article 11, and, indeed, of Articles 12 and 15. Such proposals will receive our most sympathetic consideration.

If, notwithstanding the criticisms it incurs, Article 16 should be retained substantially in its present form, or if the risks it involves should be made still greater, Switzerland would be obliged to call attention once again to her peculiar position, which the Council of the League, in the Declaration of London of February 13th, 1920, described as unique. The Federal Council must in any case point out once more that Switzerland cannot be held to sanctions which, in their nature and through their effects, would seriously endanger her neutrality. That perpetual neutrality is established by age-old tradition, and all Europe joined in recognising its unquestionable advantages over a hundred years ago.

We may, we think, confine ourselves to these few remarks, on the understanding that they may be amplified or supplemented when the attitude of other countries has been made clearer. At the same time, the Federal Council is anxious to indicate the direction which it thinks this reform should take if its effects are to be beneficial and lasting. The Federal Council is a convinced supporter of international co-operation within the general limits of the Covenant, and its sole motive is the desire to uphold an institution which is in the interests of all, and whose disappearance would destroy the last hope of organising international peace.

(Signed) G. MOTTA,  
Federal Political Department.

C.374.M.246.1936.VII.

18. THE UNITED KINGDOM GOVERNMENT.

London, September 8th, 1936.

With reference to your Circular Letter 124.1936.VII, of July 7th, I am directed by Mr. Secretary Eden to inform you that His Majesty's Government in the United Kingdom do not propose to make any written observations on the subject of the future application of the principles of the Covenant, in connection with paragraph (a) of the Assembly recommendation of July 4th. It is their intention to make their views known at the forthcoming session of the Assembly.

(Signed) Walter ROBERTS.

Geneva, September 14th, 1936.

**LEAGUE OF NATIONS**

**APPLICATION OF THE PRINCIPLES OF THE COVENANT  
OF THE LEAGUE OF NATIONS**

**COMMUNICATION FROM THE CHINESE GOVERNMENT<sup>1</sup>**

**Memorandum of the Chinese Government making Certain Suggestions  
to improve the Application of the Principles of the Covenant.**

Nanking, August 27th, 1936.

The Minister for Foreign Affairs has the honour to acknowledge the receipt of the note of the Secretary-General of the League of Nations of July 7th, 1936, requesting the Chinese Government, in accordance with the recommendation adopted by the Assembly on July 4th, 1936, to inform him of any proposals which it might wish to make with a view to perfecting the application of the principles of the Covenant in the spirit of, and within the limits laid down by, the recommendation in question.

Realising that the League of Nations has encountered enormous difficulties in the performance of its duty "to achieve international peace and security", the Chinese Government deems the Assembly's recommendation of July 4th, 1936, inviting the Governments of the Members of the League to send to the Secretary-General their proposals for improving the application of the principles of the Covenant as opportune and of great significance. But just as the terms of that recommendation limit the proposed task to that of "adapting the application of these principles to the lessons of experience", so the Chinese Government, too, believes that what is needed is not a revision of the Covenant, but only an elucidation and elaboration of the methods and procedure for the realisation of the principles already embodied therein. For, as was pointed out by the first Chinese Delegate, Dr. V. K. Wellington Koo, in his statement before the Assembly on July 2nd, 1936, the failure of the League in recent cases "has been due, not to the insufficiency or the inefficacy of the measures provided in the Covenant, but rather to the policy and method of application adopted". Moreover, in view of the prevailing diversity of opinion and the provisions of Article 26 of the Covenant governing amendments, any attempt at the present moment to reform this fundamental instrument may not only prove to be a long, tedious, and fruitless task, but even become, in the end, detrimental to the prestige and well-being of the League itself.

In conformity with the declared purpose of the recommendation to "strengthen the real effectiveness of the guarantees of security which the League affords to its Members", the Chinese Government wishes to make a few suggestions.

I. According to the provisions of Articles 10 and 11 of the Covenant, there are two sets of circumstances with which the League is called upon to deal: one arises from any threat of external aggression or war, and the other from actual aggression or war. The means and action which the League is under obligation to take are, in the former case, preventive and, in the latter case, repressive in character. It is the opinion of the Chinese Government that, whenever there is a threat or danger of external aggression or war, more effective preventive means should be taken by the League, so that it may not develop into an actual armed conflict.

<sup>1</sup> Note by the Secretariat. — Communications from Governments reaching the Secretariat before September 12th have been distributed to the Council and to Members of the League as and when they have arrived. For the convenience of Members of the Assembly, they have been collected together in a single document (A.31.1936.VII), which will be distributed shortly. Communications which, like that of the Chinese Government, reach the Secretariat after September 12th will be printed at once and distributed to the Assembly.



2. With this end in view, it should be made clear in some suitable form that the measures provided for in Article 16 should not be excluded from the means or action which the League of Nations can take under Articles 10 and 11 of the Covenant.

3. Whenever the League is called upon to deal with a conflict between States, and when it fails to settle it by preventive measures and actual war or aggression has materialised, it naturally has to proceed with repressive measures, but it cannot do so without previously deciding which of the parties to the conflict is the aggressor. Since the definition of an aggressor is not found in the Covenant, any decision on this question will, in each case, not be an easy task. It would therefore be advisable, in the opinion of the Chinese Government, for the Assembly to fill this gap by adopting a definition of aggressor by a resolution or by some other instrument, so that, whenever a crisis arises, the League may be able more rapidly to perform its duty of safeguarding the peace of nations.

4. According to the provisions of Article 16, it is the duty of the Members of the League, in the specified cases of covenant-breaking, to sever immediately all economic and financial relations with the covenant-breaking State, and without necessarily awaiting a demand by the victim State or a new recommendation from the League. In other words, the measures provided for possess three requirements—namely, automatic, immediate and all-inclusive. But, for one reason or another, these three requirements have not been completely observed in the past, with the result that their effectiveness has been greatly diminished. In order to render these measures as effective as possible in the present circumstances of the League, it would be desirable to establish a permanent Commission of Experts to work out a definite procedure for the application of these provisions, so that, when it is adopted, it can be followed at any time without delay in case of emergency.

5. As regards the military sanctions envisaged in paragraph 2 of the same article, their practical application seems to be difficult and complicated, but is important and essential if the system of collective security provided in the Covenant is to prove really effective and peace is to be safeguarded. It would therefore be desirable, in the view of the Chinese Government, to authorise an appropriate organisation in the League now to make a study of the various aspects of the question—political, technical, etc.—and draft a plan for the practical application of this provision in time of necessity.

6. The Chinese Government realises the advantages of regional pacts of collective security and is prepared to accept the idea in principle, provided such pacts are intended to, and in fact do, strengthen the existing guarantees of security provided in the Covenant; that, in other words, they are to serve as supplement to, and not as substitute for, any of its important provisions.

7. It is also the opinion of the Chinese Government that the possibilities of the preventive action authorised in Article 11 of the Covenant for the safeguarding of peace should be more extensively explored in future than in the past, and that the unanimity rule heretofore enforced in regard to action taken under this article might be relaxed to the extent of excluding the votes of the party or parties directly concerned, so as to facilitate the taking of decisions and ensure more prompt action to maintain peace and forestall aggression.

The Chinese Government wishes to point out that the foregoing is not intended to be an exhaustive exposition of its views and wishes to reserve its right, through its delegation to the Assembly, to supplement them and join in the study of other proposals placed before the Assembly by other Member States.

Genève, le 19 septembre 1936.

**SOCIÉTÉ DES NATIONS**

**MISE EN ŒUVRE DES PRINCIPES DU PACTE  
DE LA SOCIÉTÉ DES NATIONS**

**COMMUNICATION DU GOUVERNEMENT POLONAIS.**

Genève, le 18 septembre 1936.

Au Secrétaire général.

Par votre lettre-circulaire N° C.L.124.1936.VII, en date du 7 juillet 1936, vous avez bien voulu porter à la connaissance du Gouvernement polonais le vœu adopté par l'Assemblée de la Société des Nations le 4 juillet 1936 au sujet des propositions éventuelles à présenter en vue de perfectionner la mise en œuvre des principes du Pacte.

La nécessité de rendre la collaboration et la solidarité internationale plus efficaces dans le cadre du Pacte de la Société des Nations est pleinement reconnue par le Gouvernement polonais. C'est pourquoi il n'a pas manqué d'examiner sous tous les aspects le problème soulevé par le vœu de l'Assemblée et il a prêté une attention particulière à l'étude de toutes les observations et suggestions formulées soit dans les discussions publiques, soit dans les réponses des divers gouvernements à la note-circulaire susvisée.

Il lui semble toutefois prématuré de présenter d'ores et déjà par écrit des solutions qu'il serait à même de recommander, étant donné qu'à son avis les problèmes constitutionnels de telle ou autre interprétation ou application du Pacte de la Société des Nations pourraient peut-être plus pratiquement être discutés dans une atmosphère politique dégagée des lourdes préoccupations de l'heure présente.

(Signé) BECK,  
*Ministre des Affaires étrangères.*

[Communicated to the Assembly,  
the Council and the Members of  
the League.]

Official No. : **A. 35.** 1936. VII.

Geneva, September 19th, 1936.

LEAGUE OF NATIONS

APPLICATION OF THE PRINCIPLES OF THE COVENANT  
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COMMUNICATION FROM THE POLISH GOVERNMENT

[*Translation.*]

Geneva, September 18th, 1936.

To the Secretary-General.

By your circular letter No. 124.1936.VII, dated July 7th, 1936, you were good enough to bring to the notice of the Polish Government the recommendation adopted by the Assembly of the League of Nations on July 4th, 1936, regarding possible proposals for improving the application of the principles of the Covenant.

The necessity for making international co-operation and solidarity more effective within the framework of the Covenant is fully realised by the Polish Government. It has therefore carefully considered in all its aspects the problem raised by the Assembly's recommendation and has devoted special attention to the study of all the observations and suggestions made both in public discussions and in the various Government replies to the aforesaid circular letter.

The Polish Government considers it premature, however, to submit in writing at this stage such solutions as it might be able to recommend, because in its opinion it would be more practical for the constitutional problems raised by any particular interpretation or application of the Covenant to be discussed in political atmosphere which had been cleared of the heavy anxieties of the present moment.

(Signed) BECK,  
Minister for Foreign Affairs.

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Genève, le 23 septembre 1936.

**SOCIÉTÉ DES NATIONS**

**MISE EN ŒUVRE DES PRINCIPES DU PACTE  
DE LA SOCIÉTÉ DES NATIONS**

**COMMUNICATION DU GOUVERNEMENT IRANIEN.**

Genève, le 22 septembre 1936.

Au Secrétaire général.

Le Secrétariat a bien voulu, en conformité du vœu que l'Assemblée de la Société des Nations a adopté le 4 juillet 1936, inviter, par sa lettre-circulaire N° C.L.124.1936.VII, en date du 7 juillet 1936, le Gouvernement impérial de l'Iran à lui présenter ses propositions éventuelles relatives au perfectionnement de la mise en œuvre des principes du Pacte.

Le Gouvernement de l'Iran a déjà, lors de la deuxième réunion de la seizième session de l'Assemblée, en juillet dernier, exprimé, par la voix de son premier délégué, ses considérations générales relativement à l'importance qu'il attache au renforcement du Pacte et des principes de la sécurité collective, de la paix indivisible et de l'égalité des Etats au sein de la Société des Nations. Il admet également que, peut-être, par l'interprétation de certains articles du Pacte, ces principes pourront être encore mieux renforcés. Cependant, il est d'avis que les circonstances actuelles ne sont nullement favorables pour qu'une discussion utile puisse s'ouvrir au sujet de tout remaniement ou de toute interprétation des articles du Pacte.

Veillez agréer, etc.

*Le Premier Délégué de l'Iran à la dix-septième Session  
de l'Assemblée de la Société des Nations:*

*(Signé) A. SEPAHBODY.*

[Communicated to the Assembly,  
the Council and the Members of  
the League.]

Official No. : **A. 40.** 1936. VII.

Geneva, September 23rd, 1936.

LEAGUE OF NATIONS

**APPLICATION OF THE PRINCIPLES OF THE COVENANT  
OF THE LEAGUE OF NATIONS**

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**COMMUNICATION FROM THE IRANIAN GOVERNMENT**

[*Translation.*]

Geneva, September 22nd, 1936.

To the Secretary-General.

In conformity with the recommendation adopted by the Assembly of the League of Nations on July 4th, 1936, the Secretariat, by its Circular Letter 124.1936.VII, dated July 7th, 1936, invited the Imperial Government of Iran to submit to it any proposals it might wish to make on the improvement of the application of the principles of the Covenant.

At the second meeting of the sixteenth session of the Assembly in July last, the Government of Iran has already stated through its first delegate its general views on the importance it attaches to the strengthening of the Covenant and of the principles of collective security, indivisible peace and the equality of States within the League of Nations. It is also ready to admit that these principles can perhaps be still further strengthened by the interpretation of certain articles of the Covenant. Nevertheless, it considers that present circumstances are by no means favourable for the opening of a useful discussion on any readjustment or interpretation of the articles of the Covenant.

I have the honour to be, etc.

(Signed) A. SEPAHBODY,

*First Delegate of Iran to the seventeenth session of the  
Assembly of the League of Nations.*

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Geneva, October 9th, 1936.

**LEAGUE OF NATIONS**

**APPLICATION OF THE PRINCIPLES OF THE COVENANT**

REPORT SUBMITTED BY THE GENERAL COMMISSION TO THE ASSEMBLY.

*Rapporteur* : The Right Honourable S. M. BRUCE (Australia),  
*Chairman of the General Commission.*

At its meeting of October 8th, the Assembly adopted the following resolution setting up a General Commission of the kind provided for in Rule 14 of the Rules of Procedure :

“ The Assembly,

“ Acting upon the recommendation adopted by the Assembly on July 4th, 1936 ;

“ Having regard to the replies of the Governments of States Members to the invitation extended to them in pursuance of that recommendation ;

“ Having regard to the statements that have been made concerning the application of the principles of the Covenant during the general discussion ;

“ Considering that among the problems which arise out of the question of the application of the principles of the Covenant, and which must therefore be covered by the enquiry into that subject, mention should be made of the problem, already considered by the League, of harmonising or co-ordinating the Covenant with other treaties of a universal tendency aiming at the pacific settlement of international disputes — that is to say, the Treaty for the Renunciation of War, signed at Paris on August 27th, 1928, and the Treaty of Non-Aggression and Conciliation, signed at Rio de Janeiro on October 10th, 1933, on the initiative of the Argentine Republic, which treaties fall within the scope of Article 21 of the Covenant and, like the Covenant, are designed to ensure the maintenance of peace ;

“ Considering that another problem already envisaged by the League of Nations is also connected with the question of the application of the principles of the Covenant — namely, the prohibition, in virtue of the provisions of the Covenant, of the supply of arms and war material to belligerents — a problem the study of which was entrusted by the Council to a Special Committee, which suspended its work owing to the fact that the Assembly was also dealing with the question of the application of the principles of the Covenant :

“ Decides to set up a General Commission of the kind provided for in Rule 14 of the Rules of Procedure for the question of the application of the principles of the Covenant and all problems connected therewith, the Commission to report to the Assembly and submit its recommendations to the latter on the manner in which the study of these problems should be pursued.”

The Commission considered that, in order to fulfil its terms of reference as fixed by the Assembly, it should make recommendations upon the following points :

Collection and classification of the relevant documents ;  
Setting-up of a body to study these documents.

I.

As regards the documentary material, the Commission agreed that it would be highly desirable that the Governments of the States Members of the League which had not yet made known their views either in writing or in the speeches of their delegates in the Assembly should forward to the Secretary-General, as soon as possible, any proposals they might desire to submit in reply to Circular Letter 124.1936.VII.

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The Secretary-General should further be asked to complete, by a classification of the proposals, including statements made during the course of the Assembly, received since September 12th, the study which he had made of the different proposals submitted by Governments (document C.376.M.247.1936.VII). He should also issue the communications received since September 12th in a publication supplementary to document A.31.1936.VII.

## II.

As regards the body to be set up to consider, after the documentation has thus been collected, the question of the application of the principles of the Covenant and all problems connected therewith, and to make proposals to be submitted to Members of the League, the Commission considered that, since the question was one of vital interest to all Members, it would be well to contemplate the establishment of a committee on which all the views expressed would be represented. The Council, to a great extent, represents those views; but the Commission considered that there was occasion to follow certain precedents and to propose to the Assembly the setting-up of a larger committee, including, besides representatives of all the Members of the Council, the delegates of certain League Members who do not at present hold seats on the Council.

The Commission therefore proposes that the suggested committee should be composed of the following Members of the League :

|  |                                      |
|--|--------------------------------------|
| Argentine,   | Italy,                               |
| Austria,   | Latvia,                              |
| Belgium,   | Mexico,                              |
| Bolivia,   | Netherlands,                         |
| United Kingdom of Great Britain and<br>Northern Ireland, | New Zealand,                         |
| Bulgaria,  | Poland,                              |
| Canada,  | Portugal,                            |
| Chile,   | Roumania,                            |
| China,   | Spain,                               |
| Czechoslovakia,  | Sweden,                              |
| Ecuador,   | Switzerland,                         |
| France,  | Turkey,                              |
| Greece,  | Uruguay,                             |
| Iran,  | Union of Soviet Socialist Republics. |

The Commission further proposes that the committee thus constituted should be empowered to invite to take part in its discussions, during the consideration of any given proposal, any other Member of the League whose opinions it might seem desirable to ascertain.

The Chilian delegation made the following further proposal :

“ In the interests of universality — an essential condition for the efficacy and success of the League of Nations — the Assembly considers it necessary to ascertain the views of non-member States, either by direct approach or by the convening of a diplomatic conference.”

The Commission suggests that it would be premature for the Assembly to consider this proposal. It seems that it is for the Members of the League, in the first place, to study the problems connected with the question of the application of the Covenant. One such problem is that of universality, to which various Governments have referred. The point raised by the Chilian delegation and the other delegations which share its view might, it seems, be met by the fact that the committee will certainly have to consider this question and possibly to examine the appropriate methods for ascertaining the views of non-member States. The proposal of the Chilian delegation and any other proposal to the same effect would thus be considered by the committee.

## III.

As regards the committee's terms of reference, the Commission recalls that these are defined in two texts already adopted by the Assembly : the recommendation of July 4th, 1936, and the resolution voted on October 8th.

These texts define the spirit in which the Assembly hopes that the study which it has undertaken will be carried out.

Further, it follows from the resolution adopted by the Assembly on October 8th that the committee which it is proposed to set up would take the place of the Committee of all the Members of the League appointed by the Assembly's resolution of September 25th, 1931, and also of the Special Committee appointed to study the question of the prohibition, in virtue of the provisions of the Covenant, of the supply of arms and war material to belligerents.

*Draft Resolution.*

“ The Assembly,

“ Recalling its recommendation of July 4th, 1936, and its resolution adopted on October 8th, 1936 :

“ Adopts the foregoing report ; and

“ Decides to set up the committee proposed in this report to study all the proposals which have been, or may be, made by Governments regarding the application of the principles of the Covenant and the problems connected therewith.

“ On the basis of this study, the committee will prepare a report, as soon as possible, indicating the definite provisions, the adoption of which it recommends with a view to giving practical effect to the above-mentioned recommendation of July 4th, 1936.

“ This report shall be submitted to the Governments of the States Members of the League of Nations to serve as a basis for the decisions to be taken in this matter.

“ The committee shall be authorised to propose a special session of the Assembly, should it consider it advisable to do so.”

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✓ 1937.VII.1. Settlement of the Assyrians of Iraq — Report of the Committee of the Council for the Settlement of the Assyrians of Iraq.  
✓ 1937.VII.2. The Nyon Arrangement and the Agreement supplementary to the Nyon Arrangement — Communication from the Minister for Foreign Affairs of France, President of the Mediterranean Conference of Nyon.  
✓ 1937.VII.3. Commission of Enquiry for European Union — Minutes of the Seventh Session of the Commission, held at Geneva on Friday, October 1st, 1937.
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Geneva, September 25th, 1937.

**LEAGUE OF NATIONS**

**SETTLEMENT OF THE ASSYRIANS OF IRAQ**

**REPORT OF THE COMMITTEE OF THE COUNCIL  
FOR THE SETTLEMENT OF THE ASSYRIANS OF IRAQ**

On July 4th, 1936, the Council of the League of Nations approved the Committee's proposal for the definite abandonment of the plan for the settlement of the Assyrians of Iraq in the Ghab plain. It also instructed the Committee "to continue its efforts and, in particular, to undertake a general study of the situation so as to be in a position to inform the Council definitely whether, and, if so, to what extent, the settlement elsewhere than in Iraq of the Assyrians of Iraq who still wished to leave that country was at present practicable".

The Committee entered upon the study which the Council had entrusted to it with a very clear sense of the responsibilities incumbent upon it in virtue of its mission. It did not neglect any solution, however slight the prospects of its realisation, which seemed to it worthy of investigation. It re-examined the result of the previous approaches it had made on two occasions, in 1933 and 1934, to a number of Governments with a view to the settlement of the Assyrians of Iraq on their territory. It fully explored the suggestions made in regard to certain countries by persons outside their Governments. All these studies and investigations, however, proved fruitless.

Among the possibilities which have been re-examined have been the various territories comprised in the British colonial Empire. At the January Session the Committee was informed by its United Kingdom member that, in view of the great interest which the United Kingdom Government took in finding a solution of the Assyrian problem, it had, on the breakdown of the Ghab scheme, at once undertaken a new enquiry into the possibility of establishing the Assyrians in some British territory. This re-examination had not led to any hopeful result, although it had been applied to every territory under British administration. All the political and material difficulties that had come to light in the course of the previous enquiries in 1934/35 had proved to be no less formidable, and indeed in many cases had become greater. But as no other scheme had materialised in the meanwhile, the United Kingdom Government had decided to make yet another effort to see whether, after all, another destination could not be found for the Assyrians.

At the session of the Committee in July last, the United Kingdom representative was, however, obliged to inform the Committee that, to its great regret, the United Kingdom Government had been definitely unable to find any new possibility in British territory, as the political and material difficulties already mentioned had been found to be still insuperable.

In these circumstances, the Committee believes that the time has come to inform the Council that, as a result of the general study which it has been asked to undertake, it has reached the definite conclusion that the settlement outside that country of the Assyrians who have remained in Iraq does not at present seem to it practicable, and that it is similarly impossible to arrange for the transfer elsewhere of the Assyrians who are settled in the valley of the Khabur in Syria.

In view of the facts of the situation, the Committee submits to the Council recommendations designed to adapt the future of the Assyrians to the possibilities that exist now. These recommendations differ according to whether they relate to the Assyrians settled in Syria in the valley of the Khabur or to those inhabiting Iraq.

**I. ASSYRIANS SETTLED IN THE UPPER VALLEY OF THE KHABUR.**

The circumstances in which this settlement has been organised are explained in paragraphs 8, 9 and 21 of Annex I. The Committee desires, however, to emphasise one point—namely, that the settlement on the Upper Khabur was originally founded, without the League's participation

and some time before the Ghab scheme was contemplated, for the purpose of collecting together the Assyrians who had crossed the Syrian frontier in the summer of 1933, together with their families, who joined them there. Subsequently, in the course of the summer of 1935, the native elements among the Assyrians of Iraq were also transported to the Khabur. When subsequently the Ghab scheme was drawn up, the existing Khabur settlement was incorporated in it as a kind of subsidiary settlement, which was to receive another party of Assyrians from Iraq besides those already established there, until the Ghab lands were ready for occupation. The intention was to abolish this settlement as soon as the Ghab lands had been made ready to receive the whole of the Assyrians transferred from Iraq.

It was on account of the provisional character of this settlement that the costs of carrying out the Khabur settlement were restricted to a minimum, in order as far as possible to avoid sinking capital there which might have proved irrecoverable when the settlement was abandoned (see paragraph 21 of Annex I). In view of the impossibility of providing another home for the Khabur Assyrians, it will be necessary without further delay to ensure for this settlement material conditions such as will enable its inhabitants to provide wholly for their own needs.

For further particulars, the Committee has the honour to refer to the report, attached as Annex I to the present report, which has been drawn up by French and British members after a careful investigation on the spot. This report gives an impartial and detailed description of the present situation of the settlement and sets forth the material and other measures which, in the investigators' opinion, seem indispensable to render the settlement economically self-supporting. The cost of the measures enumerated in Part III of the investigators' report (paragraphs 70-87) is assessed, in an estimate given in paragraph 86 of the report, at £50,930. It is understood, however, that when the plan is carried into effect, efforts will be made to reduce the estimated expenditure to the utmost possible extent, particularly as regards the estimates for the land to be acquired.

After having considered all the details of the projected additional arrangements for the settlement—embodied in a plan which is complete in itself—the Committee unanimously arrived at the conclusion that, in view of the circumstances, that plan provides the only solution which is at present possible and capable of ensuring acceptable living conditions for the Assyrians on the Khabur. Consequently, the Committee proposes that the Council should give its approval to this plan.

As regards the expenditure which the new arrangement would entail, the United Kingdom Government and the Iraqi Government have already undertaken to adopt the necessary measures with a view to taking a share in the financing of the reorganisation plan, in accordance with the procedure proposed at the time when the Ghab plan was adopted. As the Council is aware, according to this procedure, the United Kingdom Government is to share equally with the Government of Iraq in the payment of the costs of settlement, each bearing 42.61% of the total expenses, the balance of 14.78% representing the collective contribution of the League of Nations. The letter stating the United Kingdom Government's point of view is attached to the report as Annex II, and the Iraqi Government's relative declaration is attached as Annex III.

There remains that part of the expenditure which is to be met by the League. In this connection, the Committee desires to recall that last year, when the question of League participation in the cost of settling the Assyrians was raised, the Assembly approved a report of the Supervisory Commission (document A.IV/14.1936), which had made the following proposal:

“The League's subsidy will be regarded as granted in principle for the new settlement plan which the Council Committee has been asked by the Council to prepare. No sums may, however, be paid out of the League's subsidy in respect of any new plan which the Council may adopt without the Supervisory Commission's previous consent.”

The Committee therefore requests the Council, in the event of its adopting the reorganisation proposals submitted in this report, to be so good as to communicate the latter, together with its decision, to the Supervisory Commission for the purposes of the agreement provided for in the above-mentioned decision.

## II. ASSYRIANS LIVING IN IRAQ.

In view of the impossibility of securing for them a suitable area for settlement outside Iraq, those Assyrians of Iraq who, at the time of the enquiry carried out during the first few months of 1936, expressed the desire to be transferred from Iraq into the Ghab plain, will have to continue to reside in Iraq in the same way as a considerable number of their co-religionists (7,400 out of a total of 21,600 persons consulted), who did not opt for a transfer to another country.

The Iraqi Government, in the declaration which forms Annex III of this report, assumes that, in future, the Committee will not be called upon to deal with the Assyrians who remained in Iraq.

The Committee desires to recall that the principal task entrusted to it by the Council's resolution of October 14th, 1933, was to prepare and carry out, in close collaboration with the Iraqi Government, a scheme for the settlement elsewhere than in Iraq of all those Assyrians who might express a desire to leave the country. Unfortunately, circumstances beyond its control have made it impossible for the Committee to carry out this task. Consequently, once the necessary reorganisation of the Assyrian settlement on the Khabur has been completed, the main reason for the Committee's continued existence will have disappeared.

The Council will recollect that the report adopted on October 14th, 1933, concludes with the following words:

"The Committee might also examine, in consultation with the Iraqi Government, and on the basis of reports furnished by the latter, the measures taken by that Government in order to give full effect to the Council's resolution of December 15th, 1932, so far as concerns any Assyrians who may wish to remain in Iraq."

The Council will certainly agree that it is desirable that those Assyrians who remained in Iraq should, as far as possible, become incorporated in the Iraqi population as ordinary citizens of the Iraqi State. The Committee, fully conscious of the responsibility incumbent upon it in relation to this matter, feels that it cannot in future usefully contribute to a solution of this aspect of the problem, or be considered as the competent body to deal with it.

In submitting this report to the Council, the Committee therefore recommends that the Council, if it sees fit, should take the necessary steps to terminate such functions as the Committee, by virtue of the Council's resolution of October 14th, 1933, may still possess in respect of the Assyrians remaining in Iraq. At the same time, the Council will doubtless wish to invite the Iraqi Government to take all necessary and possible steps, in the spirit of the Council's resolution of December 15th, 1932, to ensure that those Assyrians still remaining in Iraq will be able to settle down within that country as a prosperous and contented community. In this connection, the United Kingdom has made a conditional offer of a financial contribution if required.

\* \* \*

By its resolution of July 14th, 1936, the Council also authorised the Committee to adopt any measures of an administrative or technical nature which the abandonment of the Ghab Plan might appear to render immediately necessary, and asked it to give an account to the Council of the measures which the Committee had taken in virtue of this authorisation.

The Committee agreed with the Trustee Board on a plan for a reduction of staff with a view to adapting the latter to the much smaller amount of work to be done on the spot in the future by the Trustee Board. That plan, which would effect a considerable saving of expense, is in course of completion, and, in its next report to the Council, the Committee will be in a position to give a final account of the saving resulting from the reduction of staff, and a better division of its functions.

The abandonment of the Ghab Plan has brought about a fundamental change in the factors determining the main provisions of the Financial Regulations regarding the supervision over the funds intended for the settlement of the Assyrians. After the main preparatory work for the settlement entrusted under the plan to the High Commissioner had been abandoned, the administration and supervision of the funds intended to meet the cost of the High Commissioner's Office in connection with settlement no longer had the justification which originally determined their establishment. In agreement with the High Commissioner, the Secretary-General and the Trustee Board, the Committee has therefore carried out a reform of the Financial Regulations, under which the control of the funds is being entrusted exclusively to the Trustee Board, and made entirely independent of the High Commissioner's Office; the reform has also introduced greater elasticity in administration, which has made possible certain further economies in the matter of expenditure on staff. The amended regulations have been in force since April 1st, 1937, and their text is submitted to the Council as Annex IV of this report.

In conclusion, as a result of the abandonment of the Ghab Plan, it has been found necessary to liquidate property and material of all sorts which had been bought by the undertaking responsible for carrying out reclamation work in the plain, and which it had transported to the spot for use in the projected work. That liquidation has enabled a sum of 119,000 French francs to be recovered up to the present time, and there may be a slight increase in that sum when the last lot of material is sold in the near future by public auction. The sum thus recovered will be deducted from the amount of expenditure on the reclamation work already begun. The Committee will submit a report to the Council regarding the total expenditure on the preliminary work in execution of the Ghab Plan as soon as the accounts have been finally closed. It will, at the same time, give an account of all the amounts realised through the sale of material bought by the Trustee Board in the spring of 1936 for the Assyrians to be transported into the Ghab region, and of which, in view of changed circumstances, it is no longer possible to make economic use.

REPORT ON VISIT TO THE LEVANT STATES UNDER FRENCH MANDATE OF THE  
FRENCH AND UNITED KINGDOM REPRESENTATIVES ON THE ASSYRIAN  
COMMITTEE OF THE COUNCIL OF THE LEAGUE OF NATIONS.

1. At the meeting of the Council Committee in January 1937, we were constituted as a special Sub-Committee with a mandate (a) to study in detail the problem of the reorganisation of the Assyrian settlement on the River Khabur on a self-supporting basis and (b) to take (with the approval, where necessary, of the full Committee) such financial and administrative decisions as were called for in connection with the liquidation of the Ghab scheme. Following on a meeting which we held in April, in Paris, with members of the League Secretariat, we arrived at the conclusion that it was essential for the execution of our task to visit the French mandated territories, so as to be able to investigate on the spot the Assyrian settlement on the Khabur and to have an opportunity to discuss the many technical questions involved in our mandate with both the Trustee Board and the French High Commission at Beirut. After obtaining the approval of the President and other members of the Committee we accordingly left Paris on May 21st and arrived at Beirut on May 27th. We left Beirut for the Khabur region on May 31st, in the company of M. Cuénod, the President of the Trustee Board, and of M. Burnier, the settlement expert, and travelled by car through Homs, Palmyra, Deir-ez-Zor and Hassetché. Our departure from Beirut was delayed, and our time on the Khabur restricted, by an outbreak of plague near Ras-al-Ain. But we spent two nights at the headquarters of the settlement at Tell Tamer, where we met the High Commissioner's representative on the Trustee Board (Captain Vuilloud), and in the course of two full days visited all the Assyrian villages. We returned to Beirut on June 5th via Deir-ez-Zor and Aleppo. In the following week, we had frequent conversations at Beirut with the High Commissioner's Delegate-General (M. Meyrier) and with other officials of the High Commission, and we were in constant touch with the members of the Trustee Board. We left the mandated territories by train from Aleppo on June 16th.

2. We are glad to be able to take the opportunity of this report to express our deep gratitude to the officials of the High Commissioner at Beirut, to the members of the Trustee Board and their staff, and to the officers of the French army of the Levant and of the special services, who by their valuable and unstinted collaboration did everything possible to help us in our task.

3. We have devoted the first part of the following report to a description, as exact as possible, of the present Assyrian settlement and to the impression which we received both of the settlement and of the Upper Khabur region in which it is situated. In the second part, we have set out the conclusions at which we have arrived in regard to the settlement and its administration and have indicated our general recommendations. In the third part, we have recommended (so far as is possible on the information available) the various measures of reorganisation and equipment which, in our opinion, should be taken in the event of it being decided that the settlement must remain in being in the future. We attach as an appendix (page 23) to the report a separate note on the work accomplished during our visit in connection with the liquidation (a) of the financial account of the Ghab scheme and (b) of the material purchased for use in connection with the reclamation of the Ghab marsh.

*Section I.* — SITUATION OF THE KHABUR SETTLEMENT, ITS HISTORY AND PRESENT ORGANISATION.

*The Upper Khabur Region.*

4. Owing to the almost complete failure of the spring rains, the region in which the Assyrian villages are situated was suffering from a severe drought which had already dried up the greater part of the pasture in the hinterland of the Khabur river and compelled the abandonment of much of the winter corn crops. Nevertheless, we received quite a favourable impression of the Upper Khabur valley. The Upper Khabur itself is an attractive river with clear water and considerable current, running through a winding bed in which there are many islands covered, like sections of the river banks, with vegetation. The river carries a considerable volume of water at all seasons: even at the period of lowest water, it can only be forded in a very few places. It contains many fish of a large, edible species. The banks are high and there is practically never any flooding of the surrounding country. The shallow valley runs back to varying distances in flat expanses of cultivated land or steppe; it is bounded on the west by the steep escarpment of the Jebel Abdul Aziz and on the east by a lower line of hills, features which, although almost entirely barren, at least break the monotony of the steppe. The soil of the valley itself is alluvial and extremely fertile when correctly irrigated.

5. Rain falls normally at the beginning of winter and in the first three months of the year: the spring rains are most important, and when they are normal winter corn crops can be grown with little or even no irrigation and the uncultivated portions of the valley are covered with pasture which offers unlimited possibilities for live-stock. A failure of the spring rains, such as

occurred this year, seems to take place on an average about once in five years in the Upper Khabur, the last bad year being 1932.<sup>1</sup>

The band of territory covered by the present Assyrian settlement seems normally the least favoured part of the region: apparently owing to the barrier opposed by the Jebel Abdul Aziz to the rain-bearing westerly wind, it receives, in general, somewhat less rain than either Ras-al-Ain or Hassetché to the immediate north and south. The consequences of a failure of the spring rains are serious, since all crops not dependent wholly upon irrigation are lost, and unless the inhabitants are able to take their live-stock into a region where the rain has not failed, they are likely to lose many animals through the virtual absence of pasture.

6. Climatically, the Upper Khabur appears to be a healthy region. The winters are cold, the average temperature sinking to from 8°-11° C. (45°-50° F.) during the three months December-February, with a minimum of -5° to -12° C. (24°-19° F.). The summers are hot, but less so than for example in Iraq: the average temperature is over 25° C. (72° F.) in the months May-October inclusive, the normal highest monthly average being 36° C. (89° F.) in July. The maximum temperature in summer is rarely much above 45° C. (104° F.) in the shade; the atmosphere is dry and the nights are nearly always cool. The three-year experience with the existing settlement has shown that the climate is well suited to the Assyrians, since apart from outbreaks of malarial fever in the autumn, due to the fact that a large proportion of the settlers were already infected with this disease on their arrival from Iraq, the health of the Assyrian community has been satisfactory. (The health of the settlement is dealt with in more detail in paragraphs 34 to 37 below.)

7. The Upper Khabur valley forms part of what is known as the Upper Jezireh.<sup>2</sup> At some period of antiquity, the Upper Khabur region must have been extremely prosperous, since an almost continuous chain of mounds marks the site of ancient cities along both banks of the river. The winding strip of river between its sources at Ras-al-Ain on the Turco-Syrian frontier and Hassetché forms essentially a separate region in itself, which is cut off from the rest of Syria by an immense strip of steppe-desert, across which the only lines of communication are the rail- and motor-track running east and west along the Turco-Syrian frontier and the motor-track from Homs or Damascus through Deir-ez-Zor and Hassetché. It is possible to accomplish the journey between the Assyrian villages and Beirut by motor-car in a single day (according to the track taken)<sup>3</sup> and in twenty-four hours if the railway is used between Aleppo and Ras-al-Ain. The region is administered from Hassetché, a small town 65 kilometres from the Turkish frontier which has sprung up in the last ten years or so and now contains some 6,000 inhabitants, of whom a large part are Christians. Although the Jebel Sinjar is easily visible from the Hassetché district, the Upper Khabur region is isolated from the Iraq frontier by some 70 kilometres of arid desert crossed by a very indifferent track. The main economic outlet for the region is through the station of Ras-al-Ain and west along the railway to Aleppo. In recent years the establishment of security has led to a great development of the potential resources of the region, both as a granary and for the raising of flocks. The population of the Upper Jezireh is composed to a large extent of communities which are racial or religious minorities in Syria.

#### *History of the Settlement.*

8. The Khabur settlement was founded in August 1934 for the accommodation of the band of Assyrians who took refuge in Syria after the fighting in Iraq in August 1933, and their families, some 2,100 persons in all. With the adoption of the scheme for placing the Assyrians in the Ghab district of Syria, the settlement came to be considered as a purely provisional half-way house to the permanent goal. It was expanded in 1935 to take some further 4,000 Assyrians, who, directly or indirectly as a result of the disturbances of 1933, were in a destitute condition in Iraq; it was again expanded in 1936 to take a further 2,500 Assyrians whom it was considered desirable to set at once on the way to the Ghab. The transfer of all except the first 2,100 Assyrians

<sup>1</sup> In 1936 (a good year) 170 millimetres of rain (about 7 inches) fell in the settlement in the months of January, February and March. In the corresponding period of 1937, the fall was 30 millimetres or just over 1 inch.

The following table summarises (so far as statistics are available) the rainfall in recent years at Hassetché, about 18 kilometres south of the existing settlement:

| Year           | Total rainfall in millimetres | Approximate equivalent in inches |
|----------------|-------------------------------|----------------------------------|
| 1930 . . . . . | 252                           | 10                               |
| 1931 . . . . . | 175                           | 7                                |
| 1932 . . . . . | 88                            | 3½                               |
| 1933 . . . . . | over 250                      | over 10                          |
| 1934 . . . . . | over 200                      | over 8                           |
| 1935 . . . . . | about 300                     | over 12                          |
| 1936 . . . . . | 323                           | 13                               |

These figures can be compared with an average of 6 to 8 inches at Bagdad, Iraq.

<sup>2</sup> The Jezireh (literally "the island") is the Arabic name for the region lying between the Euphrates, the Tigris and the Turkish highlands.

<sup>3</sup> The distance between the villages and Beirut on the usual motor route via Deir-ez-Zor and Aleppo is 914 kilometres.

was intended as a purely provisional measure, and in the imperative interest of economy (there being a considerable financial deficit in the budget for the Ghab plan), the minimum of expense was incurred in their installation. Further, the transfers in 1935/36 were carried out at short notice and without sufficient time to prepare villages and lands for occupation.

9. The irrigation facilities and the cultivable area of the settlement were accordingly not expanded in the proportion essential for a self-supporting community and, instead of settlement in the small villages confined to one tribe, or to one sub-section in the case of the larger tribes, which are best suited to the Assyrian mentality, the new arrivals were mainly accommodated by increasing the size of the existing villages. The same causes of need for economy and shortage of time are again responsible for the organisation of agriculture in the settlement, which, as will be seen from paragraphs 14 to 25 below, is still on semi-communal lines unfitted to the Assyrian character or to a lasting settlement.

#### *The Existing Assyrian Villages.*

10. The total population of the settlement is now about 8,800. The Assyrians are at present settled in sixteen villages which vary greatly in size. The four largest villages each contain over 1,000 inhabitants. Eight others contain between 300 and 700 Assyrians and the remaining four between 100 and 150. The original villages founded in 1934 were swollen to accommodate the Assyrians transferred from Iraq in 1935/36. Their size and the inevitable mixture of tribes greatly complicated the administration of the settlement and in the last eighteen months the Trustee Board has pursued a policy of decentralisation and the grouping of tribal sections in small or medium-sized villages. With one exception, all the villages are now confined each to Assyrians of a single tribe. The two most prominent tribes in the settlement, the Upper Tiari (2,600 head) and Tkhuma (2,350 head), are represented each by three villages grouped together. The Trustee Board considers it essential, however, to reduce still further the four largest and unwieldy villages by the creation of additional small villages. This would also put an end to overcrowding in the houses of some of the larger villages, where there is an average of 4-5 persons per "dome", as against 2-3 in the case of the more recent smaller villages.

11. Eleven of the villages are on the left (east) bank of the river and five on the right (west) bank. The villages fall into two main groups; a northern group of two large villages (Tell Oumrane and Tell Tchemé) and two smaller villages situated some 18 kilometres from the Turco-Syrian frontier, and a southern group of eleven villages (the most important of which are Tell Tamer and Tell Maghas) which form an almost continuous band on both banks of the river and are situated between 30 and 50 kilometres from the Turco-Syrian frontier. The two groups are separated by a region of about 12 kilometres which is uninhabited, except for one isolated Assyrian village (Tell Oumrafa), situated at mid-distance. The headquarters of the Administration are at the village of Tell Tamer, which is 38 kilometres from the Turco-Syrian frontier, situated towards the northern end of the southern group of villages and in the centre of the present settlement. This village contains the administration building, the hospital, the sheds and garages housing the greater part of the Administration's material, agricultural machinery, supplies, etc., and a post of Syrian gendarmerie, manned at present by eight mounted gendarmes.

12. The division of this settlement into two main groups is extremely striking, and we were impressed by the relatively unfavourable situation of the northern group. Apart from their proximity to the Turkish frontier, these villages are inconveniently close to the Circassian village of Safeh, and the cultivated fields of the Assyrians and of the Circassians (the latter worked by Bedouin tenants who encamp upon them) are contiguous at several points. This has already led to some friction between the Assyrians and their neighbours and on occasion to inconvenience—*e.g.*, when the Circassians refused to allow an Assyrian canal to pass across their land. At the same time, the internal condition of these northern villages appears the least satisfactory in the settlement: their population is relatively crowded and possesses the highest incidence of malaria. Further, the isolation of this group by 12 kilometres from the headquarters of the settlement renders it difficult for the Administration and the doctor to give it equal attention.

13. On the other hand, the southern group of villages already give the impression of a compact group. Their cultivated areas form a continuous band for some 15 kilometres on the left bank of the river, and for some 6 kilometres on the right bank. This part of the settlement could be made into a complete and compact block by the acquisition from their present Bedouin cultivators of the riverain strips on the remaining 9 kilometres on the right bank.

14. The villages themselves make a favourable impression and seem well and substantially built. The settlement authorities have adopted as the standard form of construction the "beehive" dome-shaped house of sun-dried brick, which is of common use in Northern Syria. These "domes" permit of a relatively large and airy construction without the great expense of wooden beams and rafters in a treeless land. Two or more domes are normally joined together to make a single building: windows and doors only are constructed of wood. The houses themselves are set out in the villages in wide and regular lines, with ample space between each building. For reasons of health and to diminish the risk of malaria, the villages have been set as high as possible above the river upon ancient mounds, and vegetation amongst the actual houses has



been discouraged. Most of the villages, however, contain roofed-in wells, which are easily sunk in the vicinity of the river to a good water-supply. The Assyrians are allowed to add on to their houses such additional constructions as they desire and in most cases they have, in fact, constructed dependencies of various sorts, such as porches and verandahs, cook-houses, enclosures for live-stock, poultry-houses, etc. The tribal chiefs and individuals with private means have in many cases provided themselves at their own expense with quite elaborate additional constructions or have elected to build themselves flat-roofed houses, which they prefer to the more airy and hygienic "domes" provided by the Administration.

15. The Assyrians are obliged by the Administration to keep their villages scrupulously clean, and their orderliness is in consequence very striking. Moreover, the interiors of such of the Assyrians' houses as we visited were equally clean and in many cases comfortably enough fitted out. The private possessions of the Assyrians vary greatly, however, in individual cases. Those who came with the original band of refugees from Iraq or whose villages were pillaged during the troubles in 1933 lost virtually all their property and are still very scantily equipped, except in cases where they had money in the bank. On the other hand, many of the arrivals in 1935/36 were able to bring with them a great deal of household property as well as most of their live-stock. The marked difference in means between the Assyrians is also shown in their clothing. The actual capacity of the Assyrians to set themselves up is certainly much greater than appears on the surface, since not unnaturally they have been unwilling to spend more than a minimum of their capital on a settlement still officially provisional.

#### *Food Supplies for the Assyrians.*

16. The Assyrian immigrants have been supplied with free food rations for a period of eighteen months after their arrival, twelve months on the full standard ration and six months on a "half ration" (costing actually 70% of the full ration). This period compares favourably with that adopted in the case of many analogous settlements—*e.g.*, of the Armenians settled in Syria. The standard ration included flour, rice, sugar and a little tea: its average per head per day was 80 centimes before the devaluation of the franc in September 1936 and 1.16 francs after. As in the case of all similar settlements, the content of the ration was necessarily kept at a minimum, so as not to weaken the inducement for the Assyrians to work hard and to make themselves self-supporting as soon as possible. It was in any case essential to keep the expenditure on food rations as low as possible—inevitably a very heavy item in the budget—so as to retain as much as possible of the total contributions offered for the final and permanent scheme of settlement.

17. The Committee has, in practice, always voted the credits for food supplies as a lump sum and has left the actual distribution to the Trustee Board. The Committee has also insisted on various occasions that every effort should be made to discriminate between the Assyrians in the distribution of free rations according to the private means of the individual. It must be recalled that only part of the Assyrians arrived in Syria as destitute refugees; many of the settlers, particularly in the most recent transfers, brought with them numerous live-stock and considerable means in cash. The Trustee Board has, however, found it virtually impossible to carry out discrimination, owing to the refusal of the Assyrians to state their resources. At the same time, the Board has avoided a rigid attitude in the matter of rations, and in deserving cases have continued to help the Assyrians beyond the normal period.

18. The present position is that the 6,000 Assyrians who arrived in Syria in 1933-1935 are officially no longer entitled to any free rations after July 1st, 1937, whereas the 2,500 brought over last year are entitled to the half-ration for a further period of six months. The question of free rations is therefore now largely a matter of past history, and with the exception of the latest arrivals referred to above, the settlers should, this summer, have been dependent for food supplies on what was produced within the settlement—*i.e.*, the produce of gardens and fields, of live-stock and poultry. (The economic organisation of the settlement is described in detail below—see paragraphs 20 to 31.) They would not, of course, have been "self-supporting", since the settlement fund is continuing and must continue for some time to bear the cost of running the irrigation plant and the administration and upkeep of the settlement generally. Moreover, it was necessary to include in this year's budget a special credit to supplement the deficient harvest in 1936 (*cf.* paragraph 26 below), and owing to the failure of the rainfall in the first quarter of this year, the Assyrians will now require further special assistance if they are to have enough to eat in the period before the 1938 harvest is collected (*cf.* paragraph 29 below).

19. It is naturally difficult in the course of a short visit to arrive at a definite conclusion as to the sufficiency of the nourishment obtained by the Assyrians in the settlement, taking into account, not only the free supplies distributed to them, but also the produce of the settlement itself. We have, however, no hesitation in recording that we did not see any signs of under-feeding either among the adult population or the children. The children whom we saw in the villages seemed healthy (*e.g.*, the eye disease which is almost universal among children in the Middle East was rarely noticeable) and were running about and playing happily. It is obvious,

of course, that the great difference in material wealth between the individual Assyrian families and their varying capacity for agriculture must result in widely different standards of living, and we do not suggest that all the Assyrians have a full or ideal diet. But on the evidence at our disposal, we agree with the Trustee Board that, while some hardship is inevitable in the early days of a new agricultural settlement, there is no reason, with the agriculture of the settlement organised on its present basis and supplemented by the free supplies distributed by the Trustee Board, why any Assyrian family should suffer detriment from sustained under-feeding.

#### *Economic Organisation of the Settlement.*

20. Irrigation is a necessity for any sort of regular or intensive cultivation in the Khabur Valley, where at least five months each year are without rain and the total annual rainfall is uncertain from year to year (for a summary on the rainfall in recent years, see the footnote to paragraph 5 above). In favourable years, winter corn crops might be raised by rain alone and irrigation is normally only an adjunct to rain. But no vegetables, fruits or summer crops can be grown without constant irrigation. As the river runs in a bed below the level of the valley bottom, irrigation by gravity flow is impossible and water must be pumped to a height of 6 to 7 metres. The existing irrigation equipment of the settlement comprises:

- (1) Three Diesel-motor pumping stations of:
  - (a) Three 50 h.p. sets at Tell Tamer;
  - (b) Three 25 h.p. sets at Tell Maghas;
  - (c) Three 10 h.p. sets at Tell Oumrane;
- (2) Fifteen small movable Diesel-motor pumping sets of 8 h.p. (intensive irrigation capacity per set about 25 hectares);
- (3) Three metal } " norias " or water-lifting wheels worked by the river current  
Twenty-three wood }  
(intensive irrigation capacity about 10 hectares for metal wheel, 6 to 8 for wooden wheel).

The settlement is still essentially equipped for communal agriculture, with four Diesel-motor tractors and large mechanical agricultural machinery including a motor-driven thresher—so far, only a small number (some thirty pairs) of draught oxen are available, and transport, as well as purely agricultural operations, has also to be mainly carried out mechanically by motor-lorries. There are three motor-driven corn mills in the settlement, a large one at Tell Maghas and small ones at Tell Tamer and Tell Oumrane.

21. The economic organisation of the settlement has been profoundly influenced by the fact that it has hitherto been regarded as provisional in character. When the first villages were built in 1934/35, the settlement was accordingly organised for agricultural purposes on a communal basis with three central motor-pumping stations of large capacity serving for the irrigation of large fields and with motor-tractors and mechanical machinery for ploughing and harvesting. This organisation was both quicker and cheaper than small-scale irrigation and the equipment of settlers with individual holdings and their own agricultural equipment; it was also calculated to keep down capital cost and to make the settlement as soon as possible self-supporting in corn and other essential foodstuffs. At the same time, gardens for the intensive cultivation of vegetables were constructed in the vicinity of each village.

22. Experience soon showed, however, that the Assyrians were unsuited by temperament to communal agriculture and that it was both demoralising and led to considerable waste. Accordingly, the Trustee Board has endeavoured, so far as is compatible with the present equipment and their budget resources, to individualise the agriculture of the settlement. The additional irrigation required by the expanded settlement has been provided by the purchase of small portable pumping sets and the construction of " norias ", both of which would be suitable for operation by the Assyrians themselves if they were grouped in small tribal villages. The vegetable gardens have for some time been divided up among the individual families, and although, in the absence of the necessary equipment, it has not been possible to individualise the actual cultivation of corn and other cereal crops, the Trustee Board has already decided to organise their harvest on an individual basis. The live-stock has always been individually owned.

23. The economic life of the settlement can best be explained in detail under its three main heads: (a) the individual vegetable gardens, (b) the main cereal crops and (c) the live-stock of the Assyrians.

#### *Individual Gardens.*

24. The individual gardens were estimated at the beginning of 1937 to cover 215 hectares (538 acres) and are being constantly extended.<sup>1</sup> The gardens are situated along the river banks in the immediate vicinity of the villages, except in the case of the village of Tell Tamer, where some of them extend away from the river to an inconvenient distance from the village itself,

<sup>1</sup> The area cultivated on September 1st was 240 hectares.

which makes them difficult to protect from migrant Bedouin. The gardens, which require a great deal of water in the hot summer months, are irrigated almost entirely by the "norias" and by the small portable motor-pumps. Cultivation is carried out by hand (the necessary implements have been supplied to the Assyrians individually) or by ox-drawn hand-ploughs. The gardens make a favourable impression and add greatly to the amenities of the settlement, particularly where, as in some of the older villages, poplars and willows have been grown along the canal banks. Although the inexperience of the Assyrians for this type of culture has proved a drawback, the Trustee Board is satisfied with the way in which most of the Assyrians have recently been working to make their gardens a success. The all pervading and demoralising uncertainty as to the future of the settlement has, however, had its ill effects in this sphere, too, and has made the Assyrians reluctant to embark on investments for the future such as the large-scale planting of trees. The Trustee Board is, however, arranging for a substantial annual quota of poplar and willow cuttings to be planted along the canal banks in the gardens. The gardens produce, with varying success, beans, tomatoes, potatoes, cucumbers, melons, onions, yellow maize, etc. Fruit-trees and vines have been planted with success in some villages and are being extended this year. Some Assyrians have chosen to grow small patches of corn in their gardens. The Assyrians consume most of what they grow, but quite large quantities of produce, in particular beans and melons, were sold in the neighbouring markets of Ras-al-Ain and Hassetché in 1936. Tobacco was also successfully cultivated last year, but this has had to be stopped, at least for the moment, through the refusal of the new Syrian tobacco monopoly to give the Assyrians any share in the quota of production.

### *The Cultivation of Cereal and Other Crops.*

25. Winter corn (wheat, barley) is sown in the autumn after the first rains, and in a favourable year irrigation is only an adjunct to the winter rains in January, February and March. Summer crops, such as white maize (dari), millet, sesame (for oil), are planted after the rainy season and depend wholly on irrigation. The Trustee Board planned to harvest in 1937 some 813 hectares (2,033 acres) of winter crops<sup>1</sup> and 210 hectares (525 acres) of summer crops.<sup>2</sup>

26. For reasons outside its control, the Trustee Board has not been able so far to put on a satisfactory basis the cultivation of cereal crops which is at present undoubtedly the weak link in the economic organisation of the settlement. The difficulty here, as throughout, arises from the settlement having been founded on a provisional basis. As mentioned above, the quickest and cheapest way to make the settlers self-supporting in cereals on hitherto uncultivated land was through installation in 1934/35 of the three large fixed pumping-stations and mechanical cultivation on a communal basis. The drawbacks of this organisation have proved numerous. The Assyrians have proved temperamentally unsuited to communal work; despite favourable climatic conditions, the 1936 harvest gave a disappointing yield, and the Council Committee was obliged to vote for the 1937 budget 180,000 French francs to allow of the purchase of corn to supplement the proceeds of the harvest for the maintenance in flour of those Assyrians no longer entitled to free rations. Moreover, mechanical cultivation by tractor-drawn machinery calls for the minimum of human labour and still further reduces the individual stake in the crops. Again, the provision of fixed pumping-stations has entailed large fields which have to be shared between villages and between tribes. Finally, the total area of cultivable land capable of irrigation is too small for the existing population, due to the original settlement having been hastily expanded to take more immigrants without the acquisition of sufficient additional lands.

27. The Trustee Board has done all in its power to remedy the situation. With the very limited credits at its disposal, it has already provided the Assyrians with a small number of draught oxen (some thirty pair), hand-ploughs, and carts, which are used as far as possible in place of motor tractors and lorries. But to equip the present settlement on a completely "individual basis",<sup>3</sup> it will be necessary to buy nearly 300 further pair of oxen, as well as many additional ploughs and carts: the Trustee Board has indicated that a capital sum of some £9,000 would be required to equip throughout the present number of settlers. In present circumstances, therefore, the Trustee Board has no alternative but to continue to cultivate with the tractors, and as even after the voting of the necessary credit it would be a matter of months before the necessary oxen and equipment could be acquired, it is evident that mechanical means will have to be employed at least for the winter crops of the coming agricultural year. This incidentally obliges the Trustee Board to incur the expense of thoroughly overhauling the hard-worked tractors. The actual harvesting of the crops lends itself more easily to individual methods. The Trustee Board has decided to divide all standing crops between the Assyrians organised in small tribal groups and to leave to them the responsibility for reaping and gathering their own share. In the absence

<sup>1</sup> Composed of wheat (646 hectares), barley (167 hectares), beans (45 hectares), onions (62 hectares), potatoes (8 hectares).

<sup>2</sup> Including white and yellow maize, beans, millet, sesame, melons, marrows. (N.B. — See later footnote on page 10 regarding area under cultivation.)

<sup>3</sup> An "individual basis" would mean, in practice, the allocation of a set of equipment (pair of oxen, plough, small cart) to each standard group of fifteen settlers, or three families.

of oxen, it will, however, still be necessary for the threshing to be done by the Trustee Board's motor-driven machine and for the corn to be transported for the most part by lorry. Further, while obliged to retain the original three fixed pumping-stations, the Trustee Board has brought additional areas under cultivation on a basis of smaller fields confined to individual villages and irrigated by "norias" or by the small portable motor-pumps which it is considered could eventually be taken over and operated by the Assyrians themselves.

28. Apart from the question of equipment and its psychological reactions, a further difficulty arises in regard to the area of land capable of cereal cultivation. Experience has convinced the Trustee Board that, given the characteristics both of the Assyrians and of the Khabur region, the settlers would be more likely to prosper by concentrating on the production of vegetables and fruits and on the raising of live-stock than on the extensive cultivation of cereals. In years of deficient rainfall on the Khabur, it would probably be uneconomic to grow wheat or barley by irrigation alone, since, normally, corn could be bought in the market which had been raised by rain alone in neighbouring regions: a settlement which was making money by the sale of vegetables or from its flocks would find it better to use its irrigation in the gardens or on growing fodder and to buy most of its necessary corn in the market. Nevertheless, if the settlement is to be equipped on a self-supporting basis, it is clearly essential that each village should have for itself a sufficient area of cleared land, capable at least in part of irrigation, so as to be able in years of normal rainfall to meet its own requirements in winter corn and to cultivate by irrigation summer crops such as white maize and sesame, which give a high yield of both human food and animal fodder. The present organisation does not permit this: it is to a great extent centralised on the three fixed pumping-stations and, in any case, disposes (*cf.* paragraph 26 above) of an insufficient total area; only some 1,200 hectares (3,000 acres) of cleared and cultivable land, capable at need of irrigation, being available for 8,800 persons. A radical reform of this situation depends on the difficult question of the future of the fixed pumping-stations. Here, however, it may be pointed out that the existing settlement needs a greater area of cultivable land in easy reach of the river and capable of irrigation by "norias", small pumps or animal-drawn water-lifts. The acquisition and allotment of this land would be bound up with the policy of creating further small villages to reduce the size of the larger centres, which is referred to in paragraph 10 above.<sup>1</sup>

29. Meanwhile, the failure of the rainfall in the earlier part of this year has introduced a temporary and unattended difficulty into the situation. In the virtual absence of rain, the area sown in the autumn with winter crops could not be maintained by irrigation alone; moreover, as has been already mentioned, the growing of winter corn by motor-pump irrigation is an uneconomic proposition. The Trustee Board has done its best to remedy the situation; it has had to abandon much of the area sown of winter crops, but it has extended, as far as possible, the area of the irrigated summer crops, in particular of white maize (*dari*), which gives the best yield in grain in return for irrigation and of which the stalks can be used for fodder. Nevertheless, it is evident that the settlement cannot this year provide its own requirements in cereals, particularly as, with the exception of half-rations for a further six months for the 2,500 Assyrians who arrived in 1936, the distribution of free rations to the settlers came to an end officially on July 1st. It is also evident that, at this early stage in the settlement, the community has not the reserves necessary for it to meet the exceptional situation by the purchase of cereals. Accordingly, the Trustee Board has felt obliged to ask for a special credit for 300,000 French francs to enable them to purchase corn and to assist those of the Assyrians no longer entitled to free rations when the proceeds of this year's inadequate harvest are exhausted in the latter part of the year.

#### *Live-stock.*

30. The Assyrians at present possess over 11,000 head of live-stock, originating mainly in the flocks and herds transferred from Iraq. This total is at present made up chiefly by some 6,100 goats and 4,400 sheep; there are also some 470 horned cattle and a small number of horses, mules and donkeys. The Assyrians have much poultry, mainly hens, but also turkey, geese and ducks. The flocks have already become an important element in the economic life of the settlement, and as the Khabur region is, in normal years, particularly suited to the rearing of sheep and goats, the Assyrians, who are essentially a pastoral people, should be able to develop this side of their economy with success, particularly as good markets exist for sheep; for example, there is a large annual export of sheep from the northern part of Iraq and Syria to Western Syria, Lebanon and Palestine. At present, however, owing to the varying circumstances in which the settlers came from Iraq, the live-stock is very irregularly distributed and, at the most, only about a third of the Assyrian families possess what the Trustee Board considers to be a satisfactory minimum of four sheep or goats per family. Further, the live-stock is very irregularly distributed between individual villages—in one village, there is an average of over three animals per head; in seven villages, an average of over one animal per head; and in five villages, an average of under

<sup>1</sup> The area under cultivation on September 1st, 1937 (according to the Trustee Board) showed a considerable increase over that recorded in paragraph 25 above. On that date there were 459 hectares of summer crops and 936 hectares were under preparation for winter crops.

half an animal per head. The Trustee Board has calculated that to equip the remaining families with a minimum of live-stock 6,268 sheep would have to be bought at a cost of about £7,400. Such a measure would, however, go far both to relieve present discontent at the material conditions of the settlement and to help the community as a whole to become self-supporting and prosperous in the future.

31. The flocks normally find sufficient pasture in the vicinity of the villages. Years of drought such as the present one are naturally a serious obstacle, and some losses of animals are probably inevitable, although in the present year a temporary remedy has been found by moving about half the flocks to a considerable distance northwards into a region where the grazing is normal and can be obtained against payment to the local tribes. Such periodical droughts are, however, inevitable in the Middle East, where the flock-owner must hope to recoup his losses in the good years. Such of the Assyrians' flocks as we saw during our visit appeared to be in good condition and not to have suffered so far from the shortage of grazing (the lambing season passed successfully this spring), although the problem will not become acute until later in the year. The Assyrians brought with them a small number of draught-animals from Iraq and, as mentioned above, the Trustee Board has, from time to time, supplemented them by the purchase of draught-oxen, with the result that some of the ploughing is already done by draught-animals instead of by the tractors.

*Title to Lands occupied by the Settlement.*

32. If the Assyrians are to continue on the Khabur, it will clearly be of great importance to secure an unassailable title to their lands. As a result of the study which we gave to this point in conjunction with the High Commission, it appears that the settlement authorities merely possess at present the right of occupation of their lands, which has been acquired either by taking possession of uncultivated land or by purchase from the previous Bedouin cultivators. The right of occupation refers essentially to the strip of river frontage and carries with it the possibility of practically indefinite expansion away from the river at right angles to the frontage, provided that the land has not already been occupied. The fact of occupation, and the indemnities wherever paid, are recorded in a register kept by the Special Service Officer at Hassetché.

33. But the legal ownership of the lands in question belongs to the Syrian State, and to convert a right of occupation into a firm legal title, it will be necessary for various formalities to be fulfilled which will not be without cost. The lands would in any case remain in the ultimate ownership of the State, the law providing that failure to occupy and cultivate for five successive years causes domain lands to revert to the State. It is not necessary here to go into the various technical possibilities; the question is being examined at Beirut and will be pursued further as soon as its study has been completed.

*Health of the Settlement and Sanitary Organisation.*

34. As already mentioned, experience hitherto of the settlement seems to show that the region is fundamentally healthy and suitable for the Assyrians. The number of deaths is entirely normal and the population is increasing.<sup>1</sup> The Assyrians are, in general, healthier than the other elements inhabiting the region and the only illness which is at present widespread in the settlement is malaria. There is one leper in the settlement, who was sent over, surprisingly enough, in one of the convoys from Iraq without any previous warning to the settlement authorities.

35. With a very few exceptions, the Assyrians suffering from malaria arrived on the Khabur already infected, and there seems no reason to consider the region of the settlement as fundamentally malarial. The statistics show that the main seat of endemic malaria in the settlement is in the northern group of four villages, and although the infection here, as in the other villages, is antecedent to the settlers' arrival on the Khabur, there seems some reason to believe that this particular locality may be somewhat favourable to malaria, owing to the presence of semi-stagnant water in an old arm of the river. The malarial danger of the Khabur must not, however, be exaggerated: it must be recalled that endemic malaria is the rule rather than the exception among the population of the Near and Middle East. Although a large proportion of the

<sup>1</sup> Recent vital statistics are as follows:

| Month                    | Births               | Deaths |
|--------------------------|----------------------|--------|
| August 1936 . . . . .    | 28                   | 22     |
| September 1936 . . . . . | 27                   | 18     |
| October 1936 . . . . .   | 19                   | 17     |
| November 1936 . . . . .  | 21                   | 27     |
| December 1936 . . . . .  | (statistics missing) |        |
| January 1937 . . . . .   | 53                   | 35     |
| February 1937 . . . . .  | 29                   | 29     |
| March 1937 . . . . .     | 29                   | 12     |
|                          | 206                  | 160    |

or an excess of 46 births in eight months.

Assyrians (varying from 15% to 70%, according to the villages) are endemically infected with the disease, its ill-effects are confined to periodical crises which the existing medical organisation in the settlement seems adequate to alleviate, specially as a considerable quantity of an anti-malarial preparation has been taken over from the supplies purchased for the Ghab plan. The settlement authorities are not aware that any Assyrian on the Khabur has so far died directly from malaria and, as already mentioned, the total death rate is entirely normal.

36. The sanitary organisation of the settlement has undoubtedly been greatly improved under the present doctor, a former Russian subject with good qualifications who took over on the Khabur some months ago. The main hospital, situated at Tell Tamar, has been reorganised and enlarged under his direction and impressed us very favourably. A small operating-theatre has now been prepared, and minor operations with anæsthetics are regularly performed. The main activity of the hospital is in connection with out-patients and the dispensing of medicines, but beds exist to accommodate ten persons, a number which it is hoped shortly to extend. It is intended to bring to the Khabur some camp equipment left over from the Ghab scheme, which will provide greatly increased accommodation if required. The policy of the Trustee Board, which seems to us undoubtedly correct, is, however, to make the Assyrians as self-reliant as possible in medical matters and to discourage recourse to the medical organisation in trivial cases. For the present medical organisation cannot be maintained indefinitely and, as the Assyrians will eventually be dependent on the medical services of the Syrian State (which inevitably are somewhat limited in a thinly populated and distant district like the Upper Jezireh), or on any private doctors who may practise in the small towns of the region, it would be no kindness to endow them at present with an elaborate but temporary organisation.

37. The doctor is assisted by a number of Assyrian men and women with some experience of nursing and dispensing and in each of the larger villages there is a resident "infirmier", an Assyrian with medical experience who holds a small stock of dressings and is qualified to deal with minor emergencies and to act generally as the doctor's local representative.

38. As already mentioned, our visit to the Khabur coincided with an outbreak of pneumonic plague on the Turco-Syrian frontier near Ras-al-Ain, some twenty-five miles north of the settlement. This outbreak, which was arrested in its very early stages by the energetic measures taken by the French military authorities, is surprising and unaccountable. There appears to be no reason to conclude that the region has any special disposition to the plague, which must have been introduced from without.

#### *Churches and Schools.*

39. There are one or more churches in every village in the settlement, with the exception of five of the newer and smaller villages. The church buildings are constructed either of a number of "domes" joined together, or with a flat roof specially built by the Assyrians themselves. There are fifteen churches of the Nestorian rite and three churches for those Assyrians who are of the Chaldean or Uniate rite. We visited a number of churches, and we were struck with the trouble which had been taken to equip them. Most of the Assyrian tribes in the settlement were able to bring with them from Iraq their church furnishings and their religious books, some of which have been handed down for many generations. According to a census taken by the Trustee Board, there are nineteen priests and sixty-five deacons of the Nestorian rite, and six priests and four deacons of the Chaldean rite.

40. We are not aware of the exact proportion of the Assyrians on the Khabur who belong to the Chaldean Church, but it seems that they are concentrated in three villages (Tell Oumrane, Tell Tchemé and Tell Chamran). The Chaldean community are in touch with the Roman Catholic authorities in Syria and receive some assistance from them. There appears to be some rivalry between the Chaldean and the Nestorian clergy in the settlement. The Nestorians are handicapped by poverty and by the absence of any higher clergy, which prevents the ordination of fresh priests.

41. At the present moment, education in the settlement is confined to elementary teaching given to a proportion of the children by priests and by a few lay-teachers, the church buildings being generally used as class-rooms. The Trustee Board makes small grants for education to the various village headmen, who are responsible for spending the money either on small salaries to the teachers or on the purchase of school-books and utensils. The schools maintained by the Chaldean community are subsidised by local Roman Catholic sources. Figures furnished by the Trustee Board show that in the whole settlement 755 girls and boys attend school<sup>1</sup> and that there are seventeen recognised teachers. There are one or more schools in all except six villages, four of which are in any case too small to justify a separate school.

42. The Trustee Board has not felt able to recommend hitherto increased expenditure on education in view of the urgent material requirements of the settlement and the restricted funds

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<sup>1</sup> This figure may be low, as the statistics are missing in the case of certain villages.

available. We understand that in their view (with which we entirely agree) any eventual extension of education should be on practical lines and should concentrate, in particular, on the teaching of Arabic and of agricultural subjects. This would be more calculated to help the Assyrians in their everyday lives and to facilitate their relations with the other elements in Syria than mere expansion of the facilities for education in the Syriac language.

#### *Security of the Settlement.*

43. Ordinary security is maintained and police functions executed in the settlement by a unit of eight mounted Syrian gendarmes, installed in a special building erected by the Trustee Board outside and near the village of Tell Tamer. The gendarmes are at present under the orders of the High Commissioner's representative on the Trustee Board, who holds the rank of captain in the cadre of Special Service Officers. Since the arrival of the gendarmes and the issue to selected Assyrian watchmen of some 120 rifles, there have been virtually no cases of thieving or incursions by Bedouin, such as occurred on several occasions in the earlier days of the settlement. At times of drought, such as the present year, irrigated fields and gardens such as the Assyrians' inevitably tempt the migrant Bedouin as pasture for their flocks, but this has not led to any serious trouble so far. Occasional disputes with neighbouring tribesmen over the occupation of land or grazing have been virtually confined to the northern group of villages (*cf.* paragraph 12 above) and have not hitherto had any serious consequences.

#### *Attitude of the Assyrian Settlers.*

44. We gave particular attention to the state of mind of the Assyrian settlers and their attitude towards the settlement, since the successful administration and development of the settlement in the future will-inevitably depend almost entirely on their co-operation. It is not easy to give a general and comprehensive picture of this aspect of the settlement. Conditions vary greatly between the different tribes and villages and between the individual Assyrians. With the exception of a visit by two of the leading tribal chiefs authorised by the council of village headmen to act as their delegates, the petitions which we received either orally or in writing from Assyrian groups and individuals were of little value in helping to assess the situation; they were usually couched in ridiculously exaggerated terms and were often flatly contradicted by subsequent counter-petitions. The main subjects which pre-occupy the Assyrians fall, however, broadly under the following two distinct heads, which can best be examined separately: (*a*) their material circumstances in the settlement and (*b*) their political future in the Syrian Republic.

45. We will consider first the material or economic aspect. The settlement has suffered from the initial handicap that, whereas it is of necessity purely agricultural and pastoral in character, over half of its Assyrian population had lost touch with the life of a cultivator or a shepherd, either through continued service in the British Levy force in Iraq or through forsaking the country for work in the Iraqi towns. The former Levy element have, on the whole, reverted satisfactorily enough to agricultural life and among the most hard-working and amenable on the Khabur to-day are the bulk of the Assyrians who crossed into Syria in 1933. But the real town-bred elements, who grew up after the war in Bagdad or Mosul as servants, shop-keepers, clerks or labourers, have remained fundamentally discontented with their new life. They seem mostly either incapable or unwilling to work on the land for their own subsistence and the present special regime by which the Assyrians are not allowed to travel outside the Khabur region, except for medical reasons, prevents them from settling in the towns. These people number not more than a few hundreds in a population of nearly 9,000; but they have lost most of their tribal status, are out of control of their chiefs and, by virtue of the smattering of learning which distinguishes them in an almost entirely illiterate population, are able to form a vociferous and aggressive minority, whose fundamental grievance against life on the Khabur has been greatly sharpened by the prospect of the end of all free food supplies. They are, moreover, mostly able to speak a little English or Arabic and this enables them to waylay outside visitors to the settlement and, as experience has shown only too often, to convey the impression that their discontents and grievances are shared by the whole population. Included in this minority of malcontents are a number of individuals who can better be described as professional agitators and who are responsible for fomenting much of the discontent. This most unwelcome element seems to have come over almost entirely with the last transfer in 1936. The object of this transfer was mainly to relieve the situation of the Assyrians in Bagdad and Mosul, but it is certainly regrettable that the occasion was also taken to include notoriously troublesome individuals who had lost both tribal discipline and contact with the soil and whose presence in the purely agricultural, provisional settlement on the Khabur could only lead to unrest and difficulty.

46. As against the small minority of what may be termed "professional malcontents", we have the impression that the great majority of the Assyrian settlers—whether they came from the villages in Iraq or from the Levy force—have retained their traditional character of an agricultural and pastoral community and have no fundamental prejudice on material grounds against the

Khabur region. Indeed, many appear to realise its economic possibilities in view of the market for vegetables and for live-stock. Most of the Assyrians have come to appreciate the value of the irrigated gardens which have already been made over to them individually and, although this is a form of cultivation which is new to them, they are gaining experience and have begun to sell some of their produce. We were told of the case of an Assyrian with private means who is already contemplating buying for himself a pumping-set to irrigate additional land in the event of his remaining on the Khabur. But, unfortunately, an unhappy combination of adverse circumstances has come greatly to complicate the problem of building up the settlement. As in other respects, the uncertainty about the future of the settlement has had unfortunate results. The Assyrian agriculturist is hard-working and thrifty on his own land and for his own benefit. As has been explained above, the provisional character of the settlement and the uncertainty as to its future has hitherto sapped the general incentive of self-interest and prevented the economic organisation of the settlement from being put on a wholly individual basis and the Assyrians from being supplied with the essential agricultural equipment. Uncertain whether their work would have lasting value, lacking a sufficient total area of arable land, much of the essential agricultural equipment and, in many cases, even a minimum of live-stock, it is hardly surprising that the Assyrians felt insecure about their material future. When the Assyrians came to realise recently, first, that free food rations were coming to an early end, and, secondly, that the drought was likely to ruin much of the winter crops and to cause losses among the live-stock, their feeling of insecurity turned in many cases rapidly into one of alarm.

47. The actual incidence of this feeling of material insecurity and of the discontent and reluctance to work to which it can lead in practice varies very much as between the different tribes and the different villages. Much depends on the character and influence of the tribal chiefs and village headmen; on the amount of property and live-stock in the individual villages and on the size and composition of the villages. Another important element is the relative distance from the headquarters of the Administration at Tell Tamer, since the small and over-worked staff cannot inevitably give quite the same degree of attention and supervision to the outlying villages. For example, the three villages of the Upper Tiari tribe (the most numerous in the settlement) are at present the best-ordered and least troublesome, due to the favourable combination of good chiefs, relatively numerous live-stock and a situation in and adjacent to the centre of the settlement at Tell Tamer. The small villages recently created to relieve the overcrowding in the original villages are also proving very easy to administer. The villages where discontent is most apparent and which are most difficult to set to work, are, for example, Tell Oumrane, at the northern end of the settlement far away from the Administration, where the influence of the recognised chiefs is slight and there is free scope for agitators, and where there are also very limited flocks; or again Tell Maghas, which is the only village still containing a mixture of different tribes and where the flocks are still less numerous. The personal importance of the chiefs is shown by the fact that the village of Tell Tchemé, although next to the discontented Tell Oumrane in the northern group and of the same tribe, has been kept well in hand by the good sense and authority of its headman. So far, the material discontent has only gained three or four villages to any serious extent. But unless something is done to stabilise the situation and reassure the Assyrians, the feeling of material insecurity may extend and go so deep as to prejudice the hope of inducing the bulk of the Assyrians to accept the material conditions of life on the Khabur.

#### *Political Attitude of the Assyrians.*

48. Nevertheless, despite the increasing concern over economic conditions, it is clear, as well from the petitions which we received during our stay from all classes of Assyrians as from the evidence of the Trustee Board, that it is, above all, their future political situation which at present pre-occupies the Assyrians. It is evident that the prospect of coming under the control of the mandatory Power inspired to a great extent the desire of the Assyrians to emigrate to Syria. The Assyrians have retained as a community their primitive simplicity in political matters and they clearly did not envisage an early termination of the mandate. They were therefore considerably disillusioned to learn last year that it was intended that the mandate over Syria should end in three years, and they became at once apprehensive as to their future. Their apprehensions seem to have been increased by the visit to the Khabur settlement of certain Syrian politicians, whom the Assyrians understood to advise them that, if they wished to remain and prosper in Syria, they would do well to abandon their own special customs, dress and language. Some of the Assyrians seem even to have interpreted these visitors—though doubtless quite erroneously—as advising them to give up their religion. The present position is that there is undoubtedly a feeling of political insecurity among the Assyrians on the Khabur. We observed, moreover, that this feeling of political insecurity was general among all tribes and villages. It was not connected with the special local conditions in the individual villages or tribes, as in the case of the feeling of material insecurity (*cf.* paragraph 47 above), although the manner in which it was expressed and its effect on the current outlook of the settlers was naturally very much stronger and more evident in the villages where material discontent and indiscipline were already present.



49. The feeling of political insecurity has been greatly enhanced by the general uncertainty as to the future of the settlement. If the Assyrians knew definitely that they had to remain on the Khabur and possessed the essential equipment to develop their individual lands, they would probably not be so pre-occupied by their political future. As it is, the feeling of material and economic insecurity analysed above reacts on and enhances the feeling of political and religious insecurity.

50. The result of these various disquieting influences is a general feeling of insecurity and vague apprehension for the future. This sort of *malaise* is undoubtedly spreading rapidly, taking advantage of every little incident, such, for example, as the disappointment that, when questioned by a delegation of their chiefs, we were unable to say anything definite about the future of the settlement. The ground is naturally fertile for every sort of intrigue and the opportunity of making trouble is unfortunately not lost upon the professional agitators mentioned in paragraph 45 above. Some of these agitators preach the dangerous doctrine that it is in the interest of the Assyrians to make trouble and to refuse to settle down, since the League of Nations will then be forced to remove them elsewhere and, even if they do not obtain a better settlement, they will at least receive free food supplies over a further period. The Trustee Board, loyally supported by most of the tribal chiefs and by the reasonable and genuine element among the Assyrians, does its utmost to combat this insidious propaganda with its appeal to the refugee mentality which their history since the war has engendered in many Assyrians. But it is seriously handicapped by the uncertainty about the future which, as shown above, has deprived the Assyrians both of the will and of the means to fend for themselves. If the situation is allowed to continue much longer as indefinite as at present, subversive intrigues will inevitably spread and undermine the whole administration of the settlement, which cannot proceed without the co-operation of the great majority of the Assyrians.

#### *Assyrians Anxious to return to Iraq.*

51. It remains to allude in this section of our report to a difficult problem closely concerning the Government of Iraq. The Trustee Board has a list of twenty-nine Assyrian men known to have left the settlement and returned to Iraq, while leaving their wives and families on the Khabur. It is not known for certain what reception they have been accorded by the Iraqi authorities, but it is rumoured that, after a short term of imprisonment, they have been found work in the vicinity of Mosul. The settlement authorities are considerably embarrassed by having to maintain the destitute families of these absconders, and it is clear that they cannot be left separated indefinitely from their men.

52. A further question is raised by the petitions which we received from a small number of Assyrians, particularly of the Marbishu tribe, stating that they preferred to live in Iraq and to resume their Iraqi nationality and requesting that the Government of Iraq might be moved to allow them to return. The exact scope and importance of this petition is uncertain, since the chief of the tribe in question himself expressed to us his vigorous disapproval of it, and the validity of some of the signatures was doubtful. But if the Government of Iraq is willing to re-admit Assyrians who are in fact anxious to return, and if land is available for them in Iraq, there will certainly be no advantage in retaining them on the Khabur. It should, however, be made entirely clear to them that they would in no circumstances be allowed to change their minds once again.

#### *The Administration of the Settlement.*

53. It is the Trustee Board and its staff who have to bear the main brunt of the difficulties and complications which beset the Khabur settlement and of which some idea will have been obtained by the preceding paragraphs of our report. Our visit to the Khabur and the view which we were able to have of the working of the settlement Administration have impressed us with the devoted and conscientious manner in which the Trustee Board and its staff, both at Beirut and on the Khabur, have worked to make the settlement as successful as possible. We were also glad to observe that in their work the settlement authorities have consistently received the unstinted co-operation and assistance of the officials of the High Commission at Beirut and of the officers of the French army of the Levant with whom they have come in contact.

54. The task of creating the settlement was entrusted in 1934/35 by the French High Commission to M. Burnier, the Swiss expert who has been employed by the Nansen Office for many years past for the settlement of Armenians in Syria, and we feel that the Committee owes much gratitude to M. Burnier for taking on that difficult and thankless task. On January 1st, 1936, the present Trustee Board came into existence, with M. Henri Cuénod (a Swiss subject of long experience in refugee work) as President, Captain Duprez as representative of the French High Commissioner, and Dr. Bayard Dodge (President of the American University at Beirut) kindly consenting to act as honorary third member: M. Burnier has continued to serve as the expert and adviser of the Trustee Board. In October last, Captain Vuilloud took over the functions of French

representative on the Board. The subordinate staff employed by the Board has recently been reduced as a result of the simplification of the financial regulations and the suppression of certain posts. The chief members of the staff are at Beirut: a secretary-accountant; on the Khabur: an agricultural expert, a doctor, a surveyor and irrigation expert, a chief mechanic, a secretary-accountant, and an interpreter (Assyrian).

55. At the meeting which we held as Sub-Committee in April last in Paris, we arrived at the provisional conclusion that the settlement Administration might be reorganised by its concentration on the Khabur. As a result of our visit, we are disposed to agree with the Trustee Board that this would not be practicable and that the Beirut office must be retained as the headquarters of the Board. The Board is obliged to keep in constant touch with the High Commission over innumerable questions both of policy and of detail, and this contact could not be maintained satisfactorily over the great distance which separates the Khabur region from Beirut. Further, an office on the coast is in any case most desirable in connection with the ordering, inspection and forwarding of stores for the settlement. Both these considerations will become much more important if and when the reorganisation of the settlement is undertaken. Moreover, the main weakness in the present system of divided staff—the lack of superior supervision in the actual settlement—has been, in our opinion, largely remedied in recent months by the prolonged residence on the Khabur of Captain Vuilloud, who has established a most valuable system of supervision of every side of the life of the settlement and by his personality succeeded remarkably in gaining the respect and confidence of the Assyrians. M. Cuénod himself is obliged, as President of the Board, to spend most of his time at the Beirut office; he is accustomed, however, to pay regular monthly visits to the settlement.

56. Of the leading members of the Trustee Board's staff mentioned in paragraph 54 above, three are of former Russian nationality and two are Armenians. We formed a high opinion of the merit of these gentlemen. We agree with the Trustee Board that they are at present insufficient to cope with the work of the settlement: they are obliged regularly to work very long hours, and there are no substitutes to allow of regular leave or of replacement in case of sickness. Moreover, it must be remembered that, although healthy, the Khabur region is extremely isolated and primitive and offers no form of social life or distraction.

57. We think that the Trustee Board are following the best policy in dealing with the Assyrians as far as possible through their tribal chiefs, the senior or most appropriate of whom is appointed headman of each village and is responsible for the execution of the orders of the authorities in his village. A meeting is held of the village headmen at least once a month, when instructions are given and explained to them and they are free to raise any questions they desire to in connection with the administration of the settlement. These chiefs are generally of some intelligence and education and possess, for the most part, authority over their tribesmen. The Assyrians on the Khabur are, in the great majority, extremely primitive and backward. There is not in the settlement a single Assyrian who has passed any academic test, however simple; not 2% can sign their names, and the great majority speak only their own language (Syriac). There are not 150 Assyrians in all with any sort of artisan knowledge and, as already mentioned, their agricultural capacity was also very limited on their arrival. This backwardness naturally makes it much more difficult to build up a really self-supporting settlement and increases the need for instruction and supervision in the early stages.

## Section II. — CONCLUSIONS AND GENERAL RECOMMENDATIONS.

58. The broad conclusion which we reached was that, while the Assyrian settlement on the Khabur is at present definitely not self-supporting or capable of being left to itself, it should be possible, from the purely *material* and economic point of view, to place it on a complete and reasonably satisfactory self-supporting basis, provided a limited further capital expenditure were authorised for the purchase of additional land, equipment and live-stock, and the reorganisation of certain of the villages were undertaken, including the removal southwards of the population in the four present most northerly villages. We should explain that re-settlement of the population in the northern villages seems to us just as essential (for the reasons given in paragraph 12 above) as the provision to the Assyrians of adequate lands and agricultural equipment. We are recommending in a third section the detailed measures which in our opinion, should be taken to put the settlement on a satisfactory self-supporting basis, in the event of it having to continue, and to give it the best chance in the future.

59. We consider that the authorities who have been responsible for administering the settlement (since January 1936, the Trustee Board and its staff) deserve much credit for the work which they have accomplished in very difficult circumstances. The fact that the settlement is not already self-supporting and that further capital expenditure is essential is due to no fault of the Administration, but, as has been shown, purely to the special circumstances in which the Assyrians were settled on the Khabur as a provisional stage on their way to their permanent home. As has been pointed out in the preceding paragraphs, the Administration has been

hampered at every turn by the provisional purpose of the settlement and the uncertainty regarding its duration and scope, which has prevented it from grouping the settlers on the best lines and from equipping the settlers with the essential individual equipment and live-stock. Moreover, it has had to deal with extremely heterogeneous Assyrian elements of whom many had no taste for the life of a cultivator and at least half had lost touch with the land.

60. We believe that, given the required additional funds, the Trustee Board could, in a period of from one to two years, carry out the necessary transformation and put the Assyrians into a material position where, so far as can be foreseen, they would be economically self-supporting and capable with hard work of becoming a prosperous community by the standards of the Middle East. We visited in the Sanjak of Alexandretta an Armenian village established some ten years ago by M. Burnier on the site of a swamp, and were much impressed at its flourishing condition as the result of hard work by the settlers combined with judicious outside aid. The soil of the Khabur is fertile and water is plentiful and there seems *prima facie* no economic reason why the Assyrians could not also be successful. The uncertain factors in the case of the Khabur settlement are the rainfall of the region and the attitude of the Assyrians towards their new life. The first, however, is a risk which must be accepted in most parts of the Middle East and which can be normally met without disaster once settlers have accumulated some reserves. As regards the second factor, we have already mentioned that we believe that most of the economic grievances of the Assyrians could be met by the reorganisation of the settlement and the end of the present uncertainty.

61. But we must emphasise that the above conclusion is confined to the material and economic aspect. Equally if not more important is obviously the political aspect—that is, the question whether this colony of Christian immigrants settled in an isolated and alien district can count in the future upon full security and whether the Assyrians will be able to settle down politically in their new environment as subjects of the Syrian State. We feel that this purely political problem is really outside both our mandate and our competence. In view of our relatively favourable conclusion on the economic prospects of the settlement, we feel, however, obliged to record that we do not feel able to take the responsibility of making any forecast as to the political future of the settlement. Apart from the fact that they belong to a racial and religious minority, the Assyrians on the Khabur will also be in the delicate position of any settlement of sedentary agriculturists in an essentially nomadic region. They can only maintain themselves against the nomadic tribes so long as the central Government maintains security. Further the success in the future of the settlement on the Khabur depends essentially on the Assyrians accepting their situation and to recognising the obligations which they will have to assume in due course as nationals of the Syrian State. Meanwhile, it is not possible to overlook the fact that the Assyrians have come to develop a state of mind which may render this process more difficult. We have already described (paragraphs 48 to 50 above) the apprehensions of the Assyrians and we feel that, in their present state of mind, some elements among them may be difficult to convince of their own best interests. But in the absence of any alternative destination, it is clear that the only practicable policy is to make every effort to stabilise, as far as possible, the political situation of the Khabur settlement and to develop harmonious relations between the Assyrians and the Syrian authorities. As mentioned in paragraph 49 above, it is probable that the present acute feeling of political insecurity would be to some extent diminished if the feeling of economic insecurity were removed and the necessary measures of reorganisation were carried out in the settlement. Further, the removal southwards of the population in the four northern villages and the transformation of the settlement into a continuous band on both banks of the river would give it increased political solidity and confidence and would make it less liable to incursions or attacks from outside.

62. We consider it most important, in any event, that a decision be taken shortly about the future of the settlement. If it has to continue in the absence of any solution, it is essential that the necessary reorganisation be carried through as soon as possible and that funds be supplied to the Trustee Board at an early date to enable a scheme of reorganisation and equipment to be begun without delay. As already mentioned, the combined economic and political uncertainty is causing the progressive demoralisation of the Assyrians, which, if not promptly arrested, will certainly end by undermining the whole life of the settlement and produce something like a crisis. Meanwhile, it is evident that, in the present state of uncertainty as to the future, visits to the Khabur by outside persons are likely to cause a false impression among the Assyrians and to unsettle them still further.

63. We also consider that, if the settlement is to continue it will be desirable to regularise, as soon as possible, (a) the title of the Assyrians to the lands they occupy (*cf.* paragraphs 32 and 33 above) and (b) the national status of the Assyrian settlers in Syria. The end of the present special regime of forced residence in the Khabur and the acquisition of the normal rights of a Syrian subject, including the right to live where they like, would allow the discontented elements to leave the settlement where their presence is a standing nuisance. Meanwhile, we think that the Government of Iraq ought to be approached, as soon as possible, in regard to the families of the twenty-nine

Assyrians who have returned to Iraq (*cf.* paragraph 51 above) and their views sought at the same time about the future of those other Assyrians on the Khabur who are petitioning to be allowed to go back.

64. Apart from the all-pervading element of uncertainty and insecurity, we do not think that the Assyrians have so far had legitimate cause for complaint about their treatment in the settlement. Nor, indeed, can the Committee be blamed for the continued uncertainty, which has been due to its desire, even after the failure of the third settlement project, to find a satisfactory permanent home for the Assyrians. As shown in the first part of the report, the Khabur region has many advantages for an agricultural settlement, and we have no doubt that, from the point of view of climate, health and economic opportunity it is much superior to the low-lying plains in which many of the Assyrians were living in Iraq. We have described in detail in paragraphs 20 to 31 above the efforts which have been made to develop agriculture in the settlement, and in paragraphs 16 to 18 we have explained the arrangements, past and present, for the distribution of free food rations to the Assyrians. In view of the allegations as to insufficient food supplies which have been current and the complaints of some of the settlers themselves, we looked carefully for signs of under-feeding among the Assyrians. As we have recorded in paragraph 19 above, we did not see any. We do not pretend that the Khabur region is a paradise or that there have not been cases of individual hardship, particularly in view of the great difference in the private means of the settlers and in their relative capacity for agriculture. But we feel that everything possible in the especially difficult circumstances has been done for the Assyrians and that, as regards in particular free food rations, they have had a fair minimum ration over a proper period. We doubt very much whether it would have been expedient and in their own best interests to give the Assyrians a larger ration over a longer period, even if it had been financially possible. As we have said, the Trustee Board has not been rigid in the matter of food supplies; it has in hard cases continued assistance after the normal period and it has not hesitated to ask for extraordinary credits for special relief when the harvest has proved deficient. It is important moreover, to recall again that it was the lack of solidarity among the Assyrians which prevented the Administration from discriminating in the distribution of rations in favour of the hard cases.

65. Meanwhile, it is clear that the drought will cause a serious deficiency in this year's harvest; and, for the reasons given in paragraph 29 above, we fully endorse the application of the Trustee Board for a special credit for the purchase of corn. We recommend, moreover, that the credit be approved as early as possible, as it is most desirable, in view of the state of mind of the Assyrians, to re-assure them quickly as to the immediate future. It must, however, be made absolutely clear to them that the assistance is of an extraordinary character and does not imply that free food rations are being resumed.

66. The scale on which the sanitary organisation of the settlement should be maintained is a difficult problem. The health of the Assyrians must necessarily be a matter of close concern to the Council Committee so long as it is responsible for the settlement. At the same time, we are convinced that the view of the Trustee Board mentioned in paragraph 36 above is correct and that it would not be in the ultimate interest of the settlers to expand medical assistance beyond a certain point. In the light of our visit to the Khabur, we are satisfied that the reorganised medical service is being capably and zealously conducted by the new doctor. We have confidence both in the judgment of the Trustee Board and of Dr. Vinogradoff, and we consider that the question of what further medical facilities are desirable can be left to their recommendation. The Council Committee has never yet refused to grant a credit sought for the sanitary service and we are confident that it would be equally sympathetic to any further requests under this head. We think that, in particular, favourable consideration ought to be given to any demand for an increased credit for the purchase of drugs and medical stores.

67. Meanwhile, we consider that the statistics show that the Khabur region is climatically suitable for the Assyrians and that the health of the settlers is not unfavourable, having regard to the standards of the Middle East and the fact that so many of the Assyrians arrived on the Khabur endemically affected with malaria. We would recall again that the death rate in the settlement has throughout been normal, and that there has been a steady increase in the population. It seems clear that the general health of the Assyrians is superior to that of the great majority of tribesmen in Syria, whether sedentary or nomadic.

68. We have supplied details in paragraphs 39 to 41 of the religious and educational facilities available in the settlement. We think that the organisation of the Nestorian Church on the Khabur would greatly benefit if a suitable dignitary with at least the rank of Bishop could live in the settlement, or at least pay it a visit of some weeks. We think that the initiative in building any further churches, if and where required, can be left to the Assyrians, although the Trustee Board might help at its discretion by providing "domes", if acceptable to the Assyrians. As regards education, we entirely agree with the opinion of the Trustee Board (*cf.* paragraph 42 above) that the urgent material requirements of the settlement should take precedence over the extension of education, but that when the latter takes place it should be on practical lines and include the compulsory study of Arabic and some elementary agricultural teaching. We recognise that in the future

sympathisers with the Assyrians may wish to assist them particularly with respect to religious and educational facilities. Such assistance would be most useful, provided it were given so as to avoid giving the Assyrians the impression that they were under special Christian protection and of causing suspicion among the Syrian Moslems. It is also essential that nothing should be done to stimulate rivalry between the Nestorian and Chaldean elements among the settlers.

69. Finally, we would like to record once more the favourable impression which we received of the work of the Trustee Board and of its administrative staff, and of the co-operation which they have received from the civil and military authorities of the mandatory Power. We consider that it is impossible at present to consider any further reduction of administrative personnel and that it may indeed be desirable to augment slightly the present staff in connection with the proposed reorganisation of the settlement.

### Section III. — DETAILED MEASURES RECOMMENDED FOR THE ECONOMIC REORGANISATION OF THE KHABUR SETTLEMENT ON A FULLY SELF-SUPPORTING BASIS.

#### I. *Regrouping of the Existing Villages.*

70. The general object, we consider, should be to group the settlement, as far as possible, as a compact band of territory on both banks of the river. If the complete frontage on the river were obtained on both banks throughout the length of the settlement, there could be no Bedouin *enclaves*, as in certain places at present, and the possibility of friction with the surrounding population would be greatly reduced. Moreover, possession of the river frontage gives the settlers the possibility of extending their cultivated area, wherever physically possible, back into the hinterland. Inside the settlement, each village should contain not more than 600 Assyrians, all of the same tribe or sub-tribe, and should be composed of elements who are normally on good terms with each other. Each village should have its own gardens and fields entirely separate from those of any other village and should also, in default of exceptional circumstances, possess an independent irrigation system. The necessary steps should also be taken to end the present differences between the number of houses and the population in the various villages and to establish a satisfactory uniform proportion of persons per "dome" or equivalent house.

71. In order to achieve these ends, it would be necessary, in our opinion:

(a) To resettle the population of the existing four most northerly villages on new lands to be acquired at the southern end of the settlement and in not less than six new villages, thus rendering the settlement much more compact and enabling a reduction in size of the two large villages of Tell Oumrane and Tell Tchemé (the various considerations which make the transfer of these villages desirable are set out more fully in paragraph 12 above). Apart from the purchase of the necessary additional land, the transfer of these villages has been estimated to cost about £3,000 for the construction of new houses, plus transport costs;

(b) To continue the process of reducing the size of the larger villages in the rest of the settlement—in particular, the villages of Tell Tamer and Tell Maghas. This would entail the building of a number of further small villages, the number and location of which would depend on the area and situation of the additional lands which might be made available.

#### II. *Provision of Additional Lands.*

72. A sufficient additional area of irrigable land would be required, not only (a) for the resettlement of the population in the four northern villages (about 2,600 head) and (b) for the creation of a number of small additional villages for the better grouping of the population in the rest of the settlement, but also (c) to increase substantially the total area available for cultivation per Assyrian family in the settlement (as regards the total area of land required by the settlement, see paragraph 28 above).

In pursuance of the general policy of organising the settlement as a compact group of contiguous villages and of keeping it as far away from the Turco-Syrian frontier as possible, the additional lands can only be acquired (i) in the *enclaves* of land between the existing Assyrian villages, which are at present either cultivated by the autochthonous inhabitants of the region or are left uncultivated, and (ii) at the southern end of the existing settlement by extension in the direction of Hassetché. The lands which fall within these two classes and which are actually available and suitable for cultivation are:

(a) A number of *enclaves* on the right (west) bank of the river, which are at present cultivated by Bedouin and total 225 hectares, with nine wooden "norias". The price

demanded by the present cultivators for their right of occupation is about £1,800. It is estimated that the cultivable area could be somewhat extended by the use of motor-pumps;

(b) Certain parcels of land, totalling 33 hectares, with three wooden "norias" at the southern end of the existing settlement and belonging to the chief of a Bedouin tribe who is demanding 1,000 Turkish gold pounds (or about £1,550);

(c) An estate lying on both banks of the river further south in the direction of Hassetché, the cultivable area of which at present amounts to about 350 hectares, irrigated by twenty-four wooden "norias" (with ten out of order) and one motor-pump. The cultivable area could, it is estimated, be raised to 600 hectares by the expansion of irrigation facilities, and it is estimated that room could be made on this estate for at least some 7 or 8 small or medium-sized villages. The estate already contains a fair number of trees. The owner has the complete title deeds for his property and is at present demanding 15,000 Turkish gold pounds (or about £23,250).

73. We recommend that if the settlement is to be placed on a fully self-supporting basis, negotiations should be begun as soon as possible for the acquisition of all these lands. The prices asked for the properties under (b) and (c) above seem, however, to be by way of an opening maximum, and it is to be hoped that, if the negotiations are skilfully conducted through a qualified intermediary, a reduction in price might be secured. The acquisition of these lands would immediately increase the area of good irrigable land in the settlement by 600 hectares, an area which could be extended to over 1,000 hectares. These lands would be particularly suitable, since they could be, to a great extent, irrigated by "norias" which, as they are cheap to construct and easy to maintain, are the ideal means of irrigation for a people such as the Assyrians.

74. We recommend the suggestion of the Trustee Board that, if these lands are acquired, a crop of corn should be cultivated and harvested as quickly as possible by purely mechanical means to provide *sur place* the chopped straw which would form the most expensive element in the construction of mud-brick houses for the new villages. Until this crop were harvested, the future inhabitants of the lands would most profitably stay in their existing villages and cultivate their present lands to the last.

### III. Title to Assyrian Lands.

75. We recommend that every effort should be made to convert the right of occupation at present possessed by the Trustee Board in respect of the lands cultivated by the Assyrians (*cf.* paragraph 32 above) into a secure legal title in accordance with Syrian law. The same procedure should be carried out in the event of the right of occupation being purchase in respect of the lands mentioned under (a) and (b) in paragraph 72, but would not be necessary in the case of the estate under (c), as the complete title deeds would be taken over from the present proprietor. We understand that the mandatory authorities in Syria are already studying this problem, and the Committee will doubtless wish to await, in the first place, the outcome of this study.

76. The legal ownership of all lands in the settlement would presumably have to be vested in the Trustee Board, since the Assyrians are still under a special regime and do not possess the rights of Syrian citizens. It seems to us, in any case, desirable that the lands should be held by the Trustee Board, and that it should be left to the Board to decide in the future, in conjunction with the Council Committee, how the ownership of the lands should eventually be made over to the individual Assyrian families.

### IV. Irrigation.

77. The general proposal mentioned above of organising the settlement in medium- or small-sized villages with fully separate lands requires the reorganisation to some extent of the irrigation system of the settlement. The double object of giving each village an independent water-supply and at the same time of keeping the means of irrigation as simple and as cheap as possible requires that irrigation shall be supplied, as far as possible, by the wooden "norias", or water-raising wheels, customary in the neighbourhood, each of which can irrigate intensively about 6 to 8 hectares, and are estimated to cost only between 1,000 and 2,000 French francs each. In addition to the twenty-six "norias" already working in the settlement, the purchase of the lands listed under (a), (b) and (c) above would carry with them thirty-six further "norias" in working order and ten requiring repair. This number could certainly be extended considerably, both as a means of replacing the existing fixed pumping-stations and also on any additional lands purchased in proportion as the cultivable area was extended. We consider that the Trustee Board should be invited to consider this question of the construction of further "norias" in relation with the other arrangements for equipping the Assyrians. The existing metal "noria" at Tell Oumrane would of course be re-erected on the new lands.

78. The "noria" is, however, only able to irrigate land in the immediate neighbourhood of the river bank, and if the settlement is to be self-supporting and to attain any measure of prosperity, it must continue, as at present, to depend to a considerable extent upon motor-pumps. Experience has shown that the small portable pump of 8 h.p. (with a capacity for irrigating intensively 25 hectares) is cheap in initial cost (about £30 per set), cheap and reliable in operation and easy to maintain. The Trustee Board considers that, when left to themselves, the Assyrians ought to be able to run these pumps on a co-operative basis by groups or by villages, and to earn sufficient from the sale of their produce to provide for the operation costs and any necessary repairs. As a part of the reorganisation of the settlement, they accordingly propose that at least eight further sets of these small motor-pumps should be bought and installed on the additional lands. The estimated cost of the purchase and installation of these eight pumping-sets is estimated at £1,370. We support the suggestion for the purchase of this extra equipment, which would bring the total number of small portable pumps in the settlement to twenty-three.

79. The main problem concerning the future irrigation of the settlement arises out of the three large pumping-stations, the origin and nature of which are described in paragraphs 20 and 21 above. These large fixed stations complicate the administration of the settlement, and also form a serious problem for the future, owing to the virtual impossibility of the Assyrians maintaining them without assistance.

80. The smallest of the three stations at Tell Oumrane would in any case have to be dismantled if the northern villages were removed as recommended. At the same time, little or nothing could be obtained by the sale of the machinery if it were dismantled and sold, and the best course would appear to be to re-erect the three sets forming the northern station individually on a movable basis on some part of the additional lands to be acquired. This would avoid the considerable cost of erecting a new permanent station building and the necessary piping, etc. As regards the two remaining stations, it is clear that they cannot possibly be dispensed with at present, and the only possible course seems to be to continue to keep them in service but, at the same time, to reduce, as far as possible, the dependence of the settlement upon them, a process which would take place automatically if the large villages of Tell Tamer and Tell Maghas were reduced in size. Eventually, these two stations might be reduced mainly to the rôle of reserve for use at times when an exceptional amount of irrigation was required in case of drought. The difficulty of maintenance in the future, once the Assyrians have been left to themselves, may to some extent be overcome if one or other of the Armenian mechanics at present employed by the Trustee Board were to remain in the vicinity of the settlement as a private expert. The administration of these large stations by the Assyrian community presents, however, a formidable problem, particularly so long as they continue to serve, as at present, for the irrigation of several villages. Before any final decision can be taken as to their future, it will, however, be necessary to see how the reorganisation of the settlement progresses, and we do not think that any concrete and final recommendation is possible at present.

#### V. Agricultural Equipment.

81. It has been made clear in paragraph 27 above that, if the settlement is to continue, the Assyrians must be completely equipped as soon as possible, both for psychological reasons and as a further step towards self-sufficiency, with the necessary draught-oxen, ploughs and carts. The Trustee Board considers that one pair of oxen, one plough and one light cart is a minimum for every fifteen persons (*i.e.*, about three average families) and that this set of equipment would cost approximately £15. There are already in the settlement about thirty pair of oxen and a number of ploughs and carts: the balance necessary will therefore be some 550 pair of oxen and a similar number of ploughs and carts, and the total cost may be expected to be in the neighbourhood of £9,000.

82. The four tractors now used in the settlement will fetch little or nothing, since they were mostly already second-hand when acquired. But they will be required, in any event, for ploughing in the season 1937/38 on the existing lands, and they would further be essential for the first quick harvest on the new lands proposed in paragraph 74 above.

83. The other existing machinery consists of three corn mills, attached to the three fixed pumping-stations. The northern mill would be re-erected on the new southern lands, the two other mills could remain where they are. The ownership of the mills could eventually either be vested in the village concerned (with a safeguard of the right of all other Assyrians to use them against a fee) or could be sold to an individual Assyrian to exploit as a commercial proposition. We consider that it can best be left to the Trustee Board to propose measures eventually for liquidating the other agricultural machinery in their possession at present, including the threshing-machine and the lorries. For the present, all this equipment will, of course, be required, and in the event of new villages being built in the south, we consider that it would in fact lead to economy to buy a harvester, so as to permit of a quick harvest from the new lands, to give primarily straw for building, while enabling the bulk of the population concerned to cultivate their existing lands to the last.

84. Of the two large metal sheds installed by the Trustee Board, that at Tell Oumrane would have to be re-erected elsewhere, though this would appear to cost some £360. The other would remain at Tell Tamer, and both would presumably have to be made over eventually to the communities where they are situated.

85. The existing resources of the settlement in live-stock and the proposal of the Trustee Board for the purchase of 6,268 sheep for distribution to the poorer Assyrians were summarised in paragraph 30 above. We fully support this proposal and consider it an essential element in making the settlement a success. The other essential element in live-stock—draught-oxen—has been already dealt with above.

*Cost of Suggested Measures.*

86. The cost of the measures advocated above is most difficult to estimate at all closely, owing particularly to the uncertainty as to the cost at which the lands could actually be obtained by negotiation. Further, the indications supplied by the Trustee Board date from between the two devaluations of the franc in the past twelve months. The following figures, which are based on the Trustee Board's information, may nevertheless be taken as reasonably accurate estimates.

| Item  | Indication of cost in £ sterling |   |
|---|----------------------------------|---|
| <i>Purchase of lands :</i>  |                                  |   |
| (a) In paragraph 72 . . . . .   | 1,800                            | } N.B. — These totals<br>are apparently<br>high maxima. |
| (b) In paragraph 72 . . . . .   | 1,550                            |   |
| (c) In paragraph 72 . . . . .   | 23,250                           |   |
| <i>Construction of new villages :</i>   |                                  |   |
| (i) Six new villages to house population removed from existing northern villages. . . . .           | 3,000                            |   |
| (ii) Small villages for settlement on new lands of surplus population in larger villages. . . . .   | 2,000                            | (very rough indication).                                |
| <i>Transport costs, extra fuel for lorries, etc. . . . .</i>  | 500                              |   |
| <i>Irrigation :</i>   |                                  |   |
| (i) Purchase of eight further portable pumping-sets . . . . .                                       | 1,370                            |   |
| (ii) Construction of additional " norias " . . . . .  | 500                              | (very rough estimate).                                  |
| (iii) Dismantling and re-erecting as three portable units pumping-station at Tell Oumrane . . . . . | 200                              | (rough minimum estimate).                               |
| <i>Agricultural equipment and live-stock :</i>  |                                  |   |
| (i) Provision per fifteen settlers of one pair of oxen, one plough and one small cart . . . . .     | 9,000                            |   |
| (ii) Purchase and distribution of sheep among poorer Assyrians . . . . .                            | 7,400                            |   |
| (iii) Removal and re-erection of steel shed at present at Tell Oumrane. . . . .                     | 360                              |   |
| Total . . . . .   | 50,930                           |   |

87. On the assumption that some reduction could be obtained in the maximum prices asked for the lands, and allowing a margin for unforeseen expenditure, it seems therefore that, to carry through the transformation of the settlement to a fully self-supporting basis, the Committee would require a sum in the neighbourhood of £50,000. The salaries of the administrative staff and the cost of the current upkeep of the settlement would, of course, have to be added to the cost of the actual capital expenditure. The cost of this " continuing " administrative expenditure in the present 1937 budget was about £14,000, exclusive of provision for free food supplies for the Assyrians, which should normally cease at the end of 1937.

88. We have not discussed in our report the question of a further transfer of Assyrians from Iraq to the Khabur, since we do not feel that it falls strictly within the scope of our mandate, which concerns essentially the existing settlement. Nevertheless, we consider that it may be useful to note here that the additional lands, the purchase of which has been proposed above, could probably be expanded, with the provision of the necessary irrigation facilities, to take some 2,000 further Assyrian cultivators and that the cost of establishing them on a fully self-supporting basis (*i.e.*, with draught-oxen, live-stock and full equipment) has been estimated to be some £23,400.

Geneva, July 21st, 1937.

(Signed) F. DE PANAFIEU.  
(Signed) J. G. WARD.



Appendix.

End of June 1936. — At the time when the abandonment of the Ghab scheme was under consideration, the Chairman of the Committee of the Council was anxious to know what would be the cost of liquidation. The French representative on the Committee then stated officially that a sum of 500,000 French francs would have to be provided in addition to the 1,000,000 in respect of which commitments had already been entered into.

On August 11th, 1936, the Delegate-General of the High Commission submitted to the Secretary-General of the League of Nations an estimate amounting to 410,000 French francs made up as follows:

|   | French francs |
|---|---------------|
| 1. Staff . . . . .                                  | 150,000       |
| 2. Allowances and transport . . . . .               | 150,000       |
| 3. Stoppages of works and return of plant . . . . . | 70,000        |
| 4. Unforeseen . . . . .                             | 40,000        |

As there was available at this date a credit balance of 189,587 French francs out of the 1,000,000 placed at his disposal at the beginning of the year, the Delegate-General asked only for the difference between 410,000 French francs and 189,587 francs—*i.e.*, 220,000 French francs in round figures.

On August 21st, 1936, the High Commission repeated its request by telegram.

On August 24th, 1936, the Secretariat remitted to the High Commission a sum of 100,000 French francs, while expressly reserving the position that the Committee might take up after consideration of the letter of August 11th.

In a telegram dated September 16th, the High Commission pressed its request for the payment of the balance of the sum asked for on August 11th—*i.e.*, 120,000 French francs.

On September 19th, the Secretary-General replied to the High Commission: "The Committee of the Council will meet on September 22nd; I will submit your telegram to it immediately".

On September 22nd, the High Commission stated in a telegram that, owing to the extension of the time-limit for the liquidation of the Ghab works scheme and having regard to certain unforeseen expenditure, the sum still required in order to complete the work of liquidation amounted to 270,000 French francs instead of 120,000.

On September 22nd, on receiving this telegram, the Committee decided to remit 120,000 French francs and to await the High Commission's explanations before remitting the balance.

The sums actually paid up to this date by the Secretariat thus amounted to 1,220,000 French francs.

Finally, in a letter dated March 4th last, the High Commissioner of the French Republic in Syria and the Lebanon stated that, owing to the inadequacy of the funds placed at his disposal, he had not been able to meet all the payments due and that, in particular, he had been unable to settle the account presented by the "Régie générale de travaux publics et chemins de fer", which had been responsible for the execution of the work. In these circumstances, the High Commissioner asked that an amount of 210,000 French francs should be placed at his disposal with a view to the final settlement of all the charges relating to the Ghab scheme.

This sum of 210,000 French francs was made up as follows:

|  |               |               |
|--|---------------|---------------|
| I. Expenditure by the "Régie générale de travaux publics et chemins de fer":   |               |               |
|  |               | French francs |
| Balance of statement No. 6 for the month of August 1936 . . . . .  |               | 100,267.20    |
| Statement No. 7 for September 1936 . . . . .   |               | 68,662.97     |
|  |               | <hr/>         |
|  |               | 178,930.17    |
| Interest on arrears due:   | French francs |               |
| Up to November 30th, 1936 . . . . .  | 3,036.40      |               |
| For the month of December 1936 . . . . .   | 1,192.86      |               |
| For January and February 1937 . . . . .  | 2,385.72      |               |
| For March 1937 (if necessary) . . . . .  | 1,192.86      |               |
|  | <hr/>         |               |
|  |               | 7,807.84      |
| II. Cost of guarding and upkeep of plant:  |               |               |
| Expenditure effected up to February 28th, 1937 . . . . .   | 10,848.40     |               |
| Expenditure to be provided for up to May 31st, 1937, the anticipated date of the completion of the work of liquidation of the plant: 3,700 French francs × 3 = | 11,100.—      |               |
|  | <hr/>         |               |
|  |               | 21,948.40     |
| III. Unforeseen . . . . .  |               | 1,313.59      |
|  |               | <hr/>         |
| Grand total . . . . .  |               | 210,000.—     |

As soon as we arrived at Beirut, we examined the different items in this statement, in close collaboration with the High Commission's departments.

In the first place, the High Commission was good enough to advance the sums still due to the "Régie générale de travaux publics et chemins de fer"—*i.e.*, 178,930.17 French francs—in order to put an end to the addition of interest on arrears.

This interest, which would normally have amounted to 10,193.56 French francs, up to May 31st, 1937, is shown only at 7,645.15 French francs, the rate having been reduced from 8% to 6%.

As regards the cost of guarding and upkeep of plant, this was, after discussion, reduced from 21,948.40 French francs to 17,150.50 French francs, on the understanding that the expenditure still to be incurred from May 31st until the final liquidation of the plant will be charged to the Ghab rents,<sup>1</sup> the balance of which, if any, will be paid into the Trustee Board account.

The final statement of the funds necessary for the liquidation of the Ghab scheme thus stood as follows as at May 31st:

I. Expenditure by the " Régie générale ":

|  | French francs |
|--|---------------|
| Balance of statement No. 6 for August 1936 . . .     | 110,267.20    |
| Statement No. 7 for September 1936 . . . . .         | 68,662.97     |
|  | <hr/>         |
|  | 178,930.17    |
| Interest on arrears due at 6% up to May 31st, 1937 . | 7,645.17      |
|  | <hr/>         |
| Total . . . . .                                      | 186,575.34    |

II. Cost of guarding and upkeep of plant:

|   |            |
|---|------------|
| Expenditure effected up to May 31st, 1937 . . . . . | 17,150.50  |
|   | <hr/>      |
| Grand total . . . . .                               | 203,725.84 |
| Balance in hand . . . . .                           | 1,969.—    |
|   | <hr/>      |
| Amount due . . . . .                                | 201,756.84 |

Though it seemed difficult to contest the principle of the interest on arrears charged by the " Régie " in respect of the sums remaining due to it, it seemed reasonable, on the contrary, to raise the question whether the charge in respect of cost of guarding and upkeep of plant ought properly to be borne by the Settlement Fund, since official notice of the existence of this plant was not given until March 6th last. In this connection, the High Commission, while emphasising the fact that it had in this matter merely acted in the best interests of the League of Nations, expressed its readiness to bear the cost of guarding and maintenance itself. In that event, however, it refused to consider taking over for its own account any part of the plant whatsoever.

After having tried, but unsuccessfully, to get the manufacturers to take back the surveying and measuring instruments at least (see annexed the replies from the various firms consulted), we thought it much better to accept the High Commissioner's second proposal—namely, to cut down to a minimum the costs of upkeep and to take back a substantial part of the material at the estimated price, though this was not in fact necessary, seeing that the mandate will shortly terminate.

This solution had the additional advantage that the articles sold publicly would not be very seriously reduced in price, since the eventual purchasers would otherwise have to pay Customs duties, which are sometimes rather high.

As the Committee has decided to allow the Trustee Board to make a first selection of anything which it might need out of this material, we have authorised M. Cuénod to charge against the credit accruing from the sale of Ghab vehicles, up to an amount of 50,000 French francs, the sums required for the purchase of these various articles. At the present moment, the camping equipment, a safe, a typewriter, a calculating machine, the surveying instruments,<sup>2</sup> handed over to the General Inspectorate of Public Works in exchange for those lent by it to the Council of Trustees, and an electric generating set represent an amount of 37,142 French francs.

The High Commission itself has decided to take over material up to the value of 49,190 French francs.

The remaining plant, except printed matter, which will be destroyed, as it is headed " Société des Nations, Travaux du Ghab ", will very shortly be put up for public sale and the proceeds transferred to the " Disposal of Ghab Supplies " account opened by the Trustee Board, into which an amount of 86,332 French francs has already been paid.

<sup>1</sup> First tenancy:

Starting date. — November 20th, 1936;

Premises. — One hall, one dining-room, two bedrooms, one reception room, one kitchen, one bathroom, one entrance;

Period. — Three months, tacit renewal, option enjoyed by the lessor alone to terminate the lease at any date without compensation subject to eight day's notice to take effect at the end of the current month;

Taxes. — Payable by the lessee;

Rent. — 2,500 French francs per annum, payable quarterly in respect of the three preceding months.

Second tenancy:

Starting date. — May 1st, 1937;

Premises. — One building for use as stables;

Period. — As above;

Taxes. — As above;

Rent. — 1,000 French francs per annum payable as above.

| Inventory<br>No | Description of articles                 | Number |
|-----------------|---|--------|
| 192             | Self-reading levelling rods . . . . .   | 2      |
| 198             | Zeiss telescope-level . . . . .         | 1      |
| 205             | 20-metre steel tape-measure . . . . .   | 1      |
| 208             | Morin tachymeter, with tripod . . . . . | 1      |

In these circumstances, it is more than likely that the liquidation of plant will produce some 100,000 French francs, so that the amount to be paid by the Settlement Fund will be reduced to 100,000 French francs.

We feel it our duty to recommend the Committee to authorise that this amount should be sent as soon as possible to the French High Commissioner's Office at Beirut, so that the Ghab scheme can be finally wound up.

The cost of winding up will, in the end, have amounted to 1,330,000 French francs.

\* \* \*

Etablissements Barot,  
Paris, June 7th, 1937.

Your letter No. 5024/T.P.

The Inspector-General for the Supervision of Concession-holding  
Companies and Public Works,  
c/o High Commission of the French Republic, Beirut.

Sir,

I have the honour to acknowledge receipt of your letter of the second instant, reference as above, which has had my full attention. I am extremely sorry to have to inform you that neither Messrs. Ott nor myself can agree to take back the hydrometrical instruments, as, generally speaking, buyers of measuring instruments want essentially to have new instruments. Furthermore, as the conditions in which instruments are used vary extremely and thus always involve different requests for accessories, it would be difficult for us to dispose of instruments answering specific conditions.

You will probably be able to sell the articles in question on the spot. You might perhaps be well advised in making an offer to the Syrian and Lebanese departments engaged in measurements of waterways.

Regretting that I cannot assist you in the matter.

(Signed)  
Etablissements Sanguet,  
Paris, June 7th, 1937.

The Inspector-General for the Supervision of Concession-holding  
Companies and Public Works,  
Beirut (Syria).

Sir,

In reply to your letter No. 5024/T.P. of June 2nd, 1937, we beg to state that we could take back the tachymeter in question, with tripod, delivered franco Paris for an amount which might vary between 1,000 and 1,500 francs according to the state of the instrument as found on its arrival in Paris and provided that we could re-import it free of Customs duty as supplies returned as not up to indent.

In our opinion, however, if your instrument is in good condition, you might find a purchaser on better conditions for 2,000 or 2,500 francs by applying to Messrs. Anghelopoulo, rue Maarah, Beirut.

Yours faithfully,  
for I. & C. Sanguet & Co.  
(Signed) p. p. Director.  
Paris, June 8th, 1937.

The Inspector-General for the Supervision of Concession-holding  
Companies and Public Works,  
Beirut (Syria).

Your ref. 5024/T.P.

Sir,

In reply to your favour of 2nd instant, we regret to have to inform you that we cannot consider taking back the two Zeiss levels, Model II, which you possess.

It is our rule to sell to our customers only absolutely new instruments taken direct from our works.

With renewed regrets.

Optica Limited.  
Manager.  
(Signed)  
Beirut, June 15th, 1937.

The Inspector-General for the Supervision of Concession-holding  
Companies and Public Works,  
Beirut.

Sir,

I have the honour to acknowledge receipt of your letter of 2nd instant enquiring whether I could take back the levels delivered in accordance with your order of October 28th, 1935.

I am sorry that I cannot take back these levels, as I am not equipped for the re-sale of instruments for my own account.

(Signed) Charles FRISCH.

Annex II.

C./Min.Ass.245.

LETTER FROM THE UNITED KINGDOM REPRESENTATIVE TO THE SECRETARY  
OF THE COMMITTEE.

London, September 2nd, 1937.

Dear Monsieur Lisicky,

I am now in a position to inform you of the decision at which His Majesty's Government in the United Kingdom have arrived concerning the scheme for the further equipment and reorganisation on a fully self-supporting basis of the Assyrian settlement on the Upper Khabur, which the Council Committee adopted in principle at its session in July last, and which I was asked, as United Kingdom representative on the Committee, to bring to the notice of His Majesty's Government.

His Majesty's Government have decided to support, in principle, the scheme for the Khabur settlement set out in Part III of the report of July 21st by M. de Panafieu and myself to the Council Committee. They are prepared to recommend Parliament to authorise a financial contribution from United Kingdom funds towards the total cost of the reorganisation, in accordance with the present procedure for financing expenditure on Assyrian settlement whereby the collective contribution of the League of Nations covers 14.78% of the expenditure and His Majesty's Government and the Iraqi Government share the balance, which amounts to 42.61% for each Government. The offer of His Majesty's Government is based on the assumption that the total cost of the proposed scheme of reorganisation will not materially exceed the figure of approximately £51,000 quoted in the report as a likely maximum estimate. The offer is further subject to the maintenance of the existing conditions that the Government of Iraq shall contribute an equal amount of the extra expenditure *pari passu* with His Majesty's Government and that the League of Nations shall contribute not less than its present proportion of the expenditure.

In addition to this offer towards the reorganisation of the Khabur settlement, His Majesty's Government are further prepared, in principle, to recommend Parliament to authorise a contribution towards any scheme for the assistance (which might include any necessary local resettlement) of those ex-Ottoman Assyrians who remain in Iraq, which may eventually be evolved and approved by the interested parties. Such a contribution would also be subject to the conditions that the Government of Iraq should contribute an equal amount *pari passu* with His Majesty's Government and that the League of Nations should contribute not less than its present proportion of the expenditure on Assyrian settlement.

I shall be grateful if you will bring the contents of this letter to the notice of the President and other members of the Committee, and of the permanent delegate of Iraq at Geneva.

(Signed) J. G. WARD.

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Annex III.

DECLARATION BY THE REPRESENTATIVE OF IRAQ AT THE MEETING OF THE  
COUNCIL COMMITTEE FOR THE ASSYRIANS HELD ON SEPTEMBER 24TH, 1937.

The Iraqi Government maintains its objection to the permanent settlement of the Assyrians on the Khabur, in such a close proximity to the frontier.

In view, however, of the fact that no suitable place for permanent settlement has been found, the Government agrees that the existing temporary Khabur settlement should be reorganised in such a way as to make it self-supporting and, in consequence, agrees, subject to parliamentary sanction, to contribute to the cost of the reorganisation as proposed in the report circulated under number C./Min.Ass.242, *pari passu* with the United Kingdom and in the proportions previously agreed upon for Iraq, the United Kingdom and the League respectively, up to a maximum of about £21,750.

The Iraqi Government agrees to make the contribution on the clear understanding that, with this payment, its liability in respect of the Assyrian settlement on the Khabur shall definitely terminate, with the exception only of its contribution to the expenses of administration, on condition that these do not exceed the rate in the budget of 1937 as specified in paragraph 87 of the report, for the short period for which it may be necessary to retain the services of the Trustee Board and the officials working under its orders.

The Iraqi Government assumes that the Committee of the Council, set up by the resolution of October 14th, 1933, will continue in being only for the purpose of supervising the reorganisation of the Khabur settlement and will have no concern with the Assyrians who remain in Iraq, since these will henceforward resume their position as an ordinary minority to whom the normal procedure will apply.

Although, in order not to tie the hands of the Committee unduly, we have accepted the maximum figure mentioned in the report, I am bound to say that the estimated cost of the land appears to us abnormally high. My Government desires that the Committee will consider whether the estimate of the amount of land required cannot be cut down and in any case will make every effort to reduce the actual cost of any land acquired to a figure well below the estimate.

There is another point to which my Government attaches importance. We have in the last few years subscribed very considerable amounts for the settlement of the Assyrians and should like to see a larger proportion of this money spent in Iraq. In particular, Iraq is already the normal supplier of live-stock to Syria; prices in Iraq are therefore lower than in Syria. It is therefore not unreasonable to stipulate in particular that, unless there are valid reasons to the contrary, all the live-stock required under the scheme should be purchased in Iraq. I trust that the Committee will have no difficulty in agreeing to this.

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Annex IV.

C./Min.Ass.237.

[Translation.]

FINANCIAL REGULATIONS FOR THE CONTROL OF THE FUNDS.

(Revised text, in force as from April 1st, 1937.)

As a result of the amendments adopted by the Council Committee, in agreement with the Secretary-General, the High Commissioner of the French Republic in Syria and the Lebanon, and the Trustee Board, the financial regulations for the control of the funds for the settlement of the Assyrians of Iraq in the Levant territories under French mandate, approved by the Council on December 18th, 1935, will, as from April 1st, 1937, read as follows:

FINANCIAL REGULATIONS FOR THE CONTROL OF THE FUNDS FOR THE ESTABLISHMENT OF THE ASSYRIANS OF IRAQ IN THE LEVANT TERRITORIES UNDER FRENCH MANDATE.

The financial administration of the plan for the settlement of the Assyrians of Iraq in the Levant territories under French mandate shall be governed by the following provisions:

I. — *Receipts and Custody of Funds.*

*Article 1.* — The funds for the settlement of the Assyrians of Iraq shall include:

- (a) The amounts subscribed or to be subscribed by the Government of Iraq in virtue of the communications from that Government of May 26th and September 26th, 1935;
- (b) The amounts subscribed or to be subscribed by the United Kingdom Government in virtue of the communication from that Government of September 12th, 1935;
- (c) The subsidy voted by the Assembly of the League of Nations on September 28th, 1935;
- (d) Any contributions from other Governments and private organisations received in answer to the appeal made by the Council on January 19th, 1934, and by the Committee on July 16th, 1935, and funds raised on a recoverable basis from various sources;
- (e) Miscellaneous receipts from other sources.

*Article 2.* — The funds, excluding payments made by the Assyrians on account of the purchase of their land, shall be paid to the Secretary-General, who shall keep them in a special account separate from the ordinary funds of the League of Nations, or in a bank account which shall be at his sole disposal. The said funds shall be used exclusively:

- (i) For the refund of expenditure incurred by the High Commissioner of the French Republic in Syria and the Lebanon up to June 30th, 1935, for the provisional settlement of the Assyrians in the Khabur;
- (ii) For defraying the expenditure involved for the settlement, including the cost of the Trustee Board and its staff;
- (iii) For defraying the expenditure involved in the examination and audit of accounts.

*Article 3.* — Payments made by the Assyrians on account of the purchase of their land shall be paid into a special account opened in the name of the Trustee Board.

II. — *Estimates of Expenditure.*

*Article 4.* — The Trustee Board shall prepare the draft annual budget relating to the whole of the establishment operations contemplated in the year in question (counted from January 1st to December 31st), and shall submit this draft, through the Secretary-General, who shall add such comments thereon as he may wish to make, for approval to the Council Committee appointed with a view to the settlement of the Assyrians of Iraq. This budget shall be apportioned over the four quarters of the year.

When the budget has been approved by the Committee, the Secretary-General shall forward it to the Trustee Board.

*Article 5.* — At the beginning of each quarter, the Secretary-General shall inform the Trustee Board whether it is authorised to incur the expenditure corresponding to the budget estimates, for that quarter. For this purpose, the Secretary-General shall take into account the funds available, the undertakings entered into by the Governments and further sums, if any, which he is due to receive within the same period.

*Article 6.* — The incurrence during any quarter of expenditure exceeding the credits entered for that purpose in the corresponding chapter of the budget estimates for that quarter, and transfers from one chapter to another of the budget, shall require the previous approval of the Committee. The Committee may authorise its Chairman to give in its name, in agreement with the Secretary-General, such approvals as may be necessary between sessions of the Committee.

Subject to confirmation by the Committee at its next following session in the light of a reasoned report from the Trustee Board, the Trustee Board shall nevertheless be empowered itself to effect transfers to a specified chapter of the budget, up to a maximum amount of 25,000 francs. As soon as the transfers effected by the Trustee Board to such a chapter in the budget reach the specified limit, the Trustee Board shall, before it can effect any further transfers to that chapter, require the approval of the Committee as laid down in the first paragraph.

### III. — *Administration and Appropriation of Funds.*

*Article 7.* — Except for the subsidy voted by the Assembly of the League of Nations, the funds belonging to the League of Nations itself shall not be drawn upon either for recoverable or for irrecoverable advances.

*Article 8.* — When the Trustee Board submits a request to this effect to the Secretary-General, the latter shall make to it advances out of the funds placed at his disposal, though such advances may not at any time exceed the amount of the balance available.

In normal circumstances advances shall be made on the 15th of the month for the month following, and shall correspond to the expenditure contemplated by the Trustee Board for the month in question in its request.

*Article 9.* — Within the limits specified in the above provisions, the Trustee Board shall incur expenditure and effect payments. It shall have the custody and administration of the funds paid by the Secretary-General into its banking account.

The Trustee Board shall register all commitments of expenditure and shall institute such accounting system as will enable it to draw up the statements provided for in Chapter IV below.

### IV. — *Accountancy and Audit of the Accounts.*

*Article 10.* — The Trustee Board shall draw up and submit to the Secretary-General at the end of each month, quarter and year, in respect of such month, quarter or year, a statement showing:

(a) *As regards income*, the payments made from Geneva, bank interest, security taken on deposit and any other income;

(b) *As regards expenditure*, (1) the original budget credits; (2) credits resulting from transfers; (3) expenditure incurred, including payments; (4) the difference between credits entered under (2) on the one hand, and expenditure incurred or payments made entered under (3) on the other hand; (5) the payments made during the period in question. As an annex to the table of expenditure there shall be shown:

(i) The list of advances outstanding for settlement, indicating the corresponding chapters in the budget;

(ii) The amount of security refunded.

*Article 11.* — There shall be attached to the quarterly statements all the relevant documentary evidence, including invoices, schedules, counterfoils, etc.

The quarterly statements shall be audited by the Treasury of the League of Nations within one month from the date of their receipt by the Secretary-General.

*Article 12.* — The annual statements shall be subjected to comprehensive audit by the Auditor of the League of Nations in accordance with the rules regarding the financial administration of the League. They shall then be communicated by the Secretary-General to the Committee together with the Auditor's report.

### V. — *General Provisions.*

*Article 13.* — As regards financial questions for the settlement of which no specific provision is made in these Regulations, the Trustee Board shall be guided by the Regulations concerning the administration of the finances of the League of Nations and by the relevant provisions of the administrative rules of the Secretariat. Any question which cannot be settled in this manner shall be submitted to the Secretary-General, who will refer it to the Committee if necessary.

*Article 14.* — The present Regulations may be amended and completed by the Committee in agreement with the Secretary-General and the Trustee Board.

Genève, le 28 septembre 1937.

SOCIÉTÉ DES NATIONS

ETABLISSEMENT DES ASSYRIENS DE L'IRAK

Page 3, paragraphe 4, ligne 1:  
Lire "4 juillet", au lieu de "14 juillet".

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LEAGUE OF NATIONS

SETTLEMENT OF THE ASSYRIANS OF IRAQ

- Page 1, paragraphe 2, ligne 7:  
Read: "by persons not connected with the Governments of the countries concerned", instead of "by persons outside their Governments".
- Page 2, paragraphe 1, ligne 3:  
Read: "the indigent elements", instead of "the native elements".
- Page 2, paragraphe 3, ligne 2:  
Read: "which have been drawn up by its French and British members", instead of "which have been drawn up by French and British members".
- Page 2, paragraphe 3, ligne 3:  
Read: "an objective and detailed description", instead of "an impartial and detailed description".
- Page 2, paragraphe 5, ligne 1:  
Read: "the corresponding declaration of the Iraqi Government", instead of "the Iraqi Government's relative declaration".
- Page 3, paragraphe 2, ligne 3:  
Read: "the limitations imposed", instead of "the responsibility incumbent".
- Page 3, paragraphe 5, ligne 1:  
Read: "July 4th", instead of "July 14th".
- Page 3, paragraphe 6, ligne 3:  
The sentence beginning "After the main preparatory work..." should read as follows:  
"After the big reclamation scheme, entrusted under the plan to the High Commissioner, had been abandoned, the administration and supervision of the settlement funds by the High Commissioner's services lost their original justification".

Genève, le 23 septembre 1937.

SOCIÉTÉ DES NATIONS

**ARRANGEMENT DE NYON**

et

**ACCORD ADDITIONNEL**

à cet arrangement

COMMUNICATION DU MINISTRE DES AFFAIRES ÉTRANGÈRES  
DE LA RÉPUBLIQUE FRANÇAISE,  
PRÉSIDENT DE LA CONFÉRENCE MÉDITERRANÉENNE DE NYON

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LEAGUE OF NATIONS

**THE NYON ARRANGEMENT**

and the

**AGREEMENT SUPPLEMENTARY**

to the Nyon Arrangement

COMMUNICATION FROM THE MINISTER FOR FOREIGN AFFAIRS  
OF FRANCE,  
PRESIDENT OF THE MEDITERRANEAN CONFÉRENCE OF NYON



COMMUNICATION DU MINISTRE DES AFFAIRES ÉTRANGÈRES DE LA RÉPUBLIQUE  
FRANÇAISE, PRÉSIDENT DE LA CONFÉRENCE MÉDITERRANÉENNE DE NYON.

Genève, le 21 septembre 1937.

Monsieur le Secrétaire général,

En ma qualité de Président de la Conférence méditerranéenne de Nyon, j'ai l'honneur de vous faire parvenir sous ce pli le texte des arrangements qui ont été signés, sur l'invitation des Gouvernements français et britannique, le 14 et le 17 septembre par les représentants de la Bulgarie, du Royaume-Uni, de l'Égypte, de la France, de la Grèce, de la Roumanie, de la Turquie, de l'Union des Républiques soviétiques socialistes et de la Yougoslavie.

Je vous serais obligé de bien vouloir assurer la communication du texte de ces documents à Messieurs les Membres du Conseil.

Veuillez agréer, Monsieur le Secrétaire général, etc.

(Signé) Yvon DELBOS.

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COMMUNICATION FROM THE MINISTER FOR FOREIGN AFFAIRS OF FRANCE,  
PRESIDENT OF THE MEDITERRANEAN CONFERENCE OF NYON.

*]Translation.]*

Geneva, September 21st, 1937.

To the Secretary-General.

As President of the Mediterranean Conference of Nyon, I have the honour to forward to you herewith the text of the Arrangements signed, on the invitation of the French and United Kingdom Governments, on September 14th and 17th, by the representatives of Bulgaria, the United Kingdom, Egypt, France, Greece, Roumania, Turkey, the Union of Soviet Socialist Republics and Yugoslavia.

I should be obliged if you would be good enough to communicate the text of these documents to the Members of the Council.

I have the honour, etc.,

(Signed) Yvon DELBOS.

## ARRANGEMENT DE NYON

Considérant qu'à l'occasion du conflit espagnol des attaques répétées ont été commises dans la Méditerranée par des sous-marins, à l'encontre des navires de commerce n'appartenant à aucun des partis en lutte en Espagne;

Que ces actes constituent des violations des règles de droit international énoncées dans la Partie IV du Traité de Londres du 22 avril 1930 au sujet de la destruction des navires de commerce, qu'ils sont contraires aux principes d'humanité les plus élémentaires et qu'ils doivent être à juste titre qualifiés d'actes de piraterie;

Que, sans aucunement admettre le droit de l'un ou l'autre parti en lutte en Espagne d'exercer les droits de belligérants ou de contrôler la navigation de commerce en haute mer, même en observant les lois de la guerre sur mer, et sans préjudice du droit d'une Puissance participant au présent accord d'effectuer telle action qu'elle jugera appropriée pour protéger sa navigation de commerce contre toutes sortes d'immixtion en haute mer, ainsi que sans préjudice d'autres mesures collectives qui pourraient être convenues ultérieurement, il est nécessaire en premier lieu de convenir de mesures collectives particulières contre les actes de piraterie accomplis par des sous-marins;

Les soussignés, dûment autorisés par leurs Gouvernements, se sont réunis en Conférence à Nyon du 9 au 14 septembre 1937 et ont arrêté les dispositions suivantes qui entreront immédiatement en vigueur:

I. — Les Puissances participantes donneront des instructions à leurs forces navales pour qu'elles agissent conformément aux paragraphes II et III ci-dessous en vue de protéger tout navire de commerce n'appartenant à aucun des partis en lutte en Espagne.

II. — Tout sous-marin qui attaquerait un tel navire d'une manière contraire aux règles de droit international énoncées dans le Traité international de limitation et de réduction des armements navals signé à Londres le 22 avril 1930 et confirmées dans le Protocole signé à Londres le 6 novembre 1936, sera contre-attaqué et si possible détruit.

III. — La prescription énoncée au paragraphe précédent s'appliquera également à tout sous-marin rencontré dans le voisinage d'un point où un navire, n'appartenant à aucun des partis en lutte en Espagne, viendrait d'être attaqué, en violation des règles mentionnées au paragraphe précédent, dans le cas où les circonstances dans lesquelles ce sous-marin a été rencontré autorisent à penser qu'il est l'auteur de l'attaque.

IV. — Pour l'exécution pratique des décisions qui précèdent, les Puissances participantes sont convenues des dispositions suivantes:

1<sup>o</sup> Dans la Méditerranée occidentale et le Canal de Malte, exception faite pour la zone tyrrhénienne où la surveillance pourra faire l'objet de dispositions particulières, cette exécution incombe en haute mer et dans les eaux territoriales des

## THE NYON ARRANGEMENT

Whereas arising out of the Spanish conflict attacks have been repeatedly committed in the Mediterranean by submarines against merchant ships not belonging to either of the conflicting Spanish parties; and

Whereas these attacks are violations of the rules of international law referred to in Part IV of the Treaty of London of April 22, 1930 with regard to the sinking of merchant ships and constitute acts contrary to the most elementary dictates of humanity, which should be justly treated as acts of piracy; and

Whereas without in any way admitting the right of either party to the conflict in Spain to exercise belligerent rights or to interfere with merchant ships on the high seas even if the laws of warfare at sea are observed and without prejudice to the right of any participating Power to take such action as may be proper to protect its merchant shipping from any kind of interference on the high seas or to the possibility of further collective measures being agreed upon subsequently, it is necessary in the first place to agree upon certain special collective measures against piratical acts by submarines:

In view thereof the undersigned, being authorised to this effect by their respective Governments, have met in conference at Nyon between the 9th and the 14th September 1937, and have agreed upon the following provisions which shall enter immediately into force:

I. The Participating Powers will instruct their naval forces to take the action indicated in paragraphs II and III below with a view to the protection of all merchant ships not belonging to either of the conflicting Spanish parties.

II. Any submarine which attacks such a ship in a manner contrary to the rules of international law referred to in the International Treaty for the Limitation and Reduction of Naval Armaments signed in London on April 22, 1930, and confirmed in the Protocol signed in London on November 6, 1936, shall be counter-attacked and, if possible, destroyed.

III. The instruction mentioned in the preceding paragraph shall extend to any submarine encountered in the vicinity of a position where a ship not belonging to either of the conflicting Spanish parties has recently been attacked in violation of the rules referred to in the preceding paragraph in circumstances which give valid grounds for the belief that the submarine was guilty of the attack.

IV. In order to facilitate the putting into force of the above arrangements in a practical manner, the participating Powers have agreed upon the following arrangements:

1. In the western Mediterranean and in the Malta Channel, with the exception of the Tyrrhenean Sea, which may form the subject of special arrangements, the British and French fleets will operate both on the high seas and in the territorial

Puissances participantes, aux flottes britannique et française, suivant la répartition arrêtée entre les deux Gouvernements.

2<sup>o</sup> En Méditerranée orientale,

a) cette exécution incombe pour les eaux territoriales aux Gouvernements intéressés, chacun en ce qui le concerne;

b) en haute mer, exception faite pour la mer Adriatique, elle est confiée jusqu'à l'entrée des Dardanelles aux flottes britannique et française, suivant la répartition convenue entre les deux Gouvernements, dans les zones où il y a lieu de craindre que la navigation ne soit en péril. Les autres Puissances participantes qui sont riveraines de la Méditerranée s'engagent à fournir à ces flottes, dans la mesure de leurs moyens, l'assistance qui leur serait demandée; elles les autoriseront notamment à poursuivre leur action dans leurs eaux territoriales ainsi qu'à user de ceux de leurs ports qu'elles indiqueront.

3<sup>o</sup> Il est entendu en outre que les limites des zones mentionnées aux Nos 1 et 2 ci-dessus et leur répartition seront à toute époque susceptibles d'être révisées par les Puissances participantes, afin de pouvoir tenir compte de tout changement dans la situation.

V. — Les Puissances participantes conviennent qu'en vue de faciliter l'exécution des dispositions ci-dessus, elles limiteront pour ce qui les concerne, l'utilisation de leurs sous-marins dans la Méditerranée, de la manière suivante:

a) sauf ce qui est prévu sous b) et c) ci-après, aucun sous-marin ne prendra la mer dans la Méditerranée;

b) les sous-marins pourront circuler, après notification à chacune des autres Puissances participantes, à condition qu'ils naviguent en surface et soient accompagnés par un bâtiment de surface;

c) chaque Puissance participante se réserve, aux fins d'exercices, certaines zones définies dans l'annexe I ci-après dans lesquelles ses sous-marins échapperont aux restrictions mentionnées sous a) et b).

Les Puissances participantes conviennent également que chacune d'elles n'admettra la présence d'aucun sous-marin étranger dans ses eaux territoriales, excepté dans le cas de relâche forcée ou dans les conditions prévues à l'alinéa b) ci-dessus.

VI. — Les Puissances participantes conviennent également qu'en vue de faciliter l'exécution du programme ci-dessus décrit, elles pourront recommander, chacune pour ce qui la concerne, à leurs navires de commerce de suivre, dans la Méditerranée, certaines routes principales convenues entre elles et définies dans l'annexe II ci-après.

VII. — Rien dans le présent accord ne limite le droit d'une Puissance participante d'envoyer ses bâtiments de surface dans une partie quelconque de la Méditerranée.

VIII. — Les dispositions qui précèdent n'affectent en rien les engagements internationaux existants enregistrés au Secrétariat de la Société des Nations.

IX. — Si l'une des Puissances participantes annonce son intention de se retirer du présent accord, cette notification aura effet à l'expiration d'un délai de 30 jours, et toute autre Puissance participante pourra également sortir de l'accord à cette même date, à condition d'avoir fait connaître avant celle-ci son intention à cet effet.

waters of the Participating Powers, in accordance with the division of the area agreed upon between the two Governments.

2. In the eastern Mediterranean,

(a) Each of the Participating Powers will operate in its own territorial waters;

(b) On the high seas, with the exception of the Adriatic Sea, the British and French fleets will operate up to the entrance to the Dardanelles, in those areas where there is reason to apprehend danger to shipping in accordance with the division of the area agreed upon between the two Governments. The other Participating Governments possessing a sea border on the Mediterranean, undertake, within the limit of their resources, to furnish these fleets any assistance that may be asked for; in particular, they will permit them to take action in their territorial waters and to use such of their ports as they shall indicate.

3. It is further understood that the limits of the zones referred to in sub-paragraphs 1 and 2 above, and their allocation shall be subject at any time to revision by the Participating Powers in order to take account of any change in the situation.

V. The Participating Powers agree that, in order to simplify the operation of the above-mentioned measures, they will for their part restrict the use of their submarines in the Mediterranean in the following manner:

(a) Except as stated in (b) and (c) below, no submarine will be sent to sea within the Mediterranean.

(b) Submarines may proceed on passage after notification to the other Participating Powers, provided that they proceed on the surface and are accompanied by a surface ship.

(c) Each Participating Power reserves for purposes of exercises certain areas defined in Annex I hereto in which its submarines are exempt from the restrictions mentioned in (a) or (b).

The Participating Powers further undertake not to allow the presence in their respective territorial waters of any foreign submarines except in case of urgent distress, or where the conditions prescribed in sub-paragraph (b) above are fulfilled.

VI. The Participating Powers also agree that, in order to simplify the problem involved in carrying out the measures above described, they may severally advise their merchant shipping to follow certain main routes in the Mediterranean agreed upon between them and defined in Annex II hereto.

VII. Nothing in the present agreement restricts the right of any Participating Power to send its surface vessels to any part of the Mediterranean.

VIII. Nothing in the present agreement in any way prejudices existing international engagements which have been registered with the Secretariat of the League of Nations.

IX. If any of the Participating Powers notifies its intention of withdrawing from the present arrangement, the notification will take effect after the expiry of thirty days and any of the other Participating Powers may withdraw on the same date if it communicates its intention to this effect before that date.

FAIT A NYON ce quatorze septembre mil neuf cent trente-sept en un seul exemplaire, en langues française et anglaise, les deux textes faisant également foi, et qui sera déposé dans les archives du Secrétariat de la Société des Nations.

DONE AT NYON this fourteenth day of September nineteen hundred and thirty seven, in a single copy, in the English and French languages, both texts being equally authentic, and which will be deposited in the archives of the Secretariat of the League of Nations.

ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD.  
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.

Anthony EDEN

BULGARIE. — BULGARIA.

G. KIOSSÉIVANOFF  
N. MOMTCHILOFF

ÉGYPTE. — EGYPT.

Wacyf BOUTROS-GHALI  
H. AFIFI

FRANCE.

Yvon DELBOS

GRÈCE. — GREECE.

N. MAVROUDIS  
N. POLITIS  
S. POLYCHRONIADIS

ROUMANIE. — RUMANIA.

Victor ANTONESCO

TURQUIE. — TURKEY.

Dr. R. ARAS

UNION DES RÉPUBLIQUES SOVIÉTIQUES SOCIALISTES.  
UNION OF SOVIET SOCIALIST REPUBLICS.

Maxime LITVINOFF

YUGOSLAVIE. — YUGOSLAVIA.

Bojidar POURITCH

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ANNEXE I

ZONES RÉSERVÉES<sup>1</sup> POUR EXERCICES DE SOUS-MARINS.

En exécution du § V, alinéa c) de l'Arrangement, les Puissances participantes se réservent, aux fins d'exercices, les zones définies ci-dessous, dans lesquelles leurs sous-marins échapperont aux restrictions mentionnées aux alinéas a) et b) du même paragraphe de l'Arrangement.

*Royaume-Uni de Grande-Bretagne et d'Irlande du Nord.*

- Zone n° 1. *Au voisinage de Gibraltar* : la zone délimitée par les parallèles 35° 35' et 35° 50' N, et par les méridiens 04° 50' et 05° 08' W.
- Zone n° 2. *A l'ouest de l'île de Lemnos* : la zone délimitée par les parallèles 39° 45' et 40° 00' W, et par les méridiens 24° 38' et 24° 57' E.
- Zone n° 3. *Malte* : la zone délimitée par un secteur circulaire de 40 milles de rayon, entre le 135 et le 270 du feu de Delimara.
- Zone n° 4. *Chypre* : la zone délimitée par un secteur circulaire de 40 milles de rayon, entre le 45 et le 135 de Famagouste.

*Bulgarie* : Néant.

*Egypte* : Néant.

*France* :

- Zone n° 1. *Golfe de Tunis* : à l'intérieur de la ligne joignant l'île Plane et l'île Zembra.
- Zone n° 2. *Au large de Toulon* : la zone comprise entre la côte et la ligne suivante : méridien de Sicié; parallèle passant par un point situé à 3 milles au sud du cap d'Armes et s'étendant jusqu'au méridien du Titan; de là, relèvement au 60 jusqu'au méridien de Menton.
- Zone n° 3. *Golfe de Hammamet* : la zone délimitée par le parallèle d'Hammamet et le méridien de l'île de Kuriat.

*Grèce* :

- Zone n° 1. *Golfe de Corinthe* : la partie du golfe située à l'est de la ligne Fort-Rion, Fort Anti-Rion.
- Zone n° 2. *Golfe d'Athènes* : la partie du golfe située au NW de la ligne joignant la pointe SE de l'île Poros, l'île Phleva et la pointe Zervi (baie de Vari).

*Roumanie* : Ne demande pas de zone en Méditerranée.

*Turquie* : La zone des eaux territoriales reliant les Détroits à la zone militarisée de Smyrne.  
Le Gouvernement turc se réserve trois autres zones, à savoir : aux Dardanelles, dans la mer de Marmara et en Mer Noire.

*Union des Républiques soviétiques socialistes* : Ne demande pas de zone en Méditerranée.

*Yougoslavie* : La zone comprise à l'intérieur de la ligne reliant l'estuaire du fleuve Boyana;  
le point situé par 42° 00' N et 18° 00' E;  
le point situé par 43° 00' N et 15° 20' E;  
le point situé par 44° 20' N et 14° 20' E;  
le phare Grujia.

<sup>1</sup> Voir carte jointe.



ANNEX I

AREAS RESERVED<sup>1</sup> FOR SUBMARINE EXERCISES.

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In accordance with paragraph V, sub-paragraph (c) of the Arrangement, the participating Powers reserve for the purposes of exercises the areas defined below, within which their submarines will be exempt from the restrictions mentioned in paragraph V, sub-paragraphs (a) and (b) of the Arrangement.

*United Kingdom of Great Britain and Northern Ireland:*

- Area No. 1. *In the vicinity of Gibraltar.* The area enclosed by Latitude 35° 35' N and 35° 50' N, Longitude 04° 50' W and 05° 08' W.
- Area No. 2. *West of Island of Lemnos.* The area enclosed by Latitude 39° 45' N and 40° 00' N, Longitude 24° 38' E and 24° 57' E.
- Area No. 3. *Malta.* Area enclosed by sector of a circle of 40 miles radius between 135° and 270° from Delimara Light.
- Area No. 4. *Cyprus.* Area enclosed by sector of a circle of 40 miles radius between 045° and 135° from Famagusta.

*Bulgaria:* Nil.

*Egypt:* Nil.

*France:*

- Area No. 1. *Gulf of Tunis.* The portion of the Gulf lying south of a line joining Plane Island and Zembra Island.
- Area No. 2. *Off Toulon.* The area lying between the coast and the following line: Meridian of Sicié, a parallel passing through a point 3 miles South of Cape D'Armes and extending to the Meridian of Titan and thence 060° to the Meridian passing through Mentone.
- Area No. 3. *Gulf of Hammamet.* The area lying between the parallel passing through Hammamet and the Meridian of the Island of Kuriat.

*Greece:*

- Area No. 1. *Gulf of Corinth.* The portion of the Gulf to the East of a line joining Fort Rion and Fort Antirion.
- Area No. 2. *Gulf of Athens.* The portion of the Gulf to North-West of a straight line joining S.E. corner of Poros Island, Phleva Island and Zervi Point (Vari Bay).

*Roumania:* Does not require any zone in the Mediterranean.

*Turkey:* The area covered by the territorial waters joining the Straits to the militarised zone of Smyrna.  
The Turkish Government reserves three other areas, viz.: the Straits of the Dardanelles, the Sea of Marmara and the Black Sea.

*Union of Soviet Socialist Republics:* Does not require any zone in the Mediterranean.

*Yugoslavia:* The area enclosed by the lines joining the following points:  
North of River Boyana.  
42° 00' N      18° 00' E  
43° 00' N      15° 20' E  
44° 20' N      14° 20' E  
Grujia Light.

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<sup>1</sup> See attached chart.

ANNEXE II

PRINCIPALES ROUTES <sup>1</sup> QUE CHAQUE PUISSANCE PARTICIPANTE POURRA RECOMMANDER  
A SES NAVIRES DE COMMERCE DE SUIVRE.

I. En exécution du § VI, les principales routes suivantes sont convenues ainsi:

*Route n° 1: Gibraltar-Port-Saïd (ou la Méditerranée orientale)*

passé par les points suivants:

- A. 40 milles au nord du feu des îles Habibas.
- B. 15 milles au nord du feu du cap Matifou.
- C. 30 milles dans le 60 de la Galite.
- D. 10 milles au nord du feu de l'île Gozo.
- E. 35° 47' N — 16° 40' E.
- M. 33° 30' N — 25° 00' E.

*Route n° 2: Gibraltar-ports espagnols-Marseille*

passé par les points suivants:

- A. 40 milles au nord du feu des îles Habibas.
- F. 15 milles à l'est du cap San Antonio.
- G. 15 milles à l'est du cap San-Sebastian.

*Route n° 3: Gibraltar-Marseille (par l'est des Baléares)*

passé par les points suivants:

- A. 40 milles au nord du feu des îles Habibas.
- H. 20 milles à l'est du feu de l'île Ayre (Minorque).

*Route n° 4: Gibraltar-Gênes*

passé par les points suivants:

- A. 40 milles au nord du feu des îles Habibas.
- H. 20 milles à l'est du feu de l'île Ayre (Minorque).

*Route n° 5: Alger-Marseille ou Gênes*

passé par les points suivants:

- B. 15 milles au nord du feu du cap Matifou.
- H. 20 milles à l'est du feu de l'île Ayre (Minorque).

*Route n° 6: Marseille-Bizerte-Port-Saïd*

passé par les points suivants:

- I. 15 milles dans le 229 du feu de l'île Toro (Sardaigne).
- C. 30 milles dans le 60 de la Galite.
- D. 10 milles au nord du feu de l'île Gozo.
- E. 35° 47' N — 16° 40' E.

*Route n° 7: Marseille-Messine-Port-Saïd*

du point J, à 25 milles au sud de Marseille, vers les bouches de Bonifacio,  
et du point E vers le détroit de Messine.

<sup>1</sup> Voir carte jointe.

ANNEX II

MAIN ROUTES<sup>1</sup> WHICH EACH SIGNATORY POWER MAY ADVISE ITS  
MERCHANT SHIPS TO FOLLOW.

1. In accordance with paragraph VI the following main routes are hereby agreed:

*Route No. 1: Gibraltar—Port Said (or Eastern Mediterranean).*

Pass through the following points:

- A. 40 miles north of Habibas Island light.
- B. 15 miles north of Cape Matifou light.
- C. 060° Galita Island light 30 miles.
- D. 10 miles north of Gozo Island light.
- E. 35° 47' north, 16° 40' east.
- M. 33° 30' north, 25° 00' east.

*Route No. 2: Gibraltar—Spanish ports—Marseilles.*

Pass through the following points:

- A. 40 miles north of Habibas Island light.
- F. 15 miles east of Cape San Antonio.
- G. 15 miles east of Cape San Sebastian.

*Route No. 3: Gibraltar—Marseilles (East of Balearics).*

Pass through the following points:

- A. 40 miles north of Habibas Island light.
- H. 20 miles east of Aire Island light (Minorca).

*Route No. 4: Gibraltar—Genoa.*

Pass through the following points:

- A. 40 miles north of Habibas Island light.
- H. 20 miles east of Aire Island light (Minorca).

*Route No. 5: Algiers—Marseilles or Genoa.*

Pass through the following points:

- B. 15 miles north of C. Matifou light.
- H. 20 miles east of Aire Island light (Minorca).

*Route No. 6: Marseilles—Bizerta—Port Said.*

Pass through the following points:

- I. 229° Toro Island light (Sardinia) 15 miles.
- C. 060° Galita Island light 30 miles.
- D. 10 miles north of Gozo Island light.
- E. 35° 47' north, 16° 40' east.

*Route No. 7: Marseilles—Messina—Port Said.*

Through point:

J. 25 miles south of Marseilles towards the Straits of Bonifacio and  
through point:

- E. 35° 47' north, 16° 40' east towards Messina.

<sup>1</sup> See attached chart.

*Route n° 8 : Mer Egée et mer Noire—Méditerranée occidentale*

    passe par le point E, les canaux de Cervi et de Doro.

*Route n° 9 : Ports espagnols—Méditerranée orientale (par le nord des Baléares)*

    passe par le point G et les bouches de Bonifacio.

*Route n° 10 : Ports espagnols—Méditerranée occidentale (par le sud des Baléares)*

    passe par les points suivants:

        F. 15 milles à l'est du cap San Antonio.

        B. 15 milles au nord du feu du cap Matifou.

*Route n° 11 : Ports de l'Adriatique—Méditerranée occidentale*

    passe par les points suivants:

        K. 25 milles à l'est d'Otrante.

        E. 35° 47' N — 16° 40' E.

*Route n° 12 : Ports de l'Adriatique—Méditerranée orientale*

    passe par les points suivants:

        K. 25 milles à l'est d'Otrante.

        L. 30 milles dans le 249 de la pointe nord de l'île Zante.

        M. 33° 30' N — 25° 00' E.

*Route n° 13 : Mer Noire et mer Egée—Alexandrie*

    passe par les points suivants:

        N. 23 milles à l'Est du phare de Skyros, à l'ouest de l'île Stampalia et à travers le détroit de Kaso.

2. Aux navires se rendant à des ports intermédiaires situés en dehors de ces routes, il est recommandé de rester sur les routes ci-dessus jusque par le travers de leur port de destination et, de même, quand ils quittent de tels ports, il leur est recommandé de rejoindre par la voie la plus directe la route intéressée.

3. Les routes ci-dessus peuvent être changées par accord, dans la mesure où l'expérience pourrait rendre souhaitable de le faire.

4. En cas de nécessité, les autorités navales locales opérant dans le cadre de cet accord sont qualifiées pour changer les routes qui y sont recommandées.

Leur décision devra aussi être communiquée pour information aux Puissances participantes par la voie diplomatique.

---

*Route No. 8: Ægean and Black Sea—Western Mediterranean.*

Pass point E. and Cervi and Doro Channels.

*Route No. 9: Spanish ports—Eastern Mediterranean—North of Balearics.*

Pass point G. and Straits of Bonifacio.

*Route No. 10: Spanish ports—Eastern Mediterranean—South of Balearics.*

Pass the points:

F. 15 miles east of Cape San Antonio.

B. 15 miles north of C. Matifou light.

*Route No. 11: Adriatic ports—Western Mediterranean.*

Pass through the following points:

K. 25 miles east of Otranto.

E. 35° 47' north, 16° 40' east.

*Route No. 12: Adriatic ports—Eastern Mediterranean.*

Pass through the following points:

K. 25 miles east of Otranto.

L. 249° North point Zante Island 30 miles.

M. 33° 30' north, 25° 00' east.

*Route No 13: Black Sea—Ægean—Alexandria.*

Pass through point:

N. 23 miles east of Skyros light and then west of Stampalia Island through Kaso Strait.

2. Ships proceeding to intermediate ports lying off these routes are advised to remain on the above routes until abreast their port of destination and similarly when leaving such ports they are advised to proceed by the most direct course to reach the route in question.

3. The above routes may be altered by agreement—in such manner as may be proved by experience to be advisable.

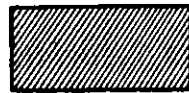
4. In emergency the local naval authorities operating under this agreement are empowered to vary the route herein recommended.

Their decisions shall also be communicated for information to the participating Powers through the diplomatic channel.

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ADDENDUM AUX ANNEXES A L'ARRANGEMENT DE NYON  
(paragraphes V (c) et VI).

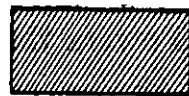
CARTE ILLUSTRANT: *a)* les zones réservées pour exercices de sous-marins (Annexe I).



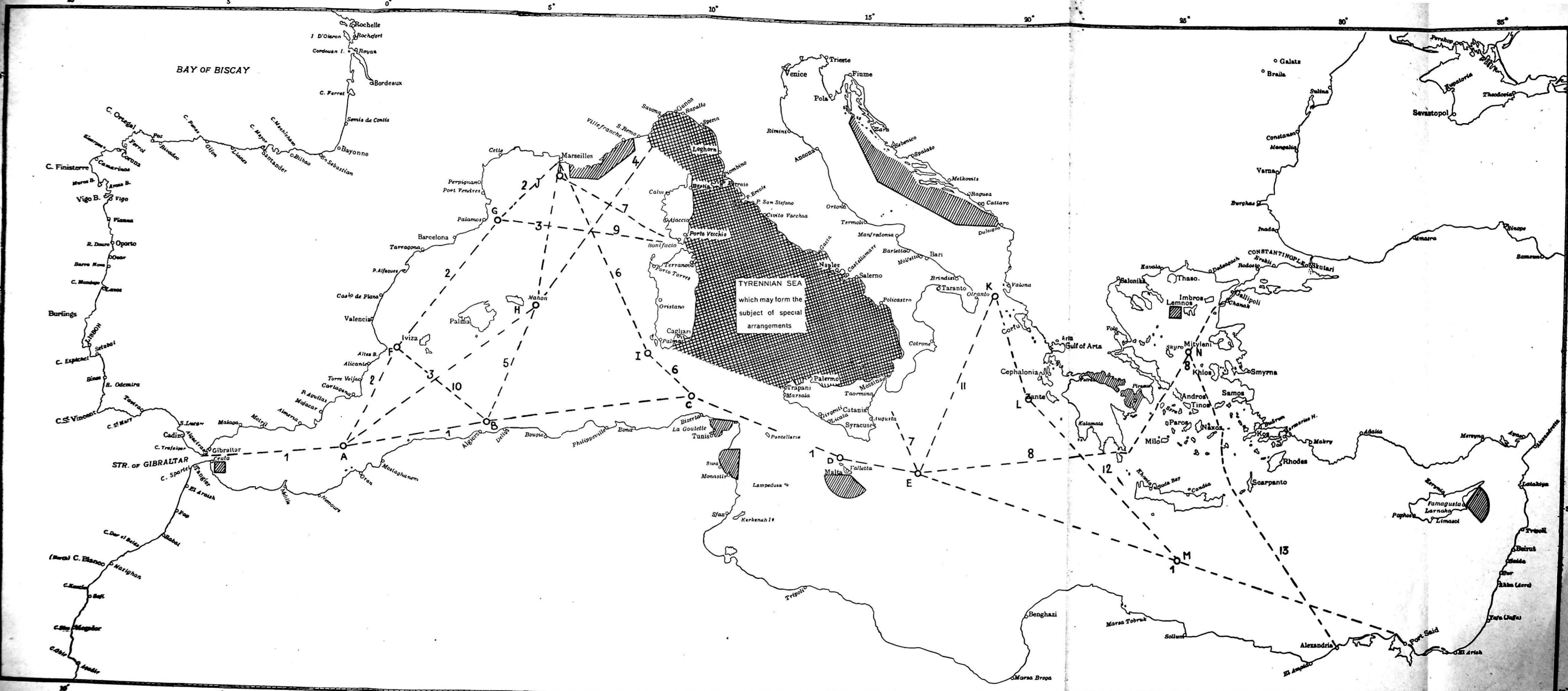
*b)* les routes principales que chaque Puissance participante  
pourra recommander à ses navires de commerce de  
suivre (Annexe II).      - - - - -

ADDENDUM TO ANNEXES TO NYON ARRANGEMENT  
(paragraphs V (c) et VI).

CHART ILLUSTRATING: *a)* Areas reserved for Submarine Exercises (Annex I).



*b)* Main Routes which Each Signatory Power may advise its  
Merchant Ships to follow (Annex II).      - - - - -



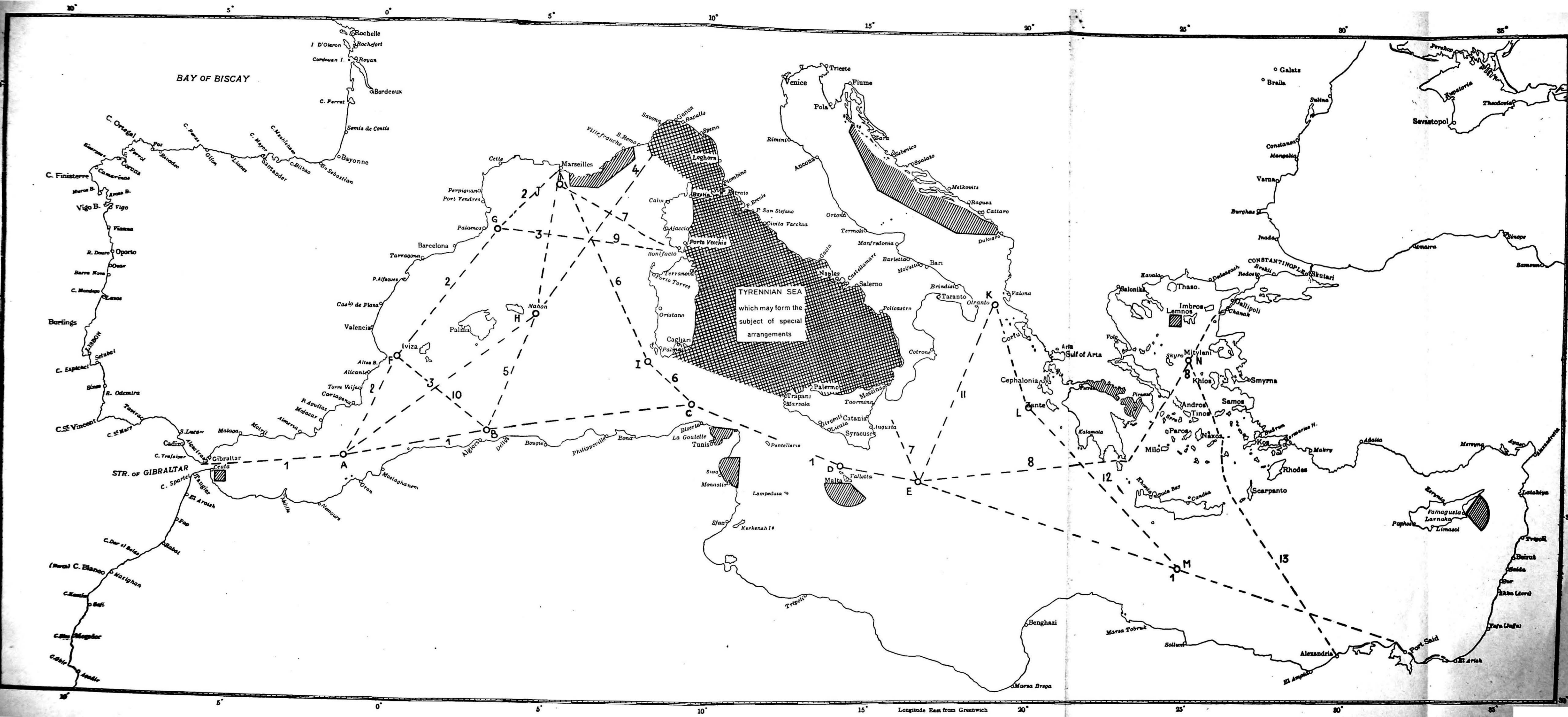
TYRRHENIAN SEA  
which may form the  
subject of special  
arrangements

Longitude East from Greenwich

BAY OF BISCAY

STR. OF GIBRALTAR

CONSTANTINOPLE



TYRRHENIAN SEA  
which may form the  
subject of special  
arrangements

Longitude East from Greenwich

BAY OF BISCAY

STR. OF GIBRALTAR

CONSTANTINOPLE

**ACCORD ADDITIONNEL  
A L'ARRANGEMENT DE NYON**

---

**AGREEMENT SUPPLEMENTARY  
TO THE NYON ARRANGEMENT**



## ACCORD ADDITIONNEL A L'ARRANGEMENT DE NYON

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Considérant que, dans l'Arrangement signé à Nyon le 14 septembre 1937, par lequel ont été convenues des mesures collectives particulières à l'encontre des actes de piraterie accomplis par des sous-marins en Méditerranée, les Puissances participantes ont réservé la possibilité de prendre des mesures collectives ultérieures;

Qu'il est actuellement jugé opportun de prendre de telles mesures à l'encontre d'actes semblables accomplis par des navires de surface ou des aéronefs;

Les soussignés, dûment autorisés par leurs Gouvernements, se sont réunis à Genève le dix-sept septembre et ont arrêté les dispositions suivantes, qui entreront immédiatement en vigueur:

I. Le présent accord complète l'Arrangement de Nyon et sera considéré comme en faisant partie intégrante.

II. Le présent Accord s'applique à toute attaque menée en Méditerranée, contre un navire de commerce n'appartenant à aucun des partis en lutte en Espagne, par un bâtiment de surface ou un aéronef, sans considération des principes d'humanité consacrés par le droit international de la guerre sur mer, énoncés dans la partie IV du Traité de Londres du 22 avril 1930 et confirmés dans le Protocole signé à Londres le 6 novembre 1936.

III. Tout bâtiment de surface, participant en haute mer à la protection de la navigation commerciale conformément à l'Arrangement de Nyon, qui serait témoin d'une attaque menée dans les conditions énoncées au paragraphe précédent, doit:

a) Si l'attaque est effectuée par un aéronef, ouvrir le feu sur celui-ci;

b) Si l'attaque est effectuée par un bâtiment de surface, intervenir dans la mesure de ses moyens pour s'y opposer, en faisant éventuellement appel au renfort qu'il aurait à sa portée.

Dans leurs eaux territoriales, les Puissances participantes, chacune en ce qui la concerne, régleront la conduite à tenir par leurs propres bâtiments de guerre, dans l'esprit du présent Accord.

## AGREEMENT SUPPLEMENTARY TO THE NYON ARRANGEMENT

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Whereas under the Arrangement signed at Nyon on the 14th September, 1937, whereby certain collective measures were agreed upon relating to piratical acts by submarines in the Mediterranean, the Participating Powers reserved the possibility of taking further collective measures; and

Whereas it is now considered expedient that such measures should be taken against similar acts by surface vessels and aircraft;

In view thereof, the undersigned, being authorised to this effect by their respective Governments, have met in conference at Geneva on the seventeenth day of September and have agreed upon the following provisions which shall enter immediately into force:

I. The present Agreement is supplementary to the Nyon Arrangement and shall be regarded as an integral part thereof.

II. The present Agreement applies to any attack by a surface vessel or an aircraft upon any merchant vessel in the Mediterranean not belonging to either of the conflicting Spanish parties, when such attack is accompanied by a violation of the humanitarian principles embodied in the rules of international law with regard to warfare at sea, which are referred to in Part IV of the Treaty of London of April 22nd, 1930, and confirmed in the Protocol signed in London on November 6th, 1936.

III. Any surface war vessel, engaged in the protection of merchant shipping in conformity with the Nyon Arrangement, which witnesses an attack of the kind referred to in the preceding paragraph shall:

(a) If the attack is committed by an aircraft, open fire on the aircraft;

(b) If the attack is committed by a surface vessel, intervene to resist it within the limits of its powers, summoning assistance if such is available and necessary.

In territorial waters each of the Participating Powers concerned will give instructions as to the action to be taken by its own war vessels in the spirit of the present Agreement.

FAIT À GENÈVE ce dix-sept septembre      DONE AT GENEVA this seventeenth  
mil neuf cent trente-sept, en langues      day of September 1937, in the English  
française et anglaise, les deux textes      and French languages, both texts being  
faisant également foi, en un seul exem-      equally authentic, in a single copy which  
plaire qui sera déposé dans les archives      will be deposited in the archives of the  
du Secrétariat de la Société des Nations.      Secretariat of the League of Nations.

ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD.  
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.

Anthony EDEN

BULGARIE. — BULGARIA.

G. KIOSSÉIVANOFF  
N. MOMTCHILOFF

ÉGYPTE. — EGYPT.

Wacyf BOUTROS-GHALI  
H. AFIFI

FRANCE.

Yvon DELBOS

GRÈCE. — GREECE.

N. MAVROUDIS  
N. POLITIS  
S. POLYCHRONIADIS

ROUMANIE. — RUMANIA.

Victor ANTONESCO

TURQUIE. — TURKEY.

Dr. R. ARAS

UNION DES RÉPUBLIQUES SOVIÉTIQUES SOCIALISTES.  
UNION OF SOVIET SOCIALIST REPUBLICS.

Maxime LITVINOFF

YUGOSLAVIE. — YUGOSLAVIA.

Bojidar POURITCH

---

Geneva, November 18th, 1937.

**LEAGUE OF NATIONS**

**COMMISSION OF ENQUIRY FOR EUROPEAN UNION**

**MINUTES**

OF THE

**SEVENTH SESSION OF THE COMMISSION**

**Held at Geneva on Friday, October 1st, 1937.**

**PUBLIC MEETING.**

*Held on Friday, October 1st, 1937, at 10.30 a.m.*

*Chairman:* His Excellency M. Edouard HERRIOT (France).

**Renewal by the Assembly of the Mandate of the Commission.**

The CHAIRMAN said that the Assembly had, on the previous day, renewed the mandate of the Commission of Enquiry for European Union.<sup>1</sup> After the vote in the Assembly, M. Politis had asked that effect should be given to the resolution and the Commission of Enquiry convened. That was the reason for the present meeting.

**Election of the Bureau of the Commission.**

On the proposal of M. HOLSTI (Finland), the Bureau was re-elected, without change, as follows : *Chairman:* M. HERRIOT (France); *Vice-Chairmen:* M. MOTTA (Switzerland) and M. POLITIS (Greece).

The CHAIRMAN explained that the object of the present meeting was to decide when the Commission should meet and what its agenda should be.

**Future Work of the Commission : General Discussion : Adoption of a Resolution.**

M. POLYCHRONIADIS (Greece) said that M. Politis had asked him to apologise for his unavoidable absence and to explain to the Commission the purport of the suggestion which he had made in the Assembly the previous day, urging that the Commission should meet in the near future.

The Hellenic Government was as firmly convinced as before that the consolidation of peace in Europe called for methodical, continuous and loyal co-operation between all the States of Europe. The promotion of a European Union could best be served by facilitating and developing such co-operation. The events which were taking place in the Far East had brought home to everyone more forcefully than ever the necessity of bringing into operation that solidarity — still latent — which did exist between the European peoples, whether or not they were willing to admit it.

European co-operation constituted the binding factor in the consolidation of peace and had to be extended gradually to every sphere. For the time being, the Commission might venture to explore the intellectual and the economic spheres.

In the intellectual sphere, the material was ready to hand. The admirable work of the International Institute of Intellectual Co-operation was already bearing fruit. The Commission would have no lack of subjects from which to choose, under the wise guidance of the Chairman, who was one of the great artisans of intellectual co-operation.

<sup>1</sup> See verbatim record of the tenth plenary meeting of the Assembly.

In the economic sphere, ideas had progressed a little since the Anglo-Franco-American Tripartite Agreement of 1936. Efforts might usefully be concentrated at present on one particular point — namely, the improvement of Customs facilities with the object of increasing the volume of trade. The Commission might do well to institute an enquiry into that problem.

COUNT CARTON DE WIART (Belgium) said that the Chairman had put three questions to the Commission : first, whether it was desirable to hold a meeting of the Commission of Enquiry for European Union, secondly, on what date it would be convenient to hold such a meeting, and lastly, what subjects could appropriately be placed on its agenda.

The reply to the first two questions depended on the reply to the third, as it would be no use deciding to hold a meeting, still less to fix a date, if it was not known what the agenda was to be. The important point therefore was to determine what subjects could usefully be discussed.

The representative of Greece had just made several suggestions concerning which further enlightenment was desirable. He had mentioned the intellectual and economic spheres, and had said that in the intellectual sphere certain questions already dealt with by the Intellectual Co-operation Organisation might be discussed at the proposed meeting of the Commission of Enquiry for European Union. M. Herriot was better qualified than anyone else to say whether certain intellectual subjects could, in his opinion, usefully be included in the programme of European Union for 1938, and whether they would be sufficiently advanced and sufficiently ripe to permit of a satisfactory discussion. In the economic sphere, the representative of Greece had been more definite. He had suggested the possibility of a discussion on Customs facilities to promote trade between European countries. But were not other League organs already dealing with that very problem ? It would be bad policy for the Commission of Enquiry to take up a question such as that when other League organs were already dealing with it.

M. LITVINOFF (Union of Soviet Socialist Republics) said he had suggested the convocation of this Commission in the Assembly last year<sup>1</sup> and was consequently very grateful to the Chairman for having provided an opportunity for the present meeting.

It seemed to him that the development of the League of Nations, particularly in the political sphere, would be in the direction of regional agreements. Europe was a region — a very vast one. He did not say that political problems could be removed from the sphere of general international problems, because all continents were concerned with peace ; and recently, indeed, it had been seen how events in Europe had affected the position on the continent of Asia, and *vice versa*. Nevertheless, he believed that in every international problem there might be a special European point of view.

Other continents had their special conferences and pacts, and he did not see why Europe also should not have its conferences, at which there could be discussed the same problems as those that came before the bigger international conferences of the League of Nations or before the Assembly.

Therefore, without fixing special dates for the meeting of the Commission of Enquiry for European Union, M. Litvinoff suggested that the desirability of discussing in that Commission the same problems as came before the Assembly should be expressed in a general way. For that purpose, the Commission could usefully meet at the same time as extraordinary Assemblies, ordinary Assemblies or the Council. It would be able to discuss the views of European nations on certain problems which would later be discussed in the Assembly. It might sometimes be useful for the Commission to meet outside Geneva.

M. Litvinoff thought a certain amount of discretion should be left to the Chairman, and merely expressed the general view that the Commission should meet simultaneously with the Assembly of the League of Nations.

M. PAUL-BONCOUR (France), without going to the paradoxical length of saying that the Commission of Enquiry for European Union ought to meet even if it had nothing on its agenda, suggested that by the mere fact of meeting now, the Commission was asserting its existence and its continuity, a matter to which the greatest importance attached. The work of Briand had not been entirely set aside.

It had been argued quite rightly that, at a time when other continents had adopted the habit of holding conferences and exchanging views, either for the purpose of dealing with problems peculiar to themselves or with the object, if possible, of arriving at a common attitude towards world problems, Europe itself had something to say also.

As regards the agenda of the meeting, no question should, *a priori*, be excluded which circumstances might make it necessary to examine.

The representative of Belgium had said, very truly, that there must be no overlapping, still less any contradiction, between the work of the Commission of Enquiry for European Union and that of the League organs. But the suggestion was not that the Commission should take the place of any League organ. On the contrary, the Commission ought to be thoroughly imbued with the League atmosphere. It should provide an opportunity of discussing at special meetings, limited to the continent of Europe, the very problems which would subsequently be examined by the League.

<sup>1</sup> See *Official Journal*, Special Supplement No. 155, page 63.

The CHAIRMAN desired to recall two points which were emphasised in M. Motta's report on the Constitution, Organisation and Procedure of the Commission of Enquiry for European Union (document C.204.M.82.1931.VII).<sup>1</sup> The Commission was asked first to continue its enquiries in association with the non-European Members of the League and with the Governments of non-member European States. It was thus not exclusive in character. It was a study centre, a working centre, and it was intended to be also, if that were possible, a means of *rapprochement*.

Secondly, the Commission was a League organ and all its activities must thus be subordinated to the general activities of the League.

As regards the Commission's agenda, all the speakers had contemplated economic and intellectual questions.

In the intellectual sphere, reverting to Count Carton de Wiart's suggestion, the Chairman proposed that the Commission should include in its agenda the serious question of unemployment among intellectuals. It was surely desirable to see whether Europe could give a lead in the matter. Another idea had been mentioned by the National Committees on Intellectual Co-operation. They had asked for an enquiry with a view to the solution of difficulties which stood in the way of intellectual contacts : currency difficulties which hampered the exchange of books, Customs difficulties, obstacles to the free movement of intellectuals, whether artists or representatives of other forms of intellectual activity.

Those were two questions that the Commission might examine in the intellectual sphere. In the economic sphere, the recent economic report of the Second Committee<sup>2</sup> might reveal questions which could usefully be examined from a European point of view.

M. ZARAŃSKI (Poland) said that the Polish delegation fully endorsed the Chairman's proposals regarding intellectual matters.

In the economic sphere, he too thought that it would be desirable to make an exhaustive study of the suggestions put forward by the Second Committee.

Poland would be happy to co-operate in both those fields as defined by the Chairman of the Commission of Enquiry for European Union.

COUNT CARTON DE WIART (Belgium) said that the idea of a discussion on unemployment among intellectuals — provided that it was properly prepared and kept within its logical limits — would meet with much sympathy among the delegations, at all events with the Belgian delegation, and that public opinion would regard it favourably ; the question was, of course, one of very wide concern and the suggestion to discuss it might usefully be adopted.

He said that the Inter-Parliamentary Union, of which he was President, had devoted particular attention to the question and discussed it at the Conference recently held in Paris. Valuable material might be obtained from that discussion and from other sources.

M. SOURITZ (Union of Soviet Socialist Republics) considered that useful as it might be to study intellectual co-operation and economic questions, it was impossible to ignore political questions completely, particularly such questions as might permit of the organisation of peace on a sounder basis. He hoped, therefore, that those questions would be included in the agenda of the next session.

M. PAUL-BONCOUR (France) said that he would prefer not to draw up the final agenda at once ; there was the risk of its not proving adequate in the light of future circumstances and possibilities. He suggested, therefore, that the Chairman should ask delegates to lay before the Bureau any questions they might consider suitable for inclusion in the agenda. The Bureau could meet to examine which of those suggestions seemed to it suitable for discussion and thus draw up a programme which would certainly be conceived on a wider basis than any that could be framed at the present meeting and would be more in keeping with the circumstances of the moment.

M. LANGE (Norway) warmly supported M. Paul-Boncour's suggestion. The Commission should give its Bureau full latitude in deciding what questions could be studied. The Commission, moreover, could not do useful work unless it regarded itself as a preparatory organ for the discussions of the League of Nations in general. At the present moment, the various problems awaiting solution were none of them limited to any one continent. But the procedure by which, in any country, the solution of local problems was left to the municipalities might serve as a model for questions that called for international solution.

The CHAIRMAN thought he would be interpreting the views of members of the Commission if he proposed the adoption of the following resolution :

“ The Commission of Enquiry for European Union decides :

“ (1) To place on the agenda of its next session, the question of unemployment among intellectuals and the material obstacles which stand in the way of contacts between intellectuals ;

<sup>1</sup> See *Official Journal*, May 1931, page 764.

<sup>2</sup> Document A.72.1937.II.B.

“ (2) To consider, from the European standpoint, the programme of work drawn up by the Second Committee of the eighteenth Assembly, with a view to suggestions being submitted to the said Committee ;

“ (3) To collect such suggestions as may be submitted by the various delegations for consideration at the next session.”

Mr. ELLIOT (United Kingdom) said he had listened with great interest to the discussion, which was a very important one ; but he had interpreted the suggestions of Count Carton de Wiart and M. Lange in a slightly different form. He understood the suggestion to be that, after the present discussion, delegates should send to the Bureau suggestions for the subsequent meeting, but that no decision should be taken at the present meeting concerning the very interesting suggestions that had been made.

He did not think the Commission should here and now inscribe on its agenda the two questions that had been suggested — namely, unemployment among intellectuals and the obstacles which prevented contact between artists. Was there not a danger that, if the Commission of Enquiry for European Union came to the conclusion that these were the two great questions before Europe which should be considered before any others, it might seem not to have risen to the full dignity either of the occasion or of the name of the great continent of Europe ?

He would not like it to be announced that the Commission, meeting for the first time after five years, had decided that the two questions which must be discussed immediately were unemployment among intellectuals and the free movement of artists. He therefore suggested that the Commission should wait until the questions had been collected and should not at the moment place on its agenda any specific subjects.

Count CARTON DE WIART (Belgium) shared, at all events to some extent, some of the apprehensions which had just been voiced by the United Kingdom representative. He suggested that the Commission should leave it to the Bureau to draw up the agenda, asking the Bureau at the same time to consider the suggestions which had been made concerning various specific questions. That might be a way of reconciling the different points of view which had been put forward.

Mlle. VACARESCO (Roumania) said that the Roumanian Government was very much concerned about the question of unemployment among intellectuals. There was such a thing as a European spirit — a spirit with which, indeed, all the other continents were associated — and that was what must be saved. Accordingly, she approved the suggestion to place on the Commission's agenda the question of unemployment among intellectuals.

M. LANGE (Norway) and M. PAUL-BONCOUR (France), reverting to Count Carton de Wiart's suggestion, proposed the adoption of the following resolution :

“ The Commission requests its Bureau to draw up, in agreement with the Secretariat of the League of Nations, an agenda for its next session, with a view to the discussion of questions which are of special interest to Europe. In this connection, it invites its members to forward to the Bureau such suggestions as they may think fit to submit.”

*The resolution was adopted.*

#### **Question of the Date of the Next Session.**

After a discussion in which M. LANGE (Norway), M. MUNCH (Denmark) and Mr. ELLIOT (United Kingdom) took part, *the Commission decided* that it should be convened either before a meeting of the Council or before the ordinary session of the Assembly, according to the work to be done on the basis of proposals that might be submitted and after the Governments Members of the Commission had been consulted.

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LEAGUE OF NATIONS

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*League of Nations Publications*

VII. POLITICAL

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[Communicated to the Assembly, the Council and the Members of the League.]

[Also distributed as Special Supplement No. 180 to the *Official Journal*.]

Official No. A. 7. 1938.VII.  
Geneva, February 22nd, 1938.

LEAGUE OF NATIONS

REPORT

of the

SPECIAL COMMITTEE SET UP TO STUDY  
THE APPLICATION OF THE PRINCIPLES  
OF THE COVENANT

Adopted by the Committee on February 2nd, 1938.

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## REPORT.

Geneva, February 1st, 1938.

The Special Committee has the honour to submit to the Assembly of the League the following progress report :

The Committee, which was set up by the Assembly resolution of October 10th, 1936, held its first session from December 14th to 17th of that year, in order to determine its method of work.

Having elected its Chairman (M. Bourquin, delegate of Belgium), it drew up a list of the principal questions raised in the Government communications and declarations.<sup>1</sup> The Committee instructed a number of rapporteurs to make an objective analysis of the problems to be examined.

These problems are : the Question of Universality (participation of all States in the League, co-operation with non-member States, co-ordination of the Covenant of the League with the Pact of Paris and with the Treaty signed at Rio de Janeiro on October 10th, 1933, on the initiative of the Argentine, regional or continental organisation of the League) ; the Question of Methods which might be employed with a View to the Application of the Principles of the Covenant (amendments to the Covenant, accessory agreements, interpretative resolutions, etc.) ; Questions relating to the Internal Organisation of the League (Articles 1, 3, 4 and 7 of the Covenant) ; Article 10 ; Article 11 ; Questions relating to the Pacific Settlement of Disputes (Articles 12, 13, 14 and 15 of the Covenant) ; Article 16 (general obligations, regional pacts of mutual assistance) ; Article 19 ; the Problem of the Separation of the Covenant from the Peace Treaties.

For each of these questions, the Secretariat was requested to collect the necessary documentation, in the form of objective memoranda.

On May 31st, 1937, the rapporteurs held an unofficial exchange of views, under the chairmanship of M. Bourquin. They examined the situation as regards both the presentation of the documentation supplied by the Secretariat and the preparation of their own reports. It became clear from this examination that the Committee would have before it, before the end of August, a sufficient number of reports<sup>2</sup> for a meeting to be held on September 10th, on the eve of the ordinary session of the Assembly.

This second session of the Committee, which ended on September 30th, 1937, produced the following results :

(1) The framing by a Committee of Jurists, under the chairmanship of M. Gorgé (Switzerland), of concrete proposals concerning the problem of the separation of the Covenant from the Peace Treaties. These proposals were submitted to Governments for their observations.<sup>3</sup>

(2) The approval of a draft resolution submitted by the Argentine delegation, declaring that in the event of war, or a threat of war, the League of Nations, while not delaying for that purpose its own action in virtue of the Covenant, shall take suitable steps and shall establish such contacts as may appear to be necessary to associate in its efforts for the maintenance of peace those States which are not members of the League, but are mutually bound by the Pact of Paris of August 27th, 1928, and the Treaty signed at Rio de Janeiro on October 10th, 1933, on the initiative of the Argentine. This draft resolution was adopted by the Assembly on October 4th.

(3) The approval, as the result of a proposal of the Chilian delegation, of a draft resolution declaring that the Committee would be glad to know the observations and suggestions which the non-member States and the States that have announced their withdrawal from the League might think fit to make, in order to assist it in its studies. The Assembly, on the Committee's proposal, requested the Council to examine the conditions in which such information should be obtained, as and when opportunity offers, in order to be placed at the Committee's disposal.

The third session of the Committee was held from January 31st to February 2nd, 1938. It was devoted to a preliminary examination of Lord Cranborne's report on the participation of all States in the League of Nations.

Important declarations were made at this session, both from the point of view of the future policy of the League of Nations and as regards the interpretation and present working of the Covenant. They are reproduced in the Minutes annexed to the present report.<sup>4</sup>

The reports which were submitted to the Committee by the different rapporteurs and which have already been communicated for information to Members of the League, are annexed to the present report.<sup>5</sup>

The Committee directs the particular attention of Members of the League to the reports and Minutes attached to this report.

<sup>1</sup> See, in this connection, *Official Journal*, Special Supplement No. 154, which, in addition to the texts of Government communications, contains a methodical study, prepared by the Secretariat, of the proposals submitted and the statements made by the Members of the League.

<sup>2</sup> These reports have been distributed to Members of the League and have been made public (See Annexes 2 to 10, pages 41 to 123).

<sup>3</sup> See document C.494.M.335.1937.VII.

<sup>4</sup> See Annex 1, page 6.

<sup>5</sup> See Annexes 2 to 10, pages 41 to 123.

ANNEX 1.

MINUTES OF THE THIRD SESSION OF THE SPECIAL COMMITTEE SET UP  
TO STUDY THE APPLICATION OF THE PRINCIPLES OF THE COVENANT.

(Geneva, January 31st to February 2nd, 1938.)

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LIST OF MEMBERS OF THE COMMITTEE ATTENDING THE SESSION.

*Chairman* : Professor BOURQUIN (Belgium).

- Argentine Republic* : His Excellency M. José María CANTILLO ;  
His Excellency M. Enrique Ruíz GUIÑAZÚ ;  
M. Carlos PARDO.
- Austria* : His Excellency M. Emerich PFLÜGL.
- Belgium* : His Excellency M. F. VAN LANGENHOVE.
- Bolivia* : His Excellency M. Adolfo COSTA DU RELS ;  
Dr. Alfonso DE QUEREJAZU (substitute).
- United Kingdom of Great  
Britain and Northern  
Ireland* : Viscount CRANBORNE, M.P.
- Bulgaria* : His Excellency M. Nicolas MOMTCHILOFF ;  
M. Evguèni SILIANOFF (substitute).
- Canada* : M. Hume WRONG.
- Chile* : His Excellency M. Jorge VALDÉS-MENDEVILLE ;  
His Excellency M. Fernando GARCÍA-OLDINI ;  
M. Enrique J. GAJARDO V. (substitute and secretary-general).
- China* : His Excellency Dr. V. K. Wellington Koo ;  
His Excellency Dr. V. Hoo Chi-tsai.
- Colombia* : Professor J. M. YEPES.
- Czechoslovakia* : His Excellency M. Štefan OSUSKÝ ;  
M. Arnošt HEIDRICH.

|  |  |
|--|--|
| <i>France :</i>                                  | His Excellency M. J. PAUL-BONCOUR ;<br>M. BASDEVANT (substitute) ;<br>M. LAGARDE (substitute). |
| <i>Greece :</i>                                  | His Excellency M. S. POLYCHRONIADIS.   |
| <i>Iran :</i>                                    | M. Nasrollah ENTEZAM.  |
| <i>Italy :</i>                                   | —  |
| <i>Latvia :</i>                                  | His Excellency M. Jules FELDMANS.  |
| <i>Mexico :</i>                                  | His Excellency M. Isidro FABELA.   |
| <i>Netherlands :</i>                             | His Excellency Professor V. H. RUTGERS ;<br>Jonkheer O. REUCHLIN.                              |
| <i>New Zealand :</i>                             | Mr. William Joseph JORDAN.   |
| <i>Poland :</i>                                  | His Excellency M. Tytus KOMARNICKI ;<br>M. Tadeusz GWIAZDOWSKI ;<br>M. Władysław KULSKI.       |
| <i>Portugal :</i>                                | Dr. Luiz ESTEVES FERNANDES.  |
| <i>Roumania :</i>                                | His Excellency M. V. V. PELLA ;<br>His Excellency M. Georges CRUTZESCO.                        |
| <i>Spain :</i>                                   | His Excellency M. Julio ALVAREZ DEL VAYO.  |
| <i>Sweden :</i>                                  | His Excellency M. B. Östen UNDÉN.<br>His Excellency M. K. I. WESTMAN.                          |
| <i>Switzerland :</i>                             | M. Camille GORGÉ.  |
| <i>Turkey :</i>                                  | His Excellency M. Necmeddin SADAK.   |
| <i>Union of Soviet Socialist<br/>Republics :</i> | M. Maxime LITVINOFF ;<br>M. Boris STEIN.   |
| <i>Uruguay :</i>                                 | —  |

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FIRST MEETING.

*Held on Monday, January 31st, 1938, at 10.30 a.m.*

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*Chairman : M. BOURQUIN (Belgium).*

**Opening of the Session.**

The CHAIRMAN.—The Committee will recall that, when we separated at the end of September 1937, we decided to devote the present session to an examination of Lord Cranborne's report on the participation of all States in the League of Nations.<sup>1</sup> Together with its many other merits, this report has the great advantage of approaching the problem before us in its widest aspect. It raises also a certain number of special and more specific and detailed questions ; but above all it deals with a general conception of the League of Nations, and I think that the Committee will agree that our exchange of views to-day should be confined to these general and, in a sense, preliminary considerations.

Since our last session, the international situation has developed rapidly. Preoccupations have become accentuated and will undoubtedly find an echo in our debates. I hope that the discussion which I am now about to open will provide an opportunity for the frankest expression of these preoccupations, in an atmosphere of confidence and mutual comprehension such as has always prevailed among us.

Before calling on the first speaker, I have to announce that our colleague, M. Guani, has informed me that he is prevented by illness from attending this session. I hope that his indisposition is not serious, and I desire on behalf of all present to convey to him our best wishes for a speedy recovery.

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<sup>1</sup> Document C.367.M.249.1937.VII (C.S.P.20) (See Annex 2, page 41).

## Participation of All States in the League of Nations: Report by Viscount Cranborne.<sup>1</sup> General Discussion.

M. UNDÉN (Sweden).—I wish in the first place to pay a tribute to Lord Cranborne for the frank, clear and definite way in which, in his report, he has dealt with one of the most important problems now before the League of Nations. He has indicated and set forth the various points of view which we shall have to consider and the relative importance of which we shall have to assess in connection with the question of achieving the universality of the League of Nations. Lord Cranborne's report constitutes a most useful basis for the discussion which, sooner or later, was bound to take place, not only between Members of the League, but also between them and States which do not at present belong to this institution.

During the present meeting of the Committee of Twenty-eight, we shall certainly not find it possible to deal thoroughly with all the problems that arise. Political conditions at the present time are uncertain and obscure, and no one can say positively whether the League of Nations will be in a position to take the initiative and proceed to establish the contacts which are necessary, in order to achieve, in a wider measure than at present, that universality which is one of the aims towards which the League of Nations must direct its efforts.

In the Swedish Government's opinion, the question of universality is closely bound up with that of collective security. That is why I have asked permission to speak and set forth the Swedish Government's views on the subject.

At the beginning of his report, the Rapporteur says that there are three different ways in which a community of nations organised for the purpose of achieving peace can be envisaged.<sup>2</sup> In the first place, there is what may be called the "coercive" League. Such a League is based upon the idea that its Members are in certain circumstances obliged to impose sanctions of one kind or another. The present League is of this type. The second kind of organisation is a League of the opposite type—that is to say, "non-coercive" in character. Its Members have not accepted any obligation other than the obligation to consult one another in the event of a Member violating the rules of the League. Between those two, there is a third kind of League, which the Rapporteur describes as "intermediate". Such a League would be based on the idea that, on the one hand, the Members do not in advance accept any obligation to impose sanctions but, on the other, do not renounce the right to participate in such a measure, should this prove necessary.

The Rapporteur then defines this intermediate type of League in the following terms: "The Members of such a League, while not being obliged to use coercion (save perhaps if all were agreed upon it, other than the disputants), would obtain the right to use it as between themselves and other Members in certain specified circumstances. One of the legal effects of giving such a faculty would be that no member which had violated the Covenant could, as a matter of juridical right, complain of the use of force against it by other members, or require of these the observance of the rules of neutrality in the dispute involved. In such a League, provision might also be made whereby each member would define for itself the circumstances, if any, in which it would be prepared to bind itself to take coercive measures."

It is clear from the Rapporteur's statement that the realisation of a League of this kind can be considered in various ways; the Rapporteur has not expressed his opinion in detail on the various possibilities which may present themselves in the matter.

There is no doubt that the League of Nations, as defined by the provisions of the Covenant, possesses the characteristics of a "coercive" League.

The Covenant is based on the idea that peace cannot be ensured merely by promises of non-aggression and by arbitration and conciliation agreements. Article 11 and Article 16 are both based on the conception of a League of Nations capable of intervening, not merely through mediation or through the adoption of resolutions and protests, but possibly—if this cannot be avoided—by measures so serious that an aggressive State would expose itself to undue risks if it endeavoured to achieve its aims by force. Seeing that the League does not possess an international military force, it follows that any effective means of intervention it may possess in the event of war or threat of war depend entirely on the solidarity of its Members, a solidarity which the Covenant has made a legal obligation.

I am convinced that the ideas which are at the basis of the Covenant are sound in themselves. A League of Nations cannot in the long run maintain its cohesion or influence international politics if it renounces in principle all means of pressure other than those of a moral character. An organisation of States which make respect for peace a fundamental principle of international law cannot regard the violation of that principle with indulgence without exposing itself to the peril of gradual disintegration. It is a sociological fact that violations of law against which action is not taken, in the last resort, by coercive measures lead rapidly to further violations and soon cause the principles of law to lose their influence over men's minds.

Nevertheless, it should be realised that the idea of collective security, however sound it may be, cannot be put in practice unless the League obtains a very wide measure of support from the nations, unless—as is so often said—it achieves universality, this expression being taken in a relative sense. It is naturally impossible to indicate in any exact or general way the degree to which the participation of States is indispensable. But no one, I think, will

<sup>1</sup> Document C. 367. M. 249. 1937. VII (C.S.P. 20) (See Annex 2, page 41).

<sup>2</sup> Document C. 367. M. 249. 1937. VII (C.S.P. 20) (See Annex 2, page 42).



dispute the fact that a League of Nations which is very restricted in membership is incapable of functioning in accordance with the letter of the provisions of the Covenant.

Further, the question must be asked—the Rapporteur has already asked it—whether factors other than the number of Members do not in reality influence the League's possibilities of carrying out coercive measures. It is indeed possible that, even if a large number of States belonged to the League, economic and financial sanctions might, in view of the resources of the aggressor, prove ineffective, since its geographical situation or other circumstances might enable it to offer a lengthy resistance. Nor can we ignore the fact that, in a given case, economic and financial sanctions may, by reason of the general political and economic situation of the world, appear to be inexpedient. The Covenant of the League does not take expressly into account any of the circumstances to which I have just alluded or other situations which are of obvious importance. Read literally, Article 16 imposes on each Member the duty of applying economic sanctions to the aggressor as soon as war has broken out. But this system has never operated in practice. During the history of the League, many acts of aggression and of war have occurred with which the League has had to deal. But Article 16 has been applied on one occasion only—and then in an incomplete and hesitating fashion.

The experience of recent years is of particular interest. This period has included the Manchurian dispute, the Chaco war, the Italo-Ethiopian war, the conflict in Spain and the war in the Far East. I shall not attempt to indicate the reasons or the circumstances which led the Members of the League in each of these cases to adopt an attitude of reserve. I shall confine myself to pointing out that the smaller States—often regarded as timid and hesitating in the matter of the application of sanctions—cannot rightly be held responsible for the failure of the League. On the contrary, it is rather the States which in theory uphold Article 16 most strongly that have raised objections to the application and continuance of economic sanctions during these years. I desire to add in passing that I am not offering any criticism and that I do not at present wish in any way to open a discussion with a view to fixing responsibility; what I desire is more particularly to point out that, when judging the attitude adopted by the different States in the matter of sanctions, account must be taken, not only of the declarations made during the discussion, but above all of the acts of those States.

I am convinced that many, if not all, Governments in the League are of opinion that, in practice, the provisions of Article 16 cannot at present be applied in their entirety. No State represented here could dispute the facts or contend that the League has not failed to apply sanctions during the last few years in several cases in which, under the Covenant, sanctions were compulsory. I cannot, of course, indicate the reasons which my colleagues, each for his own part, might wish to adduce to explain the attitude of their respective Governments. Probably, those reasons would vary considerably. As representative of the Swedish Government, I would define the situation in this way: following on the experience of recent years, in view of the weakening of the League and the general political situation, League Members have been obliged to recognise that the system of sanctions does not operate in an obligatory and automatic fashion. To anyone who does not share this view and who is prepared to state that economic sanctions continue to be obligatory and automatic, I would venture to point out that by adopting that attitude he is criticising his own Government for having failed to carry out its obligations. If I may be allowed to put the question, is there, for example, a single State amongst us which, in accordance with the provisions of Article 16, is applying sanctions in the conflict now taking place in the Far East?

I am forced to admit that, for the time being, the system of sanctions is in fact suspended. In their speeches, both before the organs of the League and outside it, many statesmen have shown that they are perfectly well aware of the facts. In this connection, I would refer to the passage in the speech made by M. Delbos in the last Assembly,<sup>1</sup> in which he stated that it would for the moment be illusory to believe that the means of action that we have permitted to grow weak are immediately and fully utilisable.

The same idea was expressed in another form in the *communiqué* issued on July 1st, 1936,<sup>2</sup> by the Foreign Ministers of seven States, including Sweden, just before the cessation of the sanctions applied against Italy. This *communiqué* contains the following statement: "Though not forgetting that rules for the application of Article 16 were adopted in 1921,<sup>3</sup> we would place it on record that, so long as the Covenant as a whole is applied only incompletely and inconsistently, we are obliged to bear that fact in mind in connection with the application of Article 16."

However regrettable we may find the development that has taken place, it cannot in any case be denied that it has taken place. In view of the fact that the League refrains from intervening, in accordance with the methods laid down in the Covenant, in existing disputes, it is useless to close our eyes to the fact that this failure is the result of confronting the formal provisions of the Covenant with the realities of the present time. In my opinion, we cannot but recognise openly that, for reasons which are well known, the League is not capable of carrying out the programme of the Covenant in its entirety.

The conclusion to be drawn from this consideration is that, in practice, the League no longer possesses the characteristics of a coercive League corresponding to the provisions of Article 16 of the Covenant. By the force of events, without any amendment of the Covenant,

<sup>1</sup> See *Official Journal*, Special Supplement No. 169, page 60.

<sup>2</sup> See *Official Journal*, Special Supplement No. 154, page 19.

<sup>3</sup> See *Official Journal*, Special Supplement No. 6, page 24.

a practice has become established whereby Members of the League do not consider themselves bound to take coercive action against an aggressor State. It follows, therefore, that, at the present time, the League should be described as a League of the intermediate type, to borrow the Rapporteur's expression.

The Swedish Parliament considered it only fair to the League that Sweden's attitude towards it, as I have just defined it, should be explained to an organ of the League. My Government therefore instructed me to state with complete frankness the manner in which it interprets its obligations towards the League. What is important is that it should be recognised as a loyal and a legitimate interpretation of the fact that changed conditions have made it impossible for the League at the present time to act in conformity with the letter of the provisions of the Covenant.

I should like to add that the remark I have just made regarding the application of the Covenant does not imply the abandonment of the idea of collective security for the future. It does not even necessarily mean that at the present time the League renounces the possibility of intervening effectively in the case of a conflict, through a spontaneously established collaboration between the Members of the League, a collaboration which might, in certain circumstances, be extended to non-member countries.

It may possibly be objected that a finding of this kind would mean a further weakening of the Covenant and of the League. But the League is not weakened by the recognition of the actual fact of its weakness. It is weakened rather by affording to the peoples of the world repeated opportunities for remarking the difference between theory and practice. By maintaining in the present situation—which I should personally like to describe as a transition period—the fiction of a system of automatic and obligatory sanctions, we do not bring about the realisation of such a system. On the contrary, there is a danger that the League may be reproached with failing in its undertakings towards its Members, and that, on the other hand, the Members may be reproached with failing in their undertakings towards the League. Such a result would inevitably impair the political and moral authority of the League, and should be avoided.

M. GORGÉ (Switzerland).—Lord Cranborne's report on the question of universality has been greeted with a general chorus of praise, in which we are happy to join. His memorandum, which constitutes a searching and objective analysis of the problem, brings out all its essential aspects; none are left in obscurity, so that this report serves for our Committee as a basis of discussion which could scarcely be bettered.

Its one, and probably its only, fault is that it has come somewhat too late. For that, however, its author is in no way to blame. Had his report been discussed without undue delay, our discussions might perhaps have been more fruitful than can now be expected. The reason is that, in the meantime, universality has received a further setback, the gravity of which it would be idle to conceal. As M. Spaak said in the Council a few days ago,<sup>1</sup> something is wrong, and it is to be feared that any remedies that we might still devise will have lost some of their healing properties in consequence of the delays which we have not been alone in deploring.

But though Lord Cranborne's report deals with a problem the practical significance of which has inevitably been lessened by recent events, it nevertheless raises certain issues the immediate importance of which is beyond question. Starting rightly from the idea that the problem of universality is governed by the character with which it is desired that the League should be invested, Lord Cranborne leaves us to choose between three possibilities: a coercive League, a non-coercive League, and an intermediate League—that is to say, one in which the coercive system would be optional only. He thus raises from the very outset the issue of Article 16 of the Covenant—which is also the subject of a special report by our Netherlands colleague, M. Rutgers.<sup>2</sup>

Article 16 has thus become the pivot on which the whole reform of the Covenant would appear to turn, and it is therefore only natural that certain States should have felt obliged to give the question close consideration. That such a discussion is a delicate matter we do not deny. It might easily run counter to legitimate convictions or generous aspirations. In Switzerland, contrary to certain reports, we are anxious to avoid any action which might unnecessarily increase the League's difficulties, which are already sufficiently serious; but in a discussion on a problem like that of sanctions we cannot remain silent. It is one of the items on our agenda; Sweden, more particularly, announced her intention of stating her views. Such being the case, how could Switzerland have pleaded her special position in order to evade, for tactical reasons, discussion on a matter so closely touching the general interests of the League as well as her own vital interests? Public opinion in Switzerland would never have understood such an attitude.

After the statements made to the National Council on December 22nd, 1937, by M. Motta, the Head of our Department for Foreign Affairs, it may be thought in certain quarters that the time has come for Switzerland to define her position, as a neutral State, in regard to the League of Nations. This, however, is neither the time nor the place for dealing with the matter. This Committee is not competent to consider the special position of a country like Switzerland within the League of Nations. The matter does not fall within its terms of reference. By the Assembly's resolution of October 10th, 1936, it was instructed "to study all the proposals which have been, or may be, made by Governments regarding the application of the principles of the Covenant and the problems connected therewith". Its sole duty, therefore, is to consider how the League's fundamental charter may be improved; it has no power to study certain special positions which are only indirectly connected with the League's reform.

<sup>1</sup> See Minutes of the second meeting of the one-hundredth session of the Council.

<sup>2</sup> Document C.363.M.245.1937.VII (C.S.P.12) (See Annex 9, page 113).

Such being the case, I have not, nor could I have, any authority to make a statement in this Committee regarding Swiss neutrality as such, or regarding our belief that, in a weakened League, we have no choice but to recover that full neutrality from which we only departed in 1920 in the hope that the League would become truly universal. In his statement to Parliament on behalf of the Government of the Confederation, M. Motta has already said all that we had to say on the subject for the present. It is not for me to go into the matter now; we shall take an early opportunity of bringing it to the notice either of the Council or of the Assembly. In due course, my Government will transmit to one or other of these bodies a memorandum setting out the major considerations which now compel Switzerland to revert to full neutrality. The League will weigh those considerations and take a decision.

In this Committee, my task is more limited; it is solely concerned with one aspect of our neutrality within the League of Nations—the problem of sanctions.

When the States Members of the League were invited to make known their views on the reform of the Covenant, the Federal Council, in a letter<sup>1</sup> to the Secretary-General of September 4th, 1936, which was most sympathetically received throughout Switzerland, stated the objections which, in its view, attached to the maintenance of sanctions. Its communication was so explicit that I am sure the Committee will bear with me if I read some of its more important passages:

“ It would be a mistake ”, so it was stated in the letter, “ to suppose that an inadequate membership could be counterbalanced by the coercive powers provided by the Covenant. The sanctions instituted by Article 16 have given rise to objections in many countries, and to objections that were perfectly justified. They have been applied in some cases and not in others; and there are clear cases in which they never could be applied. Hence they create inequalities that are only too marked. Although the obligations assumed by each party are theoretically identical, their effects differ greatly according to whether they apply to a great Power or to a country with more limited resources. It seems to us essential that a fairer balance should be established between the risks incurred by the former and by the latter. For a small country, the application of Article 16 may be a matter of life or death.

“ If ”, the Federal Council went on to say, “ notwithstanding the criticisms which it incurs, Article 16 should be retained substantially in its present form, or if the risks it involves should be made still greater, Switzerland would be obliged to call attention once again to her peculiar position, which the Council of the League, in the Declaration of London of February 13th, 1920,<sup>2</sup> described as unique. The Federal Council must in any case point out ”—and it confirmed the declarations made by M. Motta at Geneva on October 10th, 1935,<sup>3</sup> in connection with the Italo-Ethiopian dispute—“ once more that Switzerland cannot be held to sanctions which, in their nature and through their effects, would seriously endanger her neutrality. That perpetual neutrality is established by age-old tradition, and all Europe joined in recognising its unquestionable advantages over a hundred years ago.”

To these pronouncements may be added another—that of July 1st, 1936<sup>4</sup>—which Switzerland made jointly with the so-called “ unallied States ”, in which we made it clear that we could not regard Article 16 as obligatory “ so long as the Covenant as a whole is applied only incompletely and inconsistently ”.

I have thought it well to recall these pronouncements to show that Switzerland's apprehensions in regard to sanctions are not of recent date. I might have quoted others dating from still farther back, and more particularly I might have recalled our efforts, in 1921, to make of Article 16 a weapon which should not defy the laws of practical politics and reason. I have, however, said enough to show that in the matter of sanctions Switzerland has never lost an opportunity of urging moderation. She was undoubtedly defending her own interests, but we do not think that, in denouncing certain illusions engendered by the cult of Article 16, she has done any disservice to the interests of the League itself.

So far, Switzerland had, nevertheless, remained faithful to the principle of sanctions. She could not do otherwise. She had assumed obligations and was bound to abide by them to the extent permitted by her universally recognised neutrality. Now she is in a different position. What she could do in a League which comprised three of her neighbours and which had still some hope of the return of the fourth, she can do no longer—without the most serious danger to her neutrality—in a League from which two great neighbouring Powers have withdrawn and from which, moreover, two other great Powers in more distant parts of the world are absent. In our eyes, these facts are decisive. They deprive differential neutrality of its political and psychological basis. They make the application of Article 16 by Switzerland impossible. As M. Rutgers has pointed out in his analytical report, in a League deprived of the support of four great Powers there was a “ further element of doubt as to the possible efficacy of the sanctions laid down in the Covenant ” and an increase in “ the burden of such sanctions for States which may apply them ”.<sup>5</sup> For Switzerland, that increase would go beyond the sacrifice which we can reasonably make to international solidarity. Our very existence would be at stake.

<sup>1</sup> See *Official Journal*, Special Supplement No. 154, page 28.

<sup>2</sup> See *Official Journal*, March 1920, page 57.

<sup>3</sup> See *Official Journal*, Special Supplement No. 138, page 106.

<sup>4</sup> See *Official Journal*, Special Supplement No. 154, page 19.

<sup>5</sup> Document C.363.M.245.1937.VII (C.S.P.12) (See Annex 9, page 113).

The persistence with which we have fought the battle of universality will perhaps now be more readily understood. It was neither calculating nor doctrinaire. We were thinking, it is true, of the future of the League of Nations, but we were also greatly concerned about the future of our own co-operation in the League's work. The people of Switzerland only decided to support the League in the hope that, in the end, it would win the adherence of all countries whose aim for civilisation is constructive. Attached as it is to a neutrality which is not selfish but a necessity, and jealous of a political maxim which has freed it from internal strife while reducing external dangers, it could not, now that the League shows disquieting signs of weakness, but revert, as by an instinct of self-preservation, to its traditional neutrality.

Our so-called differential neutrality entailed greater sacrifices than has generally been recognised, but they were counterbalanced by the very existence of a League which was sufficiently compact for universality not to be seriously compromised. There was a certain equilibrium; but to-day that equilibrium no longer exists and we must face the consequences. We have done everything we could to prevent things reaching their present pass. Last September, at the Assembly, our delegation again used its best endeavours to make it easier for these States, whose support, in our opinion, would give an effort at international co-operation like ours its full meaning, to enter, return to or remain in the League. No doubt increased membership might have led us to render more elastic and even—to be frank—to weaken certain articles of the Covenant but, as the Federal Council has pointed out, what the Covenant would have lost in juridical substance it would have gained in moral efficacy. Unfortunately, and to our keen regret, our efforts for universality and those of others were without effect. But we are far from relinquishing that great objective of any real League of Nations. The day perhaps will come—and we should gladly salute its dawning—when universality will again become practicable, but, for the time being, we must resign ourselves to the impossibility of any practical progress.

In the present international situation, no doubt, Article 16 need alarm no one. It has been described as paralysed. As has been pointed out on various occasions, and now again by the Swedish Government, the League has in fact come to be of that intermediate type referred to in Lord Cranborne's report. If such is really the case, Switzerland would be justified in concluding that there is no longer anything to prevent her neutrality recovering its lofty and serene impartiality. For if sanctions are facultative, Switzerland may abstain. A faculty is not binding.

But fact is not everything and fact is not law. Between fact and law doubt may creep in. Even though Article 16 may be without binding force, it is nevertheless still part of the Covenant. Disputes may arise as to its juridical force; and as the Belgian Government said in its note of November 10th, 1936,<sup>1</sup> "it is important that in such a serious matter Governments should know as exactly as possible the extent of their responsibilities and of the outside assistance on which they may count". At present we are in a state of uncertainty. Such uncertainty is unsettling; public opinion is growing anxious. There is a feeling of uneasiness which we should do well to end. The moral authority of the League would thereby be enhanced.

It is for these reasons that we have felt bound to associate ourselves with the initiative of Sweden. We share her concern in this matter and we agree with her as to the facts. Our conclusions are different, but the point of departure is the same. Like the Swedish Government we are convinced that by recognising realities the League will be doing itself a real service. It would be rid of an ambiguity by which inevitably its credit is seriously impaired. "Enlightenment on those points", says M. Rutgers in his report,<sup>2</sup> "would be in the interests of both those who are desirous of strengthening the system laid down in Article 16 and those who wish to restrict its scope". There are, as everyone agrees, limits to what the League can do, and they have been found to be narrower than was thought in the first flush of peace after the horrors of war. It has unfortunately been necessary to compromise with realities. But if this is so, why not clearly define what is reality and what fiction? Is not everything to be gained by disposing of possible causes of dispute?

Need I add that our attitude is not the outcome, as has been insinuated in certain sections of the Press, of some kind of manoeuvre against the League? Our attachment to the League remains unimpaired. It is genuine. In his speech in Parliament on December 22nd, 1937, M. Motta placed that beyond all doubt. He even dwelt with great emphasis on the importance which we attach to remaining in the League whose "symbolic value is as great as ever and proof against all honest criticism". How could it be otherwise? The Swiss people are profoundly peaceful and cherish a deep-seated attachment to the ideal of peace. At Geneva, we were among the earliest pioneers; our contribution to the League's work has certainly been a modest one because—as we never forget—we are a small country; but it has been as active and constructive as it could be. We are glad to think that Switzerland has added its mite to the common fund of the League's achievement. We are resolved loyally to continue our work within this great institution of international co-operation; if it is guided by the right spirit, it may still achieve great things for the welfare and well-being of mankind. What we ask—and all that we ask—is that it should agree to an arrangement which will enable us to

<sup>1</sup> See *Official Journal*, Special Supplement No. 154, page 40.

<sup>2</sup> Document C.363.M.245.1937.VII (C.S.P.12) (See Annex 9, page 114).

co-operate, without jeopardising the very foundations of our national life. We appeal both to your foresight and friendship. Make the League of Nations sufficiently flexible to include those who could no longer shoulder a burden which political developments have made too heavy, sufficiently strong not to recoil before the necessity—however unpalatable—of adapting its ultimate aspirations to its immediate possibilities. The League of Nations, it has been said, has often been one idea behind the times ; may it not be backward now in facing facts.

By recognising that Article 16 is facultative, as indeed it is already, and by acceding to the request of Sweden, supported by other States, the League would no doubt be reducing the generous amplitude of its original conceptions to more modest proportions, but, on the other hand, it would be increasing its chances of consolidating its work. It is that work which must be saved. At the same time, it would enhance the prospects of a successful attempt some time in the future to make of this institution, which was the outcome of the greatest of wars, a universal association in which all countries might co-operate in a spirit of appeasement and joint endeavour for the greater good of peace and mankind. Now more than ever, the League of Nations stands in need of encouragement and support ; let it not discourage those who are genuinely desirous of helping it, of helping it to rebuild, of helping it to attain the magnificent objective of international reconciliation.

The CHAIRMAN.—At the moment of calling upon the next speaker, who is the Netherlands representative, I hear of a happy event which has just occurred in the Royal Family of his country. I should like to assure M. Rutgers that we all share the Dutch people's joy, and to add that, as Belgian delegate, I am particularly glad to be in a position to act as the Committee's spokesman on such an auspicious occasion.

M. RUTGERS (Netherlands).—Mr. Chairman, it would be difficult for me to conceal my emotion on hearing this happy news. The event is of great importance to my country, and I thank you for your kind remarks, and all my colleagues for associating themselves therewith.

I should like to add my congratulations to those which my colleagues have offered to Lord Cranborne for his report on the universality of the League of Nations, which we have all read from beginning to end with the greatest interest. I take the opportunity afforded by the discussion of this report to submit to the Committee a few observations on the obligations imposed on the Members of the League of Nations by Article 16. I have had the honour to prepare a report for the Committee dealing with this question,<sup>1</sup> so that it may be thought that any further observations on my part are unnecessary. But the purpose of the report was not to state the Rapporteur's opinions but to give as objective an account as possible of the position. To-day I can speak more freely and can give my personal opinion, which is—and this is more important—also my Government's.

In my report, I have already enumerated the principal causes which have hampered the development of collective security.

There is, first of all, the lack of universality of the League of Nations. If all the countries of the world were united, it would be comparatively easy to restrain a single refractory State, but the situation becomes entirely different when the united countries are far from representing the universality which is essential to the League of Nations, and when the majority of the States entitled to a permanent seat on the Council are outside the League.

A second point of no less importance is the breakdown of the Disarmament Conference. If there is a breach of the Covenant or an aggression entitling the victim to assistance, the aggressor will in all probability be a strongly armed State. The collective action necessary to implement collective security will in that case be an undertaking which will not only call for heavy sacrifices but will by no means be assured of success.

In the third place, there is the question, which I only mention in passing, of changes in existing conditions, territorial and other, in time of peace.

Fourthly, I mentioned the unfortunate experience we have had of the application of Article 16. It is difficult to say which is the more serious, the non-application of the article in certain cases, or its partial application, doomed to failure, in the only case in which its application was decided upon.

There have sometimes been complaints of the hesitation shown in certain quarters in accepting obligations going beyond those of Article 16, and of the tendency to a restrictive interpretation of this article. But it is not these tendencies which have undermined Article 16 ; it is rather the policy followed in practice by the Powers.

It is chiefly the experience of the Italo-Ethiopian conflict which has been serious for collective security. There could be no doubt as to the applicability of Article 16. The Governments which were in favour of a restrictive interpretation of Article 16 were no less loyal than the others in the application of the article. No one could fail to realise the importance of the case for the future of collective security. On more than one occasion, it was expressly recognised by undoubted authorities, such as the present British Foreign Minister, that this was a test case. Not only the fate of Ethiopia, but the future of collective security was at stake.

What are the conclusions to be drawn from all these facts ? As long ago as July 1st, 1936, the Foreign Ministers of Denmark, Finland, the Netherlands, Norway, Spain, Sweden and Switzerland published a joint declaration, expressly stating that so long as the Covenant as a whole is applied only incompletely and inconsistently, we are obliged to bear that fact in mind

<sup>1</sup> Document C.363.M.245.1937.VII (C.S.P.12) (See Annex 9, page 113).

in connection with the application of Article 16.<sup>1</sup> To-day it may be said that the lesson of the past with regard to Article 16 of the Covenant is as follows: The military sanctions provided for in that article have always been regarded as optional. As regards economic sanctions, which are compulsory according to the letter of the Covenant, the decisions to be taken regarding them will depend in practice not merely on the question whether a *casus fœderis* has arisen, but on a whole series of factors, some of which are mentioned in my report, and which cannot be defined beforehand; one of these factors consists of the political relations existing between the great Powers at the moment in question. Such is the present situation, and I think that we should be doing little service to the cause of collective security by shutting our eyes to this reality. We may say without exaggeration that there has in fact been a tacit, a *de facto*, revision of the Covenant, and that, as a result, the League, which according to the Covenant was a necessarily or compulsorily coercive body, is now nothing more than an optionally coercive body.

It is important to recognise this fact, and particularly important for the Powers having no permanent seat on the Council and which cannot allow a conception of Article 16 to arise or develop under which the obligations of that article are to apply whenever the Powers with permanent seats and the Council consider it desirable. Such a conception would reduce the Powers without seats on the Council to nothing more than auxiliaries in the event of the great Powers wishing to apply economic sanctions, while, at the same time, Article 16 would offer no real guarantee even to the most faithful Members of the League of Nations.

Another reason why it is important to recognise the existing situation is that nothing is more likely to compromise the League's future than the present equivocal state of affairs. Clarity is in itself, a great step forward, and is an essential condition of progress.

Thirdly, it is important to be clear on the existing situation from the point of view of the States which are not Members of the League of Nations. I do not think it necessary to go into this point further for the moment.

I should add that while the Netherlands Government is obliged to acknowledge the present state of affairs, it has little satisfaction in doing so.

The Netherlands acceded to the Covenant with complete conviction and fully realised the consequences of this accession. The Netherlands Government has never desired, and does not now desire, a return to the old system of general neutrality when a war breaks out. It still supports the system of collective security. But this does not prevent it from looking the facts in the face. The obligation to apply sanctions which was inserted in the Covenant when there were prospects that have not materialised and in circumstances that no longer exist, no longer can be considered, and is no longer considered, as in force. It may be said that, for the moment, this obligation is dead and buried; but it must not be forgotten that burial involves the idea of resurrection. For the moment, there remains the faculty of applying sanctions, in virtue of which the League of Nations is, as Lord Cranborne reminds us, an "intermediate" League.

Will it be possible one day to re-introduce the obligation to apply sanctions which was inserted in the Covenant? The Netherlands Government hopes so, and it will not be backward in assisting to create the conditions necessary for such a change. It is convinced that foremost among these conditions is a development of the League of Nations in the direction of universality. In the second place, the Netherlands Government attaches great importance to the resumption of efforts to bring about a restriction of armaments. It must of course be acknowledged that the time has not yet come to embark on such an undertaking; but how long are the present conditions to continue? Is it conceivable that the general armament and re-armament which we are now witnessing can continue indefinitely? Is it conceivable that the peoples can for long bear the already crushing burden—which is daily increasing—of the military expenditure which is now imposed on them? Are we not entitled to hope, if not to expect, that in the not too distant future a reaction will inevitably take place? However that may be, it is an essential condition of putting the obligations of Article 16 once more into force. For the moment, this can only be a pious hope. To-day, the indivisible peace aimed at by the Covenant is not the first concern of nations. What concerns them is individual peace guaranteed by national armaments. "Everyone for himself" seems to be the general motto. I feel that in the disturbing conditions of the moment we should recall the remainder of the old adage, "God for all". If the dangerous developments which we are witnessing do not lead to a catastrophe, it will be because the world is governed not only *confusione hominum* but, above this confusion, *sapientia Dei*, by the wisdom of God.

M. PFLÜGL (Austria).—The Austrian delegation has listened with great interest to the very important speeches which have just been made here, and which will certainly be studied with all the attention they deserve by the Government of the country which I represent. My Government, however, considers that it would be inadvisable to embark here and now, under the influence of the conditions with which we are all familiar, upon a debate on this subject. It has therefore instructed me to state that its representative on this Committee will not take part either in this debate or in any vote which may be taken.

*The continuation of the discussion was adjourned to the next meeting,*

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<sup>1</sup> See *Official Journal*, Special Supplement No. 154, page 19.

## SECOND MEETING.

*Held on Monday, January 31st, 1938, at 4 p.m.*

*Chairman : M. BOURQUIN (Belgium).*

### **Participation of All States in the League of Nations : Report by Viscount Cranborne<sup>1</sup>: General Discussion (continuation).**

The CHAIRMAN.—The permanent delegate of Finland wishes to make a statement, and as there is nothing against this request in our terms of reference, the Committee will no doubt agree to hear him.

M. YÖNTJÄ (Finland).—My Government considers that the plan for the future organisation of a League of Nations of the "intermediate" type described in Lord Cranborne's report is not yet sufficiently definite in outline for any clear opinion to be formed upon it.

In its reply to the Secretary-General of the League of Nations on August 31st, 1936,<sup>2</sup> the Finnish Government set forth the principles according to which the Covenant should be amended, developed or applied in general. My Government considers that these principles are still worthy of attention. Should they fail to find sufficient support in the Committee, however, the Finnish Government considers that, if the amendment of the provisions of Article 16 of the Covenant is held to be essential, it should, in the interests of general security, be as slight as possible. The reasons for which the Finnish Government does not feel able *a priori* to go any further in this direction are as follows :

1. The Finnish Government does not feel able at this preparatory stage to support any programme that might be interpreted as implying the unreserved abandonment of certain guarantees of security based on the Covenant, which are still in force in principle, although different views may be taken of their real value.

2. The Finnish Government will, in due course, have an opportunity of participating in the study of these very important questions by the ordinary League bodies, and reaching a final decision as regards principles and details.

M. KOMARNICKI (Poland).—The interesting discussion which is now taking place on the basis of Lord Cranborne's admirable report will doubtless, owing to the gravity of the international situation, bring out important factors affecting the future of the League of Nations as an instrument of multilateral, permanent and organised international collaboration. My task is greatly facilitated by the fact that the Polish Foreign Minister has already outlined my Government's attitude—first, before the Foreign Affairs Commission of the Diet on January 10th, 1938, and, later, before the Council of the League on January 27th, 1938.<sup>3</sup> Furthermore, I should like to refer you to the Polish Government's memorandum of December 9th, 1936.<sup>4</sup> Within the scope of these official declarations, I shall endeavour to give the Committee a few additional particulars.

If it is to carry out fully the task entrusted to it by the present Covenant, the League of Nations must be genuinely universal and must comprise all the most important States. As long as these conditions cannot be fulfilled, the League will be obliged to adjust its activities to its resources. Furthermore, it would be neither fair nor reasonable to seek to impose on the States Members of the League obligations and responsibilities out of proportion with the international responsibilities of the non-member States, particularly since—as we are bound to recognise if we take a realistic view of the situation—those responsibilities are not in any way balanced by the advantages which the League is to-day in a position to offer to its Members.

Bearing in mind the lessons of recent experience, we must acknowledge that certain provisions of the Covenant cannot be automatically put into force, and that in these circumstances it must be left to the judgment of the Members of the League in each particular case whether, and to what extent, they can apply those provisions in a manner which is effective and useful to the cause of peace.

The Polish delegation believes that if each State is to be allowed to determine in full sovereignty the limits of its contribution to collective action by the League of Nations there can be no question of simultaneously extending the League's competence in the sphere of the

<sup>1</sup> Document C.367.M.249.1937 (C.S.P.20) (See Annex 2, page 41).

<sup>2</sup> See *Official Journal*, Special Supplement No. 154, page 22.

<sup>3</sup> See Minutes of the second meeting of the one-hundredth session of the Council.

<sup>4</sup> Document C.536.M.346.1936.VII.

peaceful settlement of international disputes. It would be, to say the least, unfair for the Members of the League to wish to retain the right to intervene in bilateral questions against the wishes of the States concerned, while declaring in advance that they would take no responsibility if an armed conflict occurred as a result of the breakdown of peaceful procedure. The provisions of the Covenant form a whole, and it stands to reason that a limitation of the guarantees of security could not be accompanied by an extension of Members' obligations in the sphere of peaceful procedure.

The Polish Government considers that the League of Nations, whatever its status may be, cannot be called upon to endorse decisions taken by a few interested States outside its orbit, for the sole purpose of making Members of the League share in obligations and responsibilities, arising from decisions in which they have had no part.

The evolution of opinion on the mission and rôle of the League is taking place before our eyes under the pressure of political and psychological necessities, and it is obvious that the organs of the League will be bound to take this evolution into account in applying the Covenant. Nevertheless, the adjustment of texts to the new conditions of international life cannot usefully take place except in a propitious and favourable political atmosphere.

M. CANTILLO (Argentine Republic).—To express my Government's attitude in the present circumstances, the difficulties and the gravity of which we all realise, I have but to follow the line of action which my country has invariably pursued in the League. Our efforts to co-operate in the work of the League and its improvement date from the earliest origins of that institution, and you all know that my country was one of the first to give evidence of its anxiety—at a time when that anxiety was not understood—to make of the League a truly universal body in the service of peace and justice.

I do not intend to describe now the path which we have consistently followed, guided by the sole desire to help in improving the League as a universal organ of collective security.

You are aware that, even far away from Geneva, when we have acted in our own continent in the service of principles identical with those of the Covenant, we have always had in mind the lofty aims towards which the Covenant is directed and the undertakings by which we are bound to it.

I should like to congratulate Lord Cranborne on his report. Although comparatively short, it is full of substance, and it undoubtedly investigates most thoroughly ideas and problems the application or solution of which is essential for the development of the League. Although merely intended to furnish information, the report lays before us with great clearness and constant impartiality the different aspects of the question with which it deals. This report, whose subject is related to the very structure of the Covenant, therefore constitutes valuable material for study in regard to the future of the League.

But while we are certainly all agreed on this point, we must nevertheless recognise that, in the present circumstances, in view of the speeches we have just heard, the time is not propitious for embarking upon a reform of the structure of the Covenant.

Nevertheless, we have a duty to discharge. The Committee has been set up to study the application of the principles of the Covenant. Hence, not merely without departing from our duty, but in order to perform it better, we may seek to establish or recommend provisional rules for the application of the Covenant, rules which, if adopted by common consent, will enable us, if I may so put it, to wait for better times.

We are not called upon to improvise such rules here. We have only to seek them in the work already done by League bodies. My Government does not think it wise or desirable to create regional collective-security groups—as has, I think, been proposed. The difficulties of applying Article 16 are not really geographical; they are economic and political. My Government considers that the important thing to-day is not only to maintain, but to reassert and confirm by the agreement of all the Members of the League, the resolutions adopted by the Assembly in October 1921. As you know, a series of amendments to Article 16 were submitted to that Assembly. They were not adopted, but the Assembly sought to do something to facilitate the application of that article. The resolutions then adopted with that end in view are not binding upon Members, but they have been invoked, accepted and recommended by several States, including the Argentine Republic. If I am not mistaken, they were quoted by Mr. Eden in the House of Commons, and by M. Motta on the occasion of the last attempt to apply Article 16. My Government thinks that they are of a nature to constitute a doctrine around which we should all rally to-day. It should be proclaimed that, as long as Article 16 has not been modified by amendment, the 1921 resolutions will be regarded as the guiding principles for the application of that article.

But there is another point to which I must draw the Committee's attention, and which is also related to the desire to go back to the League's own past for guidance in present circumstances. Resolutions adopted at our Assemblies ought to survive those Assemblies. We must prolong them, keep them alive.

If the co-ordination of the Covenant of the League with the Briand-Kellogg Pact and the Argentine Pact of 1933, approved by the 1937 Assembly,<sup>1</sup> is to have any real practical significance, we cannot disregard it now. In view of the categorical terms and the spirit

<sup>1</sup> Resolution adopted by the Assembly on October 4th, 1937.



and intention in which that co-ordination was approved, I think that it should be combined with the rules of 1921, and that we should agree that the Members of the League will not confine themselves to consulting one another to determine in each case the steps to be taken to maintain peace in virtue of Article 16, but that they will extend that consultation and that search for agreement to the countries outside the League to which the resolution I have mentioned refers. This dual action to extend the field of pacific effort would give satisfaction to the different schools of thought, both to those who demand the full maintenance of Article 16 in its present text and to those who wish to make its application more elastic. The steps taken would emanate, not only from the text of the article, but from the concerted will of sovereign States. Such a system would ensure the elastic interpretation of the Covenant of the League, and, while respecting its integrity, would take into account the exigencies of the present time.

M. Osuský (Czechoslovakia).—I should like first to explain the spirit of the few observations which I am about to offer. You will remember that Czechoslovakia arose out of the great turmoil of Europe; you are aware that Czechoslovakia was born, not merely because the soul of her people did not weaken, but because her enthusiasm and hope were sustained throughout the world by the noblest minds of our generation. Under these circumstances, Czechoslovakia could not fail to take an interest in any effort in which man's generosity finds expression. In a discussion such as that which has been started to-day, Czechoslovakia cannot remain silent.

I would like to congratulate Lord Cranborne; he has set forth, with a deep knowledge of the question and with great clarity, all the elements of the problem, all the difficulties, all the disadvantages and all the possibilities which may arise. For my part, I thank him. He has enabled me to study and understand the question more fully. Thanks to the care and sense of responsibility with which this report has been drawn up, we have been able to-day to hear statements of great value, as was fitting on so important a subject. The shortest and simplest statement which we heard this morning was that of our Austrian colleague.<sup>1</sup> But it was no less important or eloquent than the others.

M. Undén, in his statement this morning,<sup>2</sup> made a searching analysis of the present position of the League of Nations. He said that there was nothing humiliating in admitting the existence of a not very encouraging state of affairs. For my part, I would say that it would be much more humiliating to close our eyes to the facts which are constantly before us. It is a fact that the League of Nations is weakened. It is no dishonour to us to admit that fact. Yet the form in which we admit it may have a significance going far beyond the fact itself. It is one thing not to see the weakness of the League of Nations and another to aggravate it. To recognise an evil is honest, I would even say necessary; but to submit to it would be to give support to the evil. If man had only understood the reality of facts in order to submit to them, we should not be here to-day. If we are met here to-day to study serious problems, it is because man has opened his eyes not merely in order to submit to facts, but because he desired to master them and use them to the best advantage. It is in this sense, I think, that it is always honest and necessary to recognise facts.

It would be dangerous, in this respect, to allow the idea to take root that the violation of a rule abolishes the rule. It has in no way surprised me that none of the speakers who have preceded me has admitted or supported such a view. But, as one goes about Europe, must one stop one's ears so as not to hear people saying everywhere that because a rule has been violated it has thereby been abolished, or at any rate that the right of revision exists? Perhaps to-morrow a proposal will be made to revise the Ten Commandments, on the ground that they have always been broken. The fact is that ever since man has endeavoured to regulate his conduct he has encountered the same difficulties. Laws are broken everywhere. But this does not lead to the conclusion that the attempt to regulate relations between human beings should be abandoned, that the effort is not worth making, or that we should stop on the upward path which we have begun to climb together.

M. Undén this morning gave us a very judicious warning when he said that the sociological effect of the violation of a law is to pave the way for further violations. To accept the idea that the violation of a rule involves its abolition or justifies its revision would be to make that idea a doctrine of international life. Such an attitude would be tragic. It would indeed be a tragic result of eighteen years of effort. Our colleague, M. Rutgers, has said that the weakness of the League is transitory, and that he believes in resurrection.<sup>3</sup> To believe in resurrection is to affirm a faith in something which possesses laws and eternal principles. I also believe that some things are eternal. In the effort which we are making, we must act with great prudence, since we believe either in the eternity of things or in resurrection. We must act in this way in order not to betray what we desire to see resuscitated. Realism demands that we should see facts as they are without distorting them. But, in my opinion, realism further demands that we should distinguish between transient phenomena and the permanent values of international life. Rules should not be laid down to suit transient phenomena; they should be laid down to suit the permanent values of human life and international life.

<sup>1</sup> See page 14.

<sup>2</sup> See page 8.

<sup>3</sup> See page 14.

In my opinion, we should be shutting our eyes to the deep realities of international life if we only took account of transient phenomena. We all desire to see facts as they are and to take note of them; for eighteen years we have perhaps too often neglected to see or take note of facts; some only wanted to see signed documents, while others only wished to see the facts outside signed documents. But signed documents are facts; and, in the same way, the problems with which the nations are struggling are also facts. Nevertheless, if our eighteen years' experience causes us finally to look facts in the face and to realise that signed documents and the problems which harass the world are both facts, we shall have made great progress in the organisation of co-operation between the nations.

Lastly, I should like to say that we have come together in the League not to injure but to assist each other, not to practise a useless formalism, but to do useful work.

In these simple words—and they must be very simple, because the present situation demands great prudence of speech—I ask M. Gorgé and M. Undén to see the proof of my very wide comprehension of the view which they have put forward this morning. It is very important that we should all show a spirit of comprehension, for that spirit, in my opinion, reconciles prudence and wisdom. Eighteen months ago, we were charged with a duty. For eighteen months, we have reflected on the manner in which the study of the questions referred to us by the Assembly should be taken up. Our countries would hardly understand it, if, after reflecting for eighteen months on the way in which these questions should be taken up, we should to-day—I will not say under pretext, for I know it is not a pretext—but in the course of a preliminary, general discussion, settle not one question, but all the questions that we have to study.

I think that if we have so wisely reflected all this time upon the manner, in which we should examine these questions, we should do well not to reach any hasty and irrevocable conclusions on questions which call for much thought, and, I do not hesitate to say and repeat, much comprehension of the views which have been expressed this morning. Words and forms have their value—I would even say a very great value. Let us therefore reflect both on the words and on the forms, so that our efforts may lead to a creative and not a destructive result.

*The continuation of the discussion was adjourned to the next meeting.*

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### THIRD MEETING.

*Held on Tuesday, February 1st, 1938, at 10.30 a.m.*

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*Chairman : M. BOURQUIN (Belgium).*

#### **Participation of All States in the League of Nations : Report by Viscount Cranborne <sup>1</sup> : General Discussion (continuation).**

M. Wellington Koo (China).—On the problem of League reform, my Government presented its views in a memorandum dated August 27th, 1936,<sup>2</sup> supplemented by subsequent statements of the Chinese delegation before this Committee. I do not propose to-day to go into detail on any particular aspect of this immense and important problem, but will merely re-affirm those views and statements and present a few general observations.

I have read Lord Cranborne's report with interest, and I wish to associate myself with previous speakers in paying him a warm tribute for his contribution. Its clear analysis of the problem of universality of League membership and its lucid language, combined with a perfect objectivity, makes it a document of exceptional value for our discussion of the problem before us.

As to the theme of universality for the League, may I say in the first place that neither the recollection of my association with the work of drafting the Covenant in Paris nor a careful study of the document as a whole has convinced me that the Covenant was drawn up on the assumption of a universal League.

In the opinion of the Chinese delegation, it appears neither just nor true to attribute the present ills and difficulties of the League to the lack of universal membership, or to any inherent unsoundness of Article 16 of the Covenant. Nor is there good reason to believe, in our opinion, that any radical revision of this instrument or the realisation of universality at any cost would make the League a more effective instrument of peace.

The urgent need of to-day, in view of the grave situations and unsettled conditions existing in the world, is to strengthen the League rather than to weaken it. And one of the sure ways of doing it is for the Members to live up to their obligations under the Covenant.

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<sup>1</sup> Document C.367.M.249.1937.VII (C.S.P.20) (See Annex 2, page 41).

<sup>2</sup> See *Official Journal*, Special Supplement No. 154, page 30.

I fully share the view expressed here that there has been in the past, and I may add there is still, too much consideration of expediency in the application of the Covenant and too little respect for the clear obligations of membership. But the remedy, in our opinion, lies in the adoption of a consistent and unfailing policy of conformity to the provisions of the Covenant rather than in any attempt at revision or emasculation.

A non-coercive League is no League in the sense of the Covenant. It may serve as a convenient centre for consultation, but it can neither effectively promote peace nor exercise a restraining influence on aggression.

An intermediate League which allows the Members to pick and choose the time and circumstances of participating in coercive measures to enforce peace will not be much more effective. On the other hand, it will have all the disadvantages and dangers of uncertainty and discord in the face of imminent danger or actual aggression. It will not only degenerate into a stronghold of national egoisms but may even become a centre of international intrigue to the great detriment of the cause of peace. For if, in the face of express provisions of the Covenant, the League does not always find it easy to come to agreement on the application of sanctions, how much greater difficulty there will be to reach an agreement if such obligations are made facultative. In the end, we fear, it will destroy the foundation of the League which is built upon the principle of collective security for the enforcement of peace and restraint of aggression. To transform the present League into an intermediate League would not only undermine this principle but bring about its eventual destruction.

If a child is sick and feeble for want of sufficient and regular nourishment, a surgical operation to remove its vital digestive organs and thereby dispense with the difficulty of feeding, would, in our opinion, be of no help to the child's health; indeed, it would be a positive danger to its life. The body might survive for a while, but it would soon become a corpse. The League of Nations is still in its infancy. Its weakness and its inefficacy have been due, not to any serious imperfections of its fundamental constitution, but rather to the lack of adequate support from those who have been in the best position to give it.

The vital question for us to ask is this: are we deeply interested in the achievement of peace and security between nations, and, if so, what better principle is there to build it upon than that of collective security which is the basis of the present League? If this is the real goal before us, then the only way to reach it is by continuously striving to press forward. If we retreat, the first moment we perceive difficulties ahead, we shall never be able to reach our destination. The realisation of all ideals in the past has always required sustained effort and even considerable sacrifice. The League of Nations, which is the embodiment of this ideal, can be an effective instrument for its realisation if the Members preserve their faith in it and are willing to strive by common effort for its complete attainment.

M. LITVINOFF (Union of Soviet Socialist Republics).—A number of proposals have been received from Members of the League in connection with the application of the principles of the Covenant, affecting nearly all the articles of the Covenant. It is neither surprising, nor accidental that the discussion has begun with, and turns solely around, Article 16, since that article is really the most vital nerve of the League. Careless damage inflicted on that nerve may easily bring about the paralysis of the entire system.

I have listened to and read with great attention the arguments of those who are in favour of the complete elimination of Article 16, of its weakening or its transformation into an invisible paragraph, which now disappears and now reappears. The most consistent opponents of Article 16 are those who consider unnecessary any international interference in the defence of the security of League Members, or to avert or arrest aggression: who would like to see the League transformed into a universal non-intervention committee, which grants full freedom of action to any aggressor in any circumstances. They would like to see the League become something between a diplomatic academy and a charitable society—in short, an organisation having nothing in common with the preservation of peace and imposing no obligation whatsoever on its members. While members of an organisation, they state that they wish to assume no obligations which are not incumbent upon non-members. The absence of obligations, naturally, obliterates any distinction between members and non-members. To discuss the rules of the organisation with them is futile, since they deny any need for the organisation itself. It is just as useless to argue as to the meaning of Article 16 with those who have already arrived at the conclusion that collective security no longer exists, that it is unworkable and that it is a case of "everyone for himself, and God for us all". It is not necessary to go to Geneva for prayers.

We have heard here the remarks of other opponents of Article 16, to the effect that they are generally against it, and however we may decide the question, they themselves, obedient to the dictates of their own interests, have made up their minds to free themselves from its obligations, so far as they are concerned, and that they wish to regain absolute neutrality. This is a case which merits particular consideration in another place. The only thing that I personally am not clear about is whether they have in mind unilateral or bilateral neutrality;

in other words, whether they expect the League to safeguard their neutrality or to remain neutral in case of violation of that neutrality. Furthermore, it would be desirable to know whether, in freeing themselves from any part in the obligations consequent upon Article 16, they also intend to free themselves from taking part in the discussion and voting on all questions arising out of the application of that article.

But I am most of all interested in the argument of those reformers of the Covenant who recognise, and have here told us, that peace cannot be ensured merely by pledges, pacts of non-aggression, and acts of arbitration, and that without coercive measures the League of Nations cannot retain its internal cohesion, or exercise an influence on international policy. They object to Article 16, not on principle, but only because in some cases it has functioned insufficiently, and in others has not functioned at all. If sanctions unfortunately have not in some cases been applied at all, while in others they were not fully applied or were prematurely brought to an end, this was always done with the consent of the majority of League Members, and always accompanied by references to those same "realities" in the name of which we are now required completely to abolish the obligations involved under Article 16. It would be more logical, it seems to me, to oppose these constant references to "realities", and to special circumstances, and to insist on setting in motion the machinery of Article 16 in all cases of aggression. References to "realities" express doubts as to the success of sanctions, but the integral application of Article 16, if not by all Members of the League, at least by the vast majority, is bound to ensure that success. There is no State or bloc of States which could resist the united forces of the Members of the League, even as it is composed to-day.

It ought not to be forgotten that Article 16 is not only intended to stop aggression once it has begun, but that it has yet another and still more important purpose—to serve as a warning to the aggressor, and in that way to deter him from aggression. The non-application of Article 16 on several occasions has, of course, weakened the part it plays in this respect, but nevertheless, so long as it preserves its present features and automatic character, aggressive countries cannot but reckon with it, and in fact do reckon with it. That is the only explanation of the obstinate struggle which such aggressive countries and their secret allies carry on against the League generally, and more particularly against Article 16. Consequently, this article has some value and ought not to be discarded. A company which possesses property difficult to dispose of at a particular moment does not destroy that property but continues to include it among its assets. Article 16, with the possibilities latent within it, is the most valuable asset of the League and of the potential of peace.

Supposing we were to follow the advice tendered to us here, and made Article 16 optional. It would immediately lose its character as a deterrent for the aggressor, who would calculate on each occasion on being able to intimidate the weakest Members of the League into abstaining from voting for sanctions. We have seen how some States yielded to this intimidation even when Article 16 was automatic, and in spite of the fact that any Member of the League could tell the aggressor that he was applying sanctions, not out of hostile intent or on account of bad relations with the aggressor, but purely as an act of duty, in virtue of his treaty obligations. The Members of the League would be far worse off if they could not fall back on that duty, if they were free to choose whether to vote for sanctions or against, and it would be much easier to intimidate them. The aggressor would act, not only by methods of intimidation, but also by offers of material consideration, and a state of affairs might arise when voting in the League, for sanctions or against them, might become an object of bargaining between the aggressor and individual States. One only has for a moment to picture this possibility to realise what a risk the League of Nations would then run of corruption and demoralisation.

All the talk about abolishing or weakening Article 16 owes its origin, of course, to a decline of faith in collective security and international solidarity, and to fear of the unchecked wave of aggression. That wave of aggression, it seems to me, may begin soon to act in another direction as well. It is beginning to bring out the dangers threatening States which, only a few years ago, might have thought themselves completely protected and insured against such perils. The unchecked wave of aggression which has spread to every continent brings every State, large and small, face to face with the peril. Political and military autarchy, and the most oppressive burden of increasing one's own armaments, are not the only, or in any case the most reliable, methods of safeguarding one's security. The collective character of the aggression which is taking place must inevitably impel States in the direction of collective security. Collective security means Article 16, and that is why we must preserve that article and, when we find it possible, strengthen it.

M. ENTEZAM (Iran).—Although I am rather late in doing so, I should like to associate myself with the compliments paid to Lord Cranborne by previous speakers. There is one point, at least, on which we are all agreed in this Committee, and that is in our desire to pay a tribute to our distinguished Rapporteur.

I should not have taken part in this discussion but for the fact that my silence might have created the impression that my Government felt no concern in this very serious problem. What makes it even more serious is that, after dealing with the question of universality, speakers have proceeded to discuss collective security and Article 16—the essential instrument of such security.

I listened with very great interest—and not indeed without great sadness—to some of the speeches delivered yesterday. I felt sad because those speeches were made by the representatives of countries whose devotion to the League has at all times been recognised. They

reminded us of facts the truth of which cannot, unfortunately, be disputed. Where we differ from them, however, is in regard to the conclusions to be drawn from those facts.

In my Government's opinion, the time has not yet come for a full discussion of Article 16, for two reasons. In the first place, any such discussion needs to be conducted in a calm atmosphere, which certainly does not exist at the present time. Secondly, we do not consider that a favourable solution will be reached more easily by depriving that article of its coercive character. My Government takes the view that to do away with the coercive character of Article 16 is tantamount to doing away with the article itself. The result might even be worse; for, if the application of that article is to be facultative, when sanctions are applied against a country, the animosity displayed will be even greater than it would be if the article were compulsory, and recent events have shown to what complications it may give rise.

In conclusion, I would repeat that my Government considers that the time has not yet come for the discussion of Article 16. When that article is discussed, the Iranian Government feels that efforts should be made to devise some means of strengthening it. As we all know, crime cannot be prevented by abolishing the penal code.

M. SADAK (Turkey).—In his speech at the opening of the present session of the Kamutay (Grand National Assembly of Turkey), our leader Atatürk spoke as follows :

“ During the difficult period through which the League of Nations is passing, the Government of the Republic, by showing its devotion to that international institution in all fields, has followed the course which best conforms to the ideal of peace. ”

In his statement before the Kamutay, the Prime Minister, Celâl Bayar, said :

“ Attachment to the League of Nations constitutes one of the bases and the natural result of our foreign policy. If that great institution is to realise the hopes placed in it, it must adapt itself to the necessities of the time and profit by the experience gained. Our Government will endeavour by all the means in its power to facilitate the efforts made in this direction. ”

Those two statements clearly show Turkey's devotion to the League. At the same time, they make it clear that my country is by no means opposed to the idea of reform; on the contrary, it would welcome it. But, in my Government's opinion, it is not the Covenant that is at fault—it is as complete an instrument of peace as is humanly possible; what needs to be adapted to circumstances is the procedure and the methods of application.

As regards Article 16, which has now become our chief subject of discussion, we consider it reasonable that all decisions relating to its application should be taken by the Assembly itself. We fully understand the apprehensions expressed on the matter. What we do find it difficult to understand, however, is that it should be thought possible for countries to free themselves by unilateral declarations from obligations which constitute an integral part of collective undertakings that can be modified or interpreted only by an act of the Members of the League as a whole. That is the view we have always taken.

We are fully and always prepared, so far as we are concerned, to discuss and consider in common the possibilities and methods of reform. Nevertheless, we cannot but wonder whether the moment is indeed opportune, in existing circumstances, for taking up a study of this kind, which, if it is to serve a useful purpose, must be carried out in a calm and serene atmosphere.

In our opinion, there is a more urgent task lying before us. It is the duty of each of us to do our utmost, both in the League and outside it, to maintain concord and a spirit of comprehension between the nations, and not to constitute hostile camps; on the contrary, we should endeavour to bring the various groups nearer to each other, in the hope that it may one day be possible to find them all reunited, or, at all events, bound together in harmonious collaboration.

M. YEPES (Colombia).—I should like to make clear the attitude of Colombia towards the problems now under discussion.

I will first of all deal with the question of the universality of the League. While paying a tribute to the admirable reports drawn up by Lord Cranborne,<sup>1</sup> which contain valuable data drawn from the best sources, we are obliged to recognise that they set forth many problems but offer no definite solution. Lord Cranborne was careful to observe complete impartiality, and this prevented him from giving us the benefit of his own views. It would, however, have been very helpful to know what he thought himself, in view of the authority he possesses, not only because of the great country which he represents here, but also, and more particularly, because of his personal prestige and influence, which we all gladly recognise. We are therefore still at our starting-point.

If we wish to reach an acceptable solution, our first task must be to define the actual idea of universality. Is this universality to be obtained by sacrificing the essential ideas of the League, of any real League of Nations? Are we proposing to abandon compulsion and sanctions in order to obtain the accession of States which do not accept compulsion as the necessary corollary of law? Such a universality would deprive the League of one of its essential pillars and would empty it of its real substance. By accepting this idea, the League would find itself obliged to commit suicide in order to preserve a semblance of life. For

<sup>1</sup> Documents C.367.M.249.1937.VII (C.S.P.20) (See Annex 2, page 41) and C.368.M.250.1937.VII (C.S.P.21) (See Annex 3, page 61).

to maintain in being the technical, social and humanitarian work of the League, whilst taking away its political functions and its right to watch over the maintenance and restoration of peace, would be to emasculate the League and condemn it to irremediable weakness. We have no desire whatsoever for a universality purchased at that price.

Moreover, our Committee is not competent to propose, or even to discuss, a solution of that kind. The resolution adopted by the Assembly in July 1936<sup>1</sup> entrusted us with the task of "strengthening the authority of the League", strengthening "the real effectiveness of the guarantees of security which the League affords to its Members" and of studying for this purpose the application of the principles of the Covenant or, as the Colombian delegation put it at that same session of the Assembly,<sup>2</sup> "the adoption of measures to render the application of the Covenant more effective". It should be clearly recognised that, if we approve anything at all that weakens the Covenant instead of "strengthening" it, we shall be departing considerably from the intention of the resolution that set up this Committee. It is true that the same resolution states that we are to take account of the "lessons of experience". But, if we are sincere and not "realistic"—which is a very different thing—we are bound to admit that experience has taught us that, every time we have attempted to juggle with the principles of the Covenant or to evade them, the peace of the world has been seriously endangered.

"The lessons of experience" show that, when the Covenant has not been applied for the solution of conflicts brought before the League, the peace of the world has been jeopardised. One day, history will tell us whether it was the application of the Covenant or the shelving of the Covenant that brought the world to the frightful state of confusion in which we see it to-day. That, in our opinion, is the only juridical interpretation of the resolution which set up this Committee, and anything that we may do outside the scope of that resolution is *ultra vires*. We are here to "strengthen" the Covenant and not to weaken or attenuate its provisions.

There is another conception of universality, which is that of peaceful collaboration with all States that are not as yet, or are no longer, members of the League. In order to attain this universality, there is no need for any reform of the Covenant; it is a daily practice of the League, and no State opposes it in any way. Moreover, this was the intention of the resolution approved by the 1937 Assembly, which states that, in the event of war or threat of war, the League shall take such steps and shall establish such contacts as may be necessary to associate in its efforts for the maintenance of peace those States which are not members of the League but are mutually bound by the Pact of Paris or other covenants, the common aim of which is to maintain peace.

As regards this universality when peace is not threatened, we need only consult the history and practice of the League to see that it has long been achieved without any need of reforming the Covenant or enacting any special provisions.

The first point we have to decide, therefore, is what we mean by "universality". That is a preliminary question, which it is absolutely necessary to settle. Otherwise, universality would be a mere playing with words, and we should never get any farther.

The Colombian Government has submitted a series of "bases"<sup>3</sup> to serve as points of study for the reform of the Covenant, and I should like to add that, in the meantime, we are completely faithful to the spirit of the Covenant and to all the articles of the Covenant, even though our own particular interests might thereby be to some extent prejudiced. We regard the Covenant as an excellent and almost perfect instrument of international collaboration and peace, provided it is applied sincerely and in its entirety. But the fact is that it has never been applied, and, what is still worse, no one has ever dreamt of applying it. The tragedy of the League consists solely in this conflict between theory and practice, between oratorical statements and the acts of Governments.

I should like, if you will allow me, to refer to a few of the essential articles of the Covenant to which Colombia attaches particular importance. In the first place, there is Article 8, relating to the reduction of armaments. That article, which governs or should govern the operation of the whole Covenant, has remained a dead letter. We need not waste time in assessing responsibilities. The fact is there, and the nations of the world, overburdened as they are to-day by crushing taxation, are suffering the consequences of the failure of all Governments to carry out a solemn undertaking which required them to reduce their "national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations". What must be brought into relief is the fact that it was not the small States that started this dreadful armament race, which is daily endangering peace. The small States, alas, have only followed the bad example given by those greater than themselves.

We also attach great importance to the inviolability of Article 10, which guarantees the territorial integrity and political independence of States Members. In order to supplement this concept, we have proposed a new definition of the aggressor, which, in addition to the cases enumerated in the London Treaties, comprises unilateral and illegal intervention on the part of one State in the internal or external affairs of another. In our view, indeed, this kind of intervention is an aggression worse than war itself.

We regard Article 11 as one of the essential bases—if not the essential basis—of the whole Covenant. Without that article, and without article 10, the Covenant would, to repeat President Wilson's words, become merely an "influential debating society". In our view,

<sup>1</sup> See *Official Journal*, Special Supplement No. 151, page 65.

<sup>2</sup> *Ibid.*, page 27.

<sup>3</sup> See *Official Journal*, Special Supplement No. 154, page 20.

by stating that any war or threat of war, whether immediately affecting any of the Members of the League or not, is a matter of concern to the whole League, and that the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations, Article 11 makes neutrality incompatible with the principles of the League. Article 11 is the keystone of the whole Covenant. If it were to be interpreted without fear of consequences, we should find that it outlawed war more effectively than the famous Pact of Paris, which has now been outstripped by events. Whether we wish it or not, Article 11 has put an end to the system of traditional neutrality, so far as Members of the League are concerned. Neutrality no longer exists for States Members of the League. It is a dead, out-of-date conception, for pre-war neutrality is declared by Article 11 of the Covenant to be "Enemy No. 1" of peace. By providing that all the Members of the League undertake that they will not hereafter enter into any obligations or understandings *inter se* which are inconsistent with the terms of the Covenant, Article 20 condemns not only the policy of alliances, but also conventions providing for neutrality in a present or future war.

It is true that Articles 10 and 11 have been wrongly interpreted by a jurisprudence which I do not hesitate to describe as contrary to legal technique. According to this jurisprudence, the vote of the aggressor or the State threatening peace has to be counted for the purpose of establishing unanimity as required for the correct application of these two articles. This view overlooks one of the elementary rules of juridical exegesis—that *nemo iudex in propria causa esse debet*. To put an end to this crying anomaly, the seventh basis proposed by the Colombian Government suggests that "the votes to be taken under Articles 10 and 11 of the Covenant would not include the votes of the aggressor States or of the States constituting a danger of war". It is by provisions of this kind that we seek to contribute to the "strengthening" of the League.

In conclusion, I should like to say a few words about the most formidable article of all—Article 16, of which we have recently heard so much. Needless to say, we accept the provisions of this article as a whole. We consider that a League deprived of sanctions would no longer correspond to our concept of that institution. Without this idea, the Covenant would become a moral rule without binding force or sanctions for its enforcement, and that is inadmissible, at all events from a political standpoint. Law, to be effective, must be a system of compulsions.

We do not, however, regard Article 16 as sacrosanct—far from it. Certain adaptations might be allowed, to make its application more effective. The geographical factor might be taken into account, and in this connection Colombia has proposed that "the military sanctions provided for under Article 16 would be obligatory only for the States situated in the same continent as the aggressor". On the other hand, "economic and financial sanctions would come into force automatically as soon as the competent organs of the League had determined the aggressor and without the need for further decisions by the Governments".<sup>1</sup>

Those ideas are, I think, worthy of careful study, and it is regrettable that they are not even mentioned in the report on Article 16 which we have before us.

We hear a great deal to-day about the crisis of the League, and it would be naïve to deny that the League is passing through what is, to say the least, a difficult moment; but we must not exaggerate, and above all we must not regard the crisis of the League as an isolated phenomenon independent of the general situation. We are faced not so much with a crisis of the League as a breakdown of international morality, for which it is unfair to make the League responsible. We are witnessing to-day a lamentable devaluation of moral principles, even worse than the devaluation of currencies. This scandalous disregard of respect for the pledged word can by no means be laid at the door of the League. Nevertheless, it is the source of all the political difficulties of the contemporary world. An improvement in international morality and a solemn reaffirmation of the law of contract—and the Covenant is the first of all contracts—would immediately bring the crisis of the League to an end. Should that day come, we might answer those who are announcing the forthcoming demise of the League in the ironical words spoken by Dorante in Corneille's "Le Menteur": "Messieurs, les morts que vous tuez se portent assez bien".

M. VALDÉS-MENDEVILLE (Chile).—May I express the sincere hope that we shall see the predictions falsified by the facts. Never, perhaps, has our Committee met under such an avalanche of prognostics, either pessimistic or voluntarily resigned, as to the duration and outcome of its work. Yet never has there been so urgent a need for pushing resolutely forward with the work of reconstruction and clarification.

The members of this Committee are so familiar with Chile's point of view that there is no need for me to repeat it. You heard how brilliantly and with what force of conviction our Ambassador, M. Edwards, stated it at our last session. There are many reasons why we hold to it so tenaciously. It is true that Chile is geographically remote from the seat of the League. It is true that her vital interests would not seem, at first sight, to be jeopardised by any events that can as yet be foreseen. But we cannot be indifferent to the cause of peace; for with the growing interdependence of political, economic and social interests in the contemporary world, these same vital interests would be injured from one end of the earth to

<sup>1</sup> See *Official Journal*, Special Supplement No. 154, page 20.

the other, not only if war broke out, but if the present state of instability and disquiet were allowed to continue.

Furthermore, our traditional policy and our position as a Member of the League of Nations entitle us, indeed compel us, to show interest in the fate of this institution, and to see that the ideal of world co-operation upon which it rests—an ideal to which we intend to remain faithful—is not irremediably ruined.

Events, during the campaign we have been conducting for nearly two years, have confirmed the Chilian view. What was a necessary aspiration yesterday has to-day become an imperative need.

Every time Chile has spoken in this Committee—which meets too seldom—it has had to record fresh defections among the Members of the League. We are, or we should be, the League of all Nations, but to-day there are eleven nations—four of them entitled to permanent seats on the Council (as we were reminded by the delegate of the Netherlands)<sup>1</sup>—with a population of 360 millions, who have no links, or have no longer any links, with us. Can we still say we must reform men and not institutions, as was urged by a former Member of the Council on a memorable occasion? We are not seeking to reform the Ten Commandments given by God, to which my distinguished colleague, M. Osuský,<sup>2</sup> referred yesterday, but to reform institutions created by and for men. The present discussion—and it is very different in tone from previous ones—shows that more and more of our members are coming to see the need for reforming the Covenant. To assist us in that task, we have such valuable contributions as Lord Cranborne's report, to which I pay respectful tribute. There are many divergences of opinion as to the means of achieving our aim, direct or indirect, positive or subtle, legal or political.

For our part, we have long recommended the first, the boldest, indeed, but in our opinion the only efficacious, methods. A return to universality, even at the cost of substantial changes in the Covenant; the reform of the Covenant with full knowledge of the facts, in consultation with the States which are not with us.

I shall not speak of the second factor in our point of view. I, for my part, have in the last few days facilitated the decision of the Council to defer its discussion to the next session. But what is the spirit of this decision? I am entitled to believe that it is the spirit of my own declaration, so nobly supported by the delegation of Peru, which the Council did not gainsay. I refer to the statement that "it would be better to await whatever initiatives of decisions that Committee might be led to take with a view to the effective adaptation of certain principles of the Covenant to the lessons of experience and to present political realities".<sup>3</sup>

That is the very result for which we are hoping from the Committee's work. And it implies, in the first place, as the distinguished Minister for Foreign Affairs of Belgium, M. Spaak, so rightly put it in the Council,<sup>4</sup> "a loyal effort to endow the League with the necessary universality". Universality was the reason for the League's foundation, and it was in the interests of universality that Chile became a Member.

When invited to accede to the Covenant, my country decided to do so, in 1919, with the solemn approval of Parliament and the support of public opinion, at a time when there seemed to be every promise that a new era was opening. It was then hoped that all the countries of the world, one after another, would rally to this world community, a community resting on the highest principles, the members of which would be bound by obligations that, because they were universal and scrupulously observed, would be not a burden but a deliverance. The first and greatest fissure appeared a few months later, when a great Power did not accede to the Covenant. Chile was not discouraged, however, and gave loyal and unbroken support to the efforts undertaken in all directions to revive the newly-formed institution. Alternating between hope and anxiety, and in spite of a fresh crisis which had a great effect on Chile, a crisis leading in 1926 to the withdrawal of a great American nation, we continued our efforts with faith and courage until 1932.

At that time, the fullest universality was achieved in practice. All the States, including those whose very valuable collaboration is to-day withheld, met at the Disarmament Conference. Lengthy proceedings ended in complete failure. Was this merely the failure of a Conference? No, it was the failure of Article 8 of the Covenant, the keystone, the first in order, of a whole system, a comprehensive system for the maintenance of peace—the article which, politically and economically, constituted the hope of the world.

Need I depict the disappointment of a country like mine, to whose ideals and impartiality I have already referred? And could it be maintained, after the hard fact of the collapse of Article 8 and the subsequent sequence of decisions and events, that the whole force and extent of the obligations laid down in the other articles providing for collective action must be maintained? We, for our part, are convinced that such a contention would be useless, would be extremely dangerous.

You will see that all the facts tend to show that the reform of the Covenant is absolutely necessary, it being constantly borne in mind that we must aim at regaining that universality which is indispensable if our institution is to do useful work. We agree with the Swiss Federal

<sup>1</sup> See page 13.

<sup>2</sup> See page 17.

<sup>3</sup> See Minutes of the fourth meeting of the one hundredth session of the Council.

<sup>4</sup> See Minutes of the second meeting of the one hundredth session of the Council.



Council that anything the Covenant might lose in legal substance it would gain in moral force. For the benefit of those who fear that universality at that price would weaken the League, I would add that the facts to-day are such that universality of itself could not but strengthen the League.

We do not deny that, provided these principles are accepted and a loyal effort is made to apply them, a transitional period may be secured by means of definite interpretations having legal force, with a view to the application of the provisions which raise the greatest difficulties in the present situation.

In this connection, we note with much sympathy the statements made at yesterday's meeting by the distinguished representative of the Argentine Republic, M. Cantilo.<sup>1</sup> Once again, I have the pleasure of drawing attention to the high motives by which action on the part of that great country, the friend and neighbour of my own, is inspired. At the last Assembly,<sup>2</sup> it was my privilege to speak for my Government in support of the Argentine delegation's proposal regarding the co-ordination of the Covenant of the League of Nations with the Pact of Paris and the Argentine Pact of 1933. The essential part, as I see it, of M. Cantilo's statement of yesterday, is a continuation, or rather an extension, of that proposal, which was endorsed by a unanimous vote of the Assembly. The Members of the League, he said, would not confine themselves to consultation with one another in each case as to the action to be taken with a view to peace; they should extend these contacts and this search for agreement to the countries not members of the League to which the resolution in question referred. It seems to me that the formal adoption of a system based on this idea would be one of the best safeguards during the transitional period to which I referred under the conditions already mentioned.

The Chilean delegation is of opinion that all these efforts in connection with the movement for universality, the reform of the Covenant and the conditions of the transitional period should be continued without remission. It accordingly hopes that the Committee will give the lie to the pessimistic forecasts to which I referred at the beginning of this statement, and that if it breaks up this week, it will do so only to resume its work at a very early date. That seems to us particularly necessary in view of the fact that the Assembly resolution on the Chilean proposal will be discussed in the Council in May, and the result of that discussion will be of the first concern to the Committee in its studies under the terms of the resolution itself.

I may repeat an argument put forward yesterday by M. Osuský,<sup>3</sup> in order to draw a conclusion which follows logically from his own. I suggest that public opinion would never understand how, after eighteenth months' existence, the Committee could postpone much longer the study and solution of the problems submitted to it.

The cruel realities, the existence of which we cannot but admit, call for continuous, realistic and courageous effort.

M. VAN LANGENHOVE (Belgium).—The discussion of yesterday, to which the introductory statement of the Swedish delegate gave a lofty tone and a note of great frankness, dealt mainly with the fundamental principles on which the League of Nations is based. It is indeed extremely difficult, as Lord Cranborne's striking report (to which I in my turn pay tribute) has shown, not to refer to those principles in considering the question of universality.

The origin of this discussion is to be found in the recommendation which the Assembly adopted on July 4th, 1936, affirming its desire to strengthen the authority of the League by the adjustment of those principles to the lessons of experience.

Our object, as laid down for us by the Assembly, is—it is important to draw attention to the fact, as the Colombian delegate has just done—to strengthen the authority of the League; and the means indicated to us by the Assembly for the purpose consist in the adjustment of the operation of principles to facts.

But the work of our Committee, and in particular our discussions at the present moment, reveal the difficulties of our task. It is always a delicate matter to lay hands on a fundamental charter. The present international situation renders the undertaking especially hazardous; and all appreciate the character of the obstacles to be overcome. But, at the same time, it is impossible not to realise the disadvantages attaching to the inevitable delay in accomplishing the work undertaken. The effect must be to leave untouched the discrepancy which circumstances have created between the texts and the facts. Until the necessary adjustments can be made, it is clear that any interpretation of the Covenant must take into account the changes that have occurred since it was drawn up, together with the established practice in the matter of its operation. Brief reference may be made in this connection to some of the points that have emerged from the discussion.

As early as 1921, the Assembly recognised the necessity for certain adaptations as regards the terms and applicability of Article 16. On July 1st, 1936,<sup>4</sup> actuated by motives the legitimate character of which is beyond dispute, a number of States which have always ranked amongst the most loyal Members of the League made a collective declaration on the subject of Article 16, to the effect that, so long as the Covenant as a whole was applied only incompletely and inconsistently, they were obliged to bear that fact in mind in connection with the application of Article 16. I gather that M. Valdés-Mendeville has just expressed a similar opinion.

The fact is that Article 16 has never been applied in its entirety. It has only once been applied even partially. After that experiment, the Assembly was compelled to recognise, as it did in its recommendation of July 4th, 1936, that various circumstances had prevented the integral application of the Covenant.

<sup>1</sup> See page 16.

<sup>2</sup> See *Official Journal*, Special Supplement No. 169, page 114.

<sup>3</sup> See page 18.

<sup>4</sup> See *Official Journal*, Special Supplement No. 154, page 19.

Again to-day, in connection with a grave dispute, as on the previous occasion in 1931/32, efforts are being made to avoid forms of procedure which might bring Article 16 into play, for the reason that the obstacles which its application would encounter are realised, Coercive action is thus seen to depend on the attitude taken up by Members of the League in any given political situation, and the risks which that situation involves for each and all of them. Such are the realities of the position ; and I wonder how, under present circumstances, they could be anything else. Confronted with these realities, a number of Members of the League represented on this Committee, while continuing to advocate the principle of coercive action, have stated that, for the time being, such action was merely optional. The League of Nations cannot afford to underestimate the significance of these facts and statements. Accordingly, my Government hopes that the Committee, if it is unable at the moment to bring its work to a successful conclusion, will continue it as soon as circumstances permit.

*The continuation of the discussion was adjourned to the next meeting.*

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#### FOURTH MEETING.

*Held on Tuesday, February 1st, 1938, at 3.15 p.m.*

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*Chairman : M. BOURQUIN (Belgium).*

#### **Participation of All States in the League of Nations : Report by Viscount Cranborne:<sup>1</sup> General Discussion (continuation).**

Mr. WRONG (Canada).—I had not intended to take part in this discussion but, in view of the number of speakers and the scope of the speeches which have been made, it seems to be desirable that I should make a brief statement on the position of the Government of Canada.

The question of universality which is before the Committee, as examined in Lord Cranborne's most admirable report, is of course closely bound up with the question of the nature of that League of Nations the membership of which it is desired to extend so as to include States now outside the League. The desirability of recommending this or that specific amendment of the Covenant, however, will only arise during a later stage of the Committee's proceedings, when examination may be made of the other reports submitted to the Committee which deal with particular amendments that have been proposed. At the present stage, I only wish to indicate in a general way the point of view of my Government on the principle of universality.

The Government of Canada is in favour of every practical effort to attain the substantial universality which is assumed in the Covenant, and which is necessary for the effective working of the League. It is essential to the adequate working of any type of League that its membership should approach universality. The whole character of the League and the scope and effectiveness of its activities obviously are radically changed if a large proportion of States remains outside. It must be recognised, however, that universality, or a near approach to universality, cannot be secured immediately by any change in the Covenant. It is apparent from the remarks of some previous speakers that some Members of the League are not yet prepared to make the explicit changes in the sanctions clause of the Covenant which are needed to make it possible for some great countries now outside the League to enter it. It is also apparent that some countries outside the League are unwilling to enter or re-enter the League at present, regardless of whether the League is organised as an instrument of force or as an agency of conciliation.

It seems therefore to my Government that the only possible course is to keep the League operating as effectively as possible within the scope which experience has shown to be practicable, and to seek to make at a more opportune time such formal adjustments as may be required to secure the co-operation of all States which are prepared to renounce aggression and to co-operate in the peaceful settlement of international problems.

In view of the prominence given by many speakers to the question of sanctions, I may remind the Committee that the Canadian attitude was made clear by the Prime Minister of Canada in his speech before the seventeenth Assembly in 1936.<sup>2</sup> The principles which Mr. Mackenzie King then outlined I need not repeat here. They represent the Canadian position concerning the provisions of the Covenant which provide for the imposition of sanctions.

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<sup>1</sup> Document C.367.M.249.1937. VII (C.S.P. 20). (See Annex 2, page 41).

<sup>2</sup> See *Official Journal*, Special Supplement No. 155, page 68.

M. ALVAREZ DEL VAYO (Spain).—The Spanish Government desires to make clear its views on the present position of the League of Nations, and, in particular, on the grave problem of the reform of the Covenant, with which the League's very existence is bound up. Whether Spain is a Member of the Council, as for many years she had the honour of being, or whether she is not, her conception of her duty to the League of Nations remains the same. I do not know whether Spain is regarded as a great Power, a secondary Power or a small Power. I only know that my country and my people are suffering atrociously and that, if the greatness of a State is measured by the greatness of its sufferings, Spain is to-day a very great country.

But in any case, as I heard with what bitterness the representatives of other States conveyed their disappointment at the League's undeniable failures, I felt the cruel irony of my own position; of all the States of Europe, that which I represent has the greatest cause to complain of its treatment at the hands of the League, and yet I come here to defend with unwavering firmness the principles and the sacrosanctity of the Covenant. But it is precisely on account of the blood that has been shed in my country through the non-application of the Covenant—and for that bloodshed the great majority of the States Members of the League bear a terrible responsibility—that we do not allow ourselves to be carried away by resentment or disillusionment and to desert the ideal of peace for which, in the last resort, the Spanish people is at present fighting.

Were disappointment to be our only guide, who then, unless it were the delegate of China, could more bitterly inveigh against the passivity which has everywhere given aggression a free hand in the last few years than the representative of Spain, haunted at this moment by the thought of the hundreds of women and children slaughtered forty-eight hours ago during the last bombardment of Barcelona? I can still see the despair on the face of a poor woman whom I picked up in the street during one of the previous bombardments. She was crouching on the ground holding the severed hand of a child which was still clutching a school-satchel. She was trying to discover from the satchel whether the hand which held it was that of her own little boy. When she recognised who I was, she held up the tiny hand and cried, "And what do they think of this in Geneva?"

For my part, I come here once more as representative of the Spanish Government to defend the Covenant, not only against the avowed enemies of peace, against the States which have invaded Ethiopia, China and Spain, but also against the blindness of those who one day, perhaps, may themselves become the victims of aggression. Coming here in their disappointment to urge the reform of the League, and to weaken, not to strengthen it, they are unwittingly, but none the less certainly, playing into the hands of the aggressor and the war-maker. In my country, they have living proof that to fight against aggression and overcome it is no impossible feat. For the past eighteen months, Republican Spain has been fighting foreign aggression; for more than a year, she has been in open conflict with the same two totalitarian States which, by threats, blackmail and every other means, are endeavouring to destroy the League by making the Member States afraid to apply the Covenant.

I well recall the pitying smiles and the scepticism which greeted my assertion, in September 1936,<sup>1</sup> when I addressed the Assembly for the first time and proclaimed my faith in the victory of Republican Spain, that aggression could be overcome. I venture to think that the capture of Teruel, and the news which has just reached me of the new Republican offensive in Estremadura, will have led those who a year ago regarded our victory as a mere illusion to change their minds.

In the international sphere also the forces of aggression that are threatening Europe and the world can be repulsed, but only by courageous and clear-sighted action on the part of the States still Members of the League, which are Members not in name alone, but are genuinely imbued with the spirit of the Covenant. For them, the essential condition is that neither Article 10 nor Article 16 shall be touched. Even when the Covenant was being framed, its authors were emphatic in pointing out that it provided only for the bare minimum of the obligations inherent in a system of collective security against war, and that any attempt to reduce those obligations would lead inevitably to the League's entire collapse. Quite recently, that opinion was confirmed by one of the most highly-qualified authorities, our own Secretary-General. In his excellent speech at the House of Commons on December 11th, 1933, M. Avenol said: "If I lay stress on the Covenant, it is not only because the Council and the Assembly have put upon my shoulders a heavy responsibility respecting it, but because I am perfectly convinced that in its general structure it represents the minimum number of obligations without which no League and no effective international co-operation could exist". And again only a few weeks ago; broadcasting at the end of last year, he repeated these same views, with which my Government is in full accord.

In the discussions on the amendment or interpretation of the Covenant, it has constantly been affirmed that the obligations to reduce and limit armaments, in no circumstances to resort to aggression and to settle disputes by pacific means were all inseparably bound up with the ultimate obligation to take collective action against aggression. Such was frequently the burden of the remarks of my eminent friend, M. Paul-Boncour, whose attachment to the League of Nations might serve as an example to all.

<sup>1</sup> See *Official Journal*, Special Supplement No. 155, page 47.

The soundness of this view has been proved by experience. The whole system of collective security suffered its first fatal setback in 1931, when the League of Nations first betrayed its Covenant by failing to meet aggression in the Far East by the application of sanctions. What has since happened in Ethiopia, in Spain and now again in China is merely the consequence of that first surrender to the aggressor.

If the League is shirking its duty, and if the non-application of the Covenant is becoming a habit, it is not through any lack of universality, but because the great Powers and certain small Powers have forgotten that collective security is meaningless—as an eminent British statesman said in the Assembly on a memorable occasion—“without steady and collective resistance to aggression”.

And now that I have spoken the magic word “universality”, I may perhaps be permitted to express my admiration for the ingenuousness with which certain States appear to have awakened, at long last, to the fact that they were Members of a League of Nations which from the beginning had fallen short of universality. This tardy discovery, which almost seems to carry with it the unpleasant implication that it was we who deceived them, is truly disconcerting. To realise that the League to whose Covenant, moreover, they acceded “without reservation” was not exactly the temple of universality, they had only to read a little more carefully Article 17 of the Covenant, which lays down the procedure for dealing with disputes between two States one of which “is not a Member of the League”.

This passion for universality—which we share in our own way; that is to say, provided that it does not mean more or less direct co-operation with the aggressor—has on certain occasions suffered marked eclipse among its staunchest supporters. There was, for example, the occasion on which they wished to exclude from their “universe” a sixth of the earth’s surface. When a certain great Power, which now is unquestionably one of the staunchest upholders of peace in the League, came to join us, it was not the champions of universality who voted for its admission.

Similarly, those of us who defend the Covenant are charged with attempting to compel Member States to take part in an ideological conflict. But, I should like to ask, was not the League born of an ideological conflict? At its inception, the League, according to its essential principles, was an integral part of the high-minded attempt of the victorious countries “to make the world safe for democracy”—to use President Wilson’s own words. The League was born of the antagonism between aggressive militarism and pacific democracy.

We have often said, and we again reiterate, that, while taking our stand against aggression and demanding the application of the Covenant whenever it occurs, we do not bring our political disputes to Geneva. We are opposed to the Fascist States not because they are Fascist but because they are aggressors. When Fascism becomes pacific, it will find us at Geneva among its most loyal co-operators in the observance of the Covenant. Was it democratic Czechoslovakia that invaded Spain? Was it democratic France that destroyed Ethiopia? Was it the United States or the United Kingdom that attacked China? No! The three aggressor States which are sowing death and destruction up and down the world, and which detest the League of Nations because they know that even to-day it could bar their road to aggression, and which brag of their determination to put an end to democracy, are Germany, Italy and Japan. If we must choose between them and the Covenant, it is on the Covenant that we take our stand, and we refuse to be the accomplices of aggression, or shamefully to hush up its misdeeds. We demand that international law be enforced against those States, not because they are Fascist, but because they are outlaws.

Nor is it right to speak of a Geneva bloc against non-member States. In the first place, that would mean placing the aggressor non-member States on the same footing as that great country from which come to us the noble and encouraging words of President Roosevelt, who is hated by the enemies of peace just as wholeheartedly as he is esteemed by those who wish to put an end to war. I refuse to be a party to such a defamatory comparison. As regards co-operation—which we all desire—with those non-member States which are genuinely anxious to resist aggression, I welcome the admirable speech<sup>1</sup> of the representative of the Argentine Republic, who yesterday referred to his Government’s proposal, as voted by the last Assembly, to the effect that :

“In the event of war, or a threat of war, the League of Nations, while not delaying for that purpose its own action in virtue of the Covenant, shall take suitable steps and shall establish such contacts as may appear to be necessary to associate in its efforts for the maintenance of peace those States which are not members of the League, but are mutually bound by the above-mentioned covenants, the common aim of which is to maintain peace.”

I can understand the disillusionment of the small or secondary States which, having once risked everything out of fidelity to the League, and having applied sanctions as far as they could, saw themselves abandoned by the great Powers through whose hesitations at Geneva the old worldwide fervour for peace has been allowed to cool. But may I remind you, in spite of my own country’s tragic experience, that, by urging the weakening of the Covenant, the small States are destroying the only effective weapon they possess for their own defence? It is not the great States, but we, who need collective action.

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<sup>1</sup> See page 16.

We hope that, in spite of the terrible—terrible and glorious—happenings in our own country, the time will soon come when the Republic will have recovered its internal stability, and when our Government will be in a position to discharge all its international duties. Suppose when that time comes there should somewhere be an attack by one State on another. We trust no such case will arise; but how then would free, republican Spain conceive her international duties towards the community of nations? Let me reply by means of a specific example: in our eyes, the Covenant is the supreme law, and under it we should consider it our natural duty to withhold from the aggressor State everything which might help it in its aggression. You are aware that Spain is rich in raw materials which are indispensable in war. The fact is well known in Berlin and in Rome. The value of pyrites is fully appreciated. In such a case we should, in accordance with this fundamental law, which is embodied in the Covenant and is the very essence of collective security and mutual assistance against all aggressors, withhold supplies of pyrites from the aggressor State, while making them available to the victims of its aggression.

I venture to hope that all other States, whether great, secondary or small, which have been blessed by nature with similar resources, would defend their own security by taking a similar view of their duties.

Should the war which is now in progress in Europe and the Far East become general, there would no longer be any place for neutrals. As so much has been said about taking the realistic view, we must have the courage to face the dilemma in which such a situation would place us all. We should have to support international law or become an accomplice in aggression, for that would be the result if nominally neutral States were to allow the aggressor to use their raw materials.

Republican Spain knows what aggression means. Even before she became the victim of foreign intervention, she knew that, though she had been neutral in the last great war, such an attitude would not have been possible had she been called upon to carry out her duties towards the League of Nations. She therefore opposes neutrality as contrary to the Covenant, and favours the maintenance of the two fundamental articles, Article 10 and Article 16, on which the whole system of collective security and the future of peace itself depend.

For my own part, if any change is to be made in the present state of things, I have only one suggestion to make, and that is, that those two articles should be applied.

M. FABELA (Mexico).—I should like in the first place to congratulate Lord Cranborne on his very carefully prepared report on the universality of the League of Nations. I shall doubtless take part in due course in the general discussion on the fundamentals of this very important question; in the meantime I have the honour, on behalf of the Government of Mexico, to make the following general statement on the universality of the League.

Though my Government regrets that the League of Nations is deprived of the very valuable co-operation of various Powers, including some of considerable international importance, which, it would seem, have preferred to sacrifice their existing engagements in order to resort to war as an instrument of their national policy, Mexico considers that the time has come for the States which have remained faithful to the League of Nations and to the principles of peace and law to tighten the links which unite them under the sign of the Covenant.

While it is true that the Covenant is not a perfect instrument, and is therefore an instrument capable of improvement, it is especially true that, in its present form, as the Secretary-General, M. Avenol, very rightly pointed out, it represents "the minimum number of obligations without which no League and no effective international co-operation could exist". The League as such represents an ideal which it is absolutely necessary to maintain, in order that future generations may be better able to understand and respect it, and may draw from it those benefits which we have not been able or have not desired to derive up to the present time.

Moreover, we are convinced that if, at the time when the three fundamental crises in the League of Nations occurred, the Covenant had been respected and strictly applied, we should have saved it from violation, so that peace would have been an established fact. But there is still time to repair the mischief, provided that States gather round the Covenant, not with the idea of reforming it, but with the desire of applying it. To that end, the Powers which held back at the historic moment when peace could have been saved should set the example of strict adherence and unlimited obedience to its principles.

This complete obedience has been given by my Government ever since the great difficulties with which we are all familiar first arose. May I remind you that Mexico at that time did not confine her action to a declaration of principle? Her attitude was more effective than that. In the Italo-Ethiopian conflict she did not merely undertake to apply sanctions; she did apply them, and was prepared to extend them even to oil at the time when her representative was chairman of the Committee appointed for that purpose. As regards her attitude in the war of aggression of which Spain is to-day the victim, I may state that my Government believed that it was fulfilling its essential obligations towards a State Member in furnishing all the moral and material assistance in its power. As for the conflict in the Far East, to which allusion has been made in this Committee, I must point out that, if the Mexican Government has not yet applied any sanctions, that is because there has been no willingness to recognise the fact of aggression; such recognition must be collective and not merely unilateral. It is therefore clear that Mexico takes her place among the foremost States whose unwavering resolve it is to obey the Covenant and apply it strictly.

Mexico desires universality as keenly as any other State Member of the League, but on condition that it is achieved without sacrificing the fundamental principles of the Covenant. Between the two opposing tendencies—that of a coercive but non-universal League and that of a non-coercive but universal League—my Government is obviously in favour of the former, since in the second hypothesis the League of Nations would be in fact merely a debating society, which would expend a great deal of eloquence, but would be unable by its very nature to guarantee collective security and to maintain peace. On the other hand, a League as it exists at present, based upon a Covenant of classical structure, might succeed, in spite of its lack of universality, in enforcing the law, if its present Members were firmly resolved to do so. My Government considers in any case that it is better to keep alive the ideal of the Covenant and to retain intact Articles 10 and 16, which, as President Wilson said, are its backbone, with a view to applying those articles when men and circumstances have changed, instead of sacrificing them, since such a sacrifice would involve the suicide of the institution to the advantage of its enemies and to the detriment of peace.

If the main object of the champions of a certain approach to universality is to attract some Powers which have left the League of their own free will, why then should we reduce the vital force of the Covenant to please those who are hostile to our institution? But as regards the States which remain outside the League for other reasons, all the efforts we might make would obviously be justified by the fact that they would not signify any radical reform of the Covenant.

If, as M. Rutgers has so happily put it,<sup>1</sup> the weakness of the League is transitory, why should we dream of weakening the only permanent force, which is the ideal that it represents? If, as a result of the errors of statesmen or the conjunction of economic forces—both of which are comprehensible, explicable, and even justifiable according to circumstances—the Covenant has not merely not been fully applied, but has actually been violated, why should we maintain that the Covenant can never be applied, and must on the contrary be destroyed by removing its backbone? To violate a rule is not the same thing as abolishing it, as M. Osuský said in his remarkable speech.<sup>2</sup> The Covenant, though misused, must continue to live, in order to prevent war and contribute to the well-being of humanity.

M. POLYCHRONIADIS (Greece).—First of all, I should like to raise a question of procedure. The terms of reference given by the Council to our Committee are based on the Assembly resolutions that define them. Acting on those resolutions, the Council requested the Governments of the Members of the League to transmit any proposals which they might think desirable with a view to improving the application of the principles of the Covenant, and it is the duty of our Committee to study the proposals put forward by the Governments and to make a report indicating any concrete action it may recommend.

Accordingly, we are only empowered to put forward proposals which fall within these limits.

It seems to me that we should be departing from our terms of reference if we defined unilaterally the interpretation which, as Members of the League, we intend to place in future on any particular article.

This is, I would repeat, a point of procedure by which, it seems to me, we are absolutely bound.

As regards the principles of the League themselves, I wish to point out that my country was an original Member of the League of Nations, and has never ceased to support in full the work of the League and the ideal of peace. Greece has on every occasion acted consistently with the undertakings into which she has entered.

The Hellenic Government is of opinion that the importance of the collective guarantee securing the independence and integrity of each State must take first rank, and must place us all under the obligation to remain faithful to the principles of the Covenant and not to alter them, should the need for reform be felt, except by way of collective co-operation.

We have to defend a system of collective insurance, and we cannot better do so than in the spirit of international solidarity for the good of the institution that we have founded, and to which we have all contributed.

We are quite as willing as others to examine and discuss in common the possibilities and methods of reform. But we should like this discussion to take place at a suitable time—that is to say, at a time when the possibilities of making progress along the road to universality would appear to be greater.

Our most urgent task at this time is to work for *rapprochement* and mutual comprehension between all nations, and to endeavour to lessen the opposition which is making itself felt. The more we have done to bring the various groups closer together, the more we can hope that that unity which is so necessary to the work of international co-operation will one day be achieved.

M. МОМЧИЛОВ (Bulgaria).—The Royal Bulgarian Government, in its communication of October 9th, 1936,<sup>3</sup> to the Committee for the Application of the Principles of the Covenant,

<sup>1</sup> See page 13.

<sup>2</sup> See page 17.

<sup>3</sup> See *Official Journal*, Special Supplement No. 154, page 32.

stated its view on the modifications which, in its opinion, should be made in the Covenant of the League of Nations. That view has not changed.

Since that date, circumstances of various kinds have arisen which have caused my Government to feel some uncertainty as to the advisability of undertaking at this moment a fundamental reform, which is rendered even more difficult by the fact that a number of important countries cannot be associated in it.

The communication to which I have just referred attaches such importance to the maintenance of the collective guarantees of the Covenant that even security limited to the regional plane is considered as bound to prejudice it under certain circumstances.

With this conception in mind, the Royal Bulgarian Government is led to express the opinion that any amendments to the provisions of the Covenant should be undertaken collectively by all the States-Members, and not by unilateral action.

While maintaining the views expressed in its reply to the Committee, my Government wishes to state emphatically that it considers it highly important that every effort should be made to ensure concord and peaceful relations between all nations, by attenuating certain differences of view which at present tend to divide them into separate groups.

M. PAUL-BONCOUR (France). — We have come nearly to the end of our discussion, from which any academic character has been eliminated by the gravity of certain declarations and by the circumstances of the present day considered in their effect both on the League of Nations and on peace. This is, of course, merely a Committee set up for purposes of study. The decision will rest with others. Our task is simply to inform the Assembly, from which we received our terms of reference. Nevertheless, most of the speakers here, neglecting the many other problems submitted to us and the reports laid before us, have confined themselves to Lord Cranborne's report, and I agree that the tribute paid to him is, as the delegate of Iran so aptly remarked this morning,<sup>1</sup> the only point on which we can hope for unanimity here. Most of the speakers, I say, have confined their remarks to one problem, which appears at the moment—not so much owing to our internal preoccupations as on account of attacks from without—to be the vital point, for both the present and the future of the League.

Those States which have left the League and are now bent on destroying it from outside have seized upon its vulnerable point, realising that if Article 16, which forms the keystone of the arch, could only be removed, the whole edifice must inevitably collapse.

I should not feel unduly anxious, if all of us here were agreed on one essential fact, which was pointed out by M. Litvinoff this morning<sup>1</sup> in his penetrating analysis; the fact that, even as it stands, with the forces of the great States which compose it and which remain firmly attached to the cause of peace, with all its apparatus of collective security and economic sanctions—if only this is left intact—notwithstanding the absence of those who have never joined or who have left our ranks, the League is still capable of opposing enterprises conducted by force. What, however, has been so profoundly disquieting in this discussion, and what compels us to consider this problem, quite apart from our own personal ideas, with every desire to understand one another, is the fact that we have heard some speakers, representing countries in which the League spirit has never failed, which have always given the League and collective security unlimited support, and have derived from their own high conception of moral duty—small Powers though they may be—the courage needed on occasion to give lessons to the great Powers in danger of forgetting those principles; what causes us concern, I say, is the fact that even these active and devoted Members of the League, reflecting the anxiety of their Governments and peoples, are now asking whether Article 16, which has been so fiercely attacked from outside, can be kept in its present form.

I am not unduly alarmed by these attacks from without; what I most dread is that doubt may enter our own minds, that we may ourselves falter in our belief in those principles which constitute the basis of this institution, and which, as such, are the objects of such tenacious and formidable attacks. Therefore, while still unyielding on principles—for I think that on certain occasions firmness is our best line of defence—we are bound to take account of the anxiety to which expression has been given, to try to discern its causes, and, if possible, to discover means whereby, at all events when it comes to practical application, such anxiety may be allayed, so that we may count on the fullest co-operation from all those who still remain within the doors of this threatened institution.

I quite agree with the representative of Sweden when he points to past failures as the reason why certain countries wonder whether Article 16 is anything more than a convenient formula for national or international political ends, or whether it is really the uniform expression of a certain concept and application of law. I agree, too, with the representative of the Netherlands in the inevitably somewhat gloomy analysis which he made of the present situation, almost apologising for doing so just when his country was in the midst of its rejoicings. I agreed with him when, reiterating those same causes of anxiety and disaffection referred to by the representative of Sweden, he mentioned another: the failure to limit armaments. I share his view that the very idea of collective security, if not already doomed, has been seriously undermined by the failure to limit armaments; that idea existed in relation to a Europe, in relation to a world, in which armaments, greatly reduced, should no longer constitute for those who remained faithful to collective security a threat of reprisals, of which the haunting fear has been evoked among us.

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<sup>1</sup> See page 20.

I even agree—though only to a certain extent—with those who consider that the absence of universality is a bar to the strict application of collective security. I say “to a certain extent”, because I have a distinction to make as regards this conception of universality. I can understand the ardent desire of great countries like the Argentine Republic or other countries of Latin America to see in our midst as a Member of the League another great Republic belonging to that continent. Their desire is readily comprehensible, since the attitude of that great Republic is very similar to our own, and it has launched appeals from across the ocean that give us the comfort and the courage of which we sometimes stand in need. I am in full agreement with the repeated efforts made by the representative of the Argentine Republic to find a means of securing the entry into the League of great countries such as that one, or, if that is not possible, of establishing at all events such contact as would permit of joint action in case of conflict.

I also agree that in Europe, which is in itself comparatively small, universality is desirable. But I confess that I do not agree at all with those who suggest that in order to secure the accession or the return of certain States we should consent to depart from those very principles which constitute our *raison d'être*, or that we should forget the famous saying : *Propter vitam vivendi perdere causas*.

I do not think the return of any State worth while at the price of weakening the Covenant. The doors are open wide to those who are prepared to respect the Covenant themselves and to see that others respect it. But it would be a mistake, in my view, to sacrifice the Covenant simply in order to increase the membership of the League. That would be a false view of the League's true interests.

I find myself, therefore, quite unable to agree with the representative of Switzerland, and I would ask him to allow me to say so, while reiterating the friendship we all feel towards a country which has given us hospitality, in particular my own country, whose prisoners and wounded received so generous a welcome in other days. I shall venture to express my disagreement quite frankly. It seems to me, indeed, that there is some contradiction between the two propositions which he has defended here, and that this contradiction brings out clearly the difference of opinion between him and those of his colleagues who have adopted a similar attitude towards Article 16. Nothing shows more clearly the difficulty we should find, in securing agreement, not only between those who have adopted different attitudes, but even between those who have adopted the same attitude towards Article 16.

The representative of Switzerland repeated, and indeed pushed to extremes, the criticisms already directed, if not against Article 16 in itself, at all events against the possibility of applying it in the present state of Europe. But at the same time he said that, for historical and geographical reasons—serious reasons, which my country will have to consider in other circumstances and in another place—this was not the place to discuss the question, and that it was not for us to express an opinion on the matter. I think that there is a contradiction in urging the necessity for total neutrality and at the same time joining in criticisms directed against Article 16, criticisms which, through the very fact of total neutrality, would lapse because they ceased to be applicable. I desire to stress this contradiction, adding that it is explained by the geographical situation of Switzerland, a country surrounded by three great States, two of which are no longer Members of the League.

The position of Switzerland on the one hand and that of Sweden and the Netherlands on the other are only superficially similar, since the last two countries have stated—the delegate of the Netherlands in clear and explicit terms—that their conception of reform in the matter of the interpretation and application of Article 16 could not in any circumstances imply a return to pre-war neutrality. That being so, I would ask you this question : “How exactly do you conceive of the application of Article 16 in the present circumstances, if the anxiety which you appear to feel concerning the possibility of applying that article is to be allayed?”

Some of our colleagues have not only set aside the idea of neutrality, which would be the extreme logical consequence of abrogating or modifying Article 16—for certain modifications are tantamount to abolition—but have clearly affirmed the necessity of maintaining it, in order, it would seem, that they may be able to benefit by its application. I quite understand their attitude, considered in the light of their attachment to collective security and their anxiety for their own security, for who knows whether the burdens of to-day may not prove to be the blessings of to-morrow? At the same time—we gladly recognise the good faith and seriousness of those who have spoken in this discussion—they have said that, even if the optional conception were adopted, they would take good care to reserve their sovereign right to judge of the expediency of associating themselves with coercive action and taking part in economic sanctions, this being the sole issue, since military sanctions have—rightly or wrongly—long been regarded as optional.

Lastly, after listening with the closest attention and in the broadest spirit of comprehension to those who have given expression to their anxiety, we have tried to discover what would be the practical consequences of the reservations put forward with regard to Article 16—an article which is subjected also to a more violent and less open assault from without. We realise finally that the suggestion is that each country should be allowed to judge for itself whether it will apply economic sanctions—that they should no longer be regarded as obligatory.

The problem would be almost insuperable for those who are determined to maintain certain principles while taking due account of the particular needs of each State and of certain



quite justifiable fears, were it not that the imperative rules laid down in Article 16 have already become much more elastic in practice. Our colleagues, however, have very courteously and tactfully conveyed that their real apprehension is lest the great Powers, which have shown little zeal, in certain cases, for the strict application of Article 16, may be desirous of imparting fresh life to this article only in the matter of conflicts which touch them more directly. Our colleagues—and this idea exists in many other quarters also—are afraid that by the application of Article 16 they may be involved, first in sanctions, and then in conflicts, which would not serve their individual national interests.

It seems to me in the first place that our colleagues have forgotten one very restrictive though useful rule, which has often paralysed initiative, but which does at all events safeguard the sovereignty of States; I refer to the unanimity rule, which will apply if for any reason a decision of the Council is demanded. All States, of course, are not represented on the Council, and from that point of view the Great Powers having permanent seats may be regarded as being in a privileged position. But we know quite well—here for the first time I refer to our practice in support of what I say—we know quite well that there is no need to change anything or even to interpret anything, in order to calm apprehensions, seeing that our practice already supplies the answer.

The various groups of Powers sharing certain common conceptions, or united by certain common interests, are in fact represented on the Council, where the unanimity rule applies. Moreover, almost always, if not always, when a conflict has broken out and the possibility of applying sanctions has been contemplated—which does not mean that they have been applied—an Assembly has been convened, at which all the nations have the constitutional right to be represented. Do you really think, then, that any body of measures could be decreed which did not correspond to the common view of all the Members of the League? The criticism might rather be that such a procedure, if it is followed, constitutes a hindrance to rapid and energetic action. To-day, at all events, we are entitled to refer to this fact in order to allay the anxiety of our colleagues.

But practice has not stopped there. On October 7th, 1935, an important precedent was created—a precedent that we may regret from certain points of view, but which nevertheless exists. A decision was taken on that day, first by the Council,<sup>1</sup> and subsequently by the Assembly,<sup>2</sup> that the imposition of the economic sanctions which were compulsory under Article 16 as the result of findings by Members of the League should be governed by the co-ordinated but free action of the different States which were to apply them. I see there a fissure; I see there a danger. But, since this more elastic application was accepted, those who, like myself, urge the maintenance of Article 16 as regards both its text and its interpretation, are surely entitled to invoke these precedents and this practice, in order to demonstrate to our colleagues that the very natural anxiety they have manifested is adequately allayed by this very procedure.

Need we go any farther? From this point of view, I am grateful to the representative of the Argentine Republic for having introduced into this debate, in which criticism and defence have perhaps been too closely restricted to the exposition of fears, one constructive idea: he reminded us of the not unimportant fact that the 1921 Assembly had passed resolutions to the effect that, Article 16, being what it is and remaining as it is, as regards not only its text but also its interpretation, the Council was empowered to introduce the necessary adjustments and adjournments and to decide whether this or that nation, by reason of its geographical or economic situation, was in such a position that, in the very interests of any joint effort, it was preferable to adjourn, to modify or to limit the extent of its obligations.

These resolutions have not, of course, been ratified. But here again practice comes in. I would remind our colleagues that on the very morrow of October 7th, 1935, the day of the creation of this precedent, this practice—which, while it detracts, I fear, from the rapidity and energy of any action we may take, should at least allay all anxiety on the subject—I would remind them that on the morrow of that day, when this practice was being instituted, it was added that the practical difficulties that certain Governments might experience in applying Article 16 would be dealt with by the co-ordinating body which the Council asked us to set up, that co-ordinating body representing, by delegation, sovereign States which were to decide, in the exercise of their sovereign powers, what they should and could do.

Let me forestall one objection which may perhaps occur to the minds of my colleagues as I make these statements, an objection which has, indeed, already been mentioned by several—namely, since this is the practice, why should it not be embodied in the text, or why should not the text be interpreted by reference to this practice?

That I know is in accordance with the morphological development of law: the practice is first established and then embodied in texts. That is so, provided that we are dealing with those permanent factors of international life to which M. Osuský alluded in his brilliant and moving speech yesterday.<sup>3</sup> It is by reference to those permanent factors of international life, and not by reference to the transient and accidental obstacles which we have to surmount, that we should consider whether we ought to embody in the actual texts those adjustments and more elastic forms that have been introduced in practice.

<sup>1</sup> See *Official Journal*, November 1935, page 1217.

<sup>2</sup> See *Official Journal*, Special Supplement No. 138, page 99.

<sup>3</sup> See page 17.

My colleagues themselves gave me the answer when they proclaimed so urgently and emphatically—in terms indicative of hope after all, in the midst of so many depressing declarations—that we were going through a transitional period, a difficult period, but one that we might hope to survive. A great deal has been said about resurrection. I do not care very much for that word, for resurrection implies first of all death and burial, and I, for my part, am not inclined—nor is my country—to clothe the League even in the purple shroud reserved for dead gods. Continuation must be our watchword, not resuscitation. We must take account of practice, but—this point occurs to me among many others in M. Osuský's speech—even the repeated violation of a rule is not sufficient justification for altering it.

I would ask my colleagues—I apologise for having addressed myself more particularly to those whose views on this international problem are different from mine : it is a tribute to their good faith—to bear in mind the compulsory character of the Covenant, whatever the elasticity with which it has been applied. After all, it is not the great Powers, or certain of the great Powers who are defending themselves here, that stand most in need of our joint guarantee. It rests with the strongly-armed States, protected by their armies, their fleets, their air forces, their concrete defences, to withstand aggressions against themselves.

Collective security is not a selfish conception. The idea was born of unspeakable unhappiness, suffering, destruction and death, such that mankind, it was thought, might perhaps be capable of avoiding its former errors. It was thought—and I for my part still think—that, whatever efforts may still be necessary in the matter of armament competition, collective security alone can, I will not say win a war, but prevent war. Perhaps, indeed, the haunting fear of the dangers that threaten us has made us forget up to the present that the conception of collective security must be envisaged not so much from the point of view of what would happen if war broke out, as from that of its consequences and the help that might be necessary from or the burdens that might be imposed upon the different nations. We must envisage it in the light of the necessity of avoiding war. As you are well aware, there is no doubt that war can only be avoided if a nation desiring peace is certain of having behind it the armed forces of the great Powers devoted to that same ideal, together with the economic help of all those who are attached to the cause of peace.

You know, too, and the experts know better than anyone, that it is not true to say that economic sanctions are ineffective. The fault lies in our lack of determination ; States are ruled by interests—sometimes, indeed, by interests of the least praiseworthy and most sordid character. The industrial modernisation of great armies, the existence of a great mass of material, the application of all the achievements of science to the art of killing, make modern armies extremely vulnerable. Never has it been more possible than to-day, by holding back the material for war supplies, to prevent a modern war from breaking out or continuing. I say advisedly “from continuing”, for those who are best informed—and this is another feature which is too often neglected—are well aware that, in the present state of armaments, an operation of short duration, however daring, cannot succeed. Time is an essential factor. A war must continue for a certain length of time. And those who counted on quick decisions are realising this at the moment. International terrorism, the bombardment of open towns, the massacre of civilian populations, of women, of children, all that is happening at present in the world, acts at which we should all unite in expressing our indignation, all this is not sufficient to hasten the conclusion of hostilities or to ensure the success of bold and risky operations. It would seem as if individual determination and the capacity for suffering increased with the atrocity of the means employed.

Is this the moment, then, when we have everything to fear, when anything is possible, for us to deprive economic sanctions of their essential value, a value which can only be derived from their generalised adoption ? I repeat that the problem before us to-day is one which moves me profoundly. I hope that we may find formulæ that will enable us not to settle it in a way which, however legitimate and however lofty the motives of those of our colleagues who doubt the possibility of applying Article 16, would be a decisive victory for those whose aim it is to destroy the League so that nothing may stand in the way of enterprises based on force. We shall certainly succeed in finding a formula. But, realising the genuine apprehension felt in certain quarters, knowing also how fatal the expression of that apprehension might be if it tended to weaken what still remains, I have sought to demonstrate that there is no need to make any change in order to give certain of our colleagues the assurances they desire.

M. CRUTZESCO (Roumania).—After the magnificent speech of the distinguished representative of France, I shall confine myself to stating that I desire, on behalf of my Government, to endorse the views he has set forth.

Mr. JORDAN (New Zealand).—In a few words, I wish to say that New Zealand does not desire to be silent, but to express and place on record again our adherence to the Covenant. While we desire all nations to collaborate, New Zealand will play her part towards producing a Covenant which will be acceptable to all and towards establishing a reconciliation between all States. We trust that such a Covenant will not be of a character which will be ineffective in its form or operation.

Instead of framing a Covenant which will conform to the present confusion, we trust that we who now form the League will ourselves grow closer together and use our endeavours to secure the adherence of others in a real and determined agreement to maintain the peace of nations.

I could talk at length, but it would be to the same effect ; that New Zealand wishes to remain linked with those States which seek progress through the League, those States which look for progress through peace, through care for the people of our respective countries, through trade between our respective countries, through a feeling of security and co-operation and a mutual regard for the welfare of others. We trust that nothing will be done to impair or weaken the Covenant under an impression that we are helping to deal with immediate problems.

M. UNDÉN (Sweden).—I do not want to prolong the discussion, but I should like to make one or two observations. I listened to M. Paul-Boncour with special interest. I want to thank him for what he has said ; it shows that he fully understands the anxiety felt in certain countries and expressed in the speeches made in this Committee.

I am glad to note his views about the precedents and practice already established ; if I am not mistaken, those views are very similar to our own. I sincerely hope that the attitude adopted by M. Paul-Boncour will facilitate the solution of the problem that has been raised during our discussion. This discussion has shown, to my mind, that the differences of opinion have little bearing on the present situation in regard to the operation of Article 16. They rather concern the question whether we should formally recognise the present state of affairs with regard to the system embodied in Article 16, or should be content tacitly to recognise it and to await further developments in the general situation. One of the earlier speakers said he found it difficult to grasp how anyone could release himself from collective obligations by a unilateral declaration. I agree on that point ; but that is not the problem we are discussing. The problem is quite a different one : we have to recognise that no State has applied the Covenant, and that through a sequence of undeniable facts a certain practice has grown up. The statements made by myself and by other members of the Committee relate to the situation thus created.

In conclusion, I should like once more to draw special attention to the drawbacks and dangers of maintaining the fiction that certain legal obligations exist when no State Member of the League observes them. Such a state of affairs will destroy the whole body of international law.

VISCOUNT CRANBORNE (United Kingdom), Rapporteur.—We have now come to the end of our long discussion, and it is my privilege as Rapporteur to speak last.

I wish to deal with the situation which the Committee has now reached. When we parted in October last it was the intention of the Committee at its next session to embark on a detailed examination of the question of universality on the basis of a report which I had the honour to submit to the Committee. I should like, in passing, to say one word of most sincere thanks to those of my colleagues who have referred to the report. I am only too conscious that I do not deserve the many kind things that have been said.

Our Chairman pointed out, at the beginning of this session, that in the changed circumstances with which we are faced, it would be inappropriate to enter into a detailed survey of the subject, and although there was no reason for departing from the general procedure on which the Committee had decided, it would seem desirable to devote our remarks to the more general aspects of the question. This proposal, with which I am personally in the warmest agreement, was acceptable also, I think, to the Committee as a whole, and the speeches that have been made during the debate have certainly been conceived upon the very broadest lines. They have, it will be generally agreed, been contributions of the very first importance.

This Committee, I would remind my colleagues, was set up to consider the application of the Covenant under existing conditions and to report to the Assembly the views of the nations represented on it. In this task, considerable progress has been made, a most valuable documentation has been obtained, covering every aspect of the League's work, and views of the greatest importance have been expressed. In particular, the declarations which have been made during this last week are of a very far-reaching character indeed. But this very fact makes it necessary to examine the position which the Committee has reached. We are not the Assembly itself ; we are only an advisory committee appointed by the Assembly. We have heard views which it seems to me essential that we should report to our fellow Members of the League before proceeding to a further stage. Indeed, it is greatly to be doubted whether further progress could usefully be attempted at the present time. It is not merely that the views that have been expressed by various delegates, as M. Paul-Boncour has already pointed out in that most memorable speech which he made this afternoon, are divergent, but we require time to consider and reflect upon them. Fundamentally, I personally do not think that the situation that has been exposed by our work is to be regarded as discouraging. On all sides, there has been evidence of continued attachment to the principles of the Covenant and of continued belief in the essential importance of preserving the collective system.

Certainly His Majesty's Government in the United Kingdom has not weakened and does not intend to weaken in its support of the League. Mr. Eden made the position of His Majesty's Government in the United Kingdom abundantly clear at the opening of the one-hundredth session of the Council, and I do not intend to repeat this afternoon the words he then used.

I would only quote one brief passage:<sup>1</sup> " His Majesty's Government in the United Kingdom ", he said, " considers that the League, despite its existing limitations, is the best instrument that has yet been devised for giving effect to the principles of international co-operation, and it is therefore determined to keep the League in existence, to give it its full support, and to make use of the League's machinery and procedure to the fullest extent that circumstances permit ".

By those words, His Majesty's Government in the United Kingdom firmly stands. At the same time, while there is this broad measure of agreement on fundamentals in the Committee, I do think—and I think my colleagues agree with me—that the Committee itself needs, at the present moment, a breathing-space. Too great precipitancy in such circumstances can do not the slightest good and might do a very great deal of harm. We all, I think, need time to reflect on the declarations which have been made in the course of the last few days. I would like, therefore, to suggest to my colleagues that the wisest plan, in the circumstances in which we are placed, would be to prepare a communication to the Assembly. I suggest that this communication should be of the briefest and simplest kind—not a report entering into the fundamental issues that have been raised, nor attempting any assessment of the views that have been expressed. Such an assessment, in a Committee which includes only twenty-eight of the fifty-three active Members of the League could not be regarded as comprehensive. We should, in my opinion, confine ourselves to what would amount to a covering letter enumerating the documentation which has been assembled and the *procès-verbal* of the views that have been expressed by the nations represented on the Committee, and commending these documents to the serious consideration of our fellow Members of the Assembly.

I make no doubt that the Assembly will consider with the care it deserves this very important communication. In the meantime, I suggest that the Committee should adjourn until we receive from the Assembly which appointed it directions which may govern the future progress of its work.

The CHAIRMAN. — I hope the Committee will support the suggestions just made by Lord Cranborne ; they seem to me to be extremely judicious. It is plain that circumstances are not very favourable to the fulfilment of our task. We are at present passing through a crisis far beyond the scope of the League of Nations—a crisis implicating the organisation of international relations in the widest sense of the term—and the difficulties we encounter here are very often no more than a symptom of this far more general and deep-seated disturbance.

What will be the outcome of this crisis ? We cannot say yet with any certainty, but I think we can say that in all probability it is approaching the turning-point. In these circumstances, it seems only wise not to precipitate matters. On the other hand, there must be no misunderstanding. The slowing-down of our work must not be interpreted as a disguised attempt to shelve the problem before us. That problem has been raised and is still before us. If circumstances lead us to defer its examination for a little while, that does not mean that we are shirking it. On the contrary, the reason is that we are anxious to settle it under better conditions.

If the Committee shares the Rapporteur's views—views I have taken upon myself to support—we will send the Assembly a report on the position of our work. This report will be purely objective, and as simple as possible. It should, I think, be sent to the Assembly. The Assembly raised the problem of the application of the principles of the Covenant ; the Assembly gave us our terms of reference ; and it is therefore for the Assembly to take decisions.

In addition, the Minutes of the present session will be annexed to the report. We have heard during the past two days some extremely important statements, which affect not only the future of the League, but the present operation of the Covenant. I do not think the Committee, as such, is required to draw general conclusions from these statements ; it has only to register them and bring them to the notice of the Assembly and of the Members of the League.

Lastly, I suggest that the report and its annexes be communicated at once to all the Governments Members of the League.

If the Committee approves this procedure, we might meet to-morrow to examine the draft report.

M. VALDÉS-MENDEVILLE (Chile).—I venture to ask whether the Secretariat could distribute the draft report to the delegations this evening, for the following reason. I fear, from Lord Cranborne's suggestions, which the Chairman has endorsed, that the conclusions of the report based on these suggestions will resemble the pessimistic forecasts as to the outcome of our work against which I spoke this morning. Having also made suggestions of principle this morning, with regard to the continuation of our work and the procedure to be followed at future meetings, I should like as much time as possible to study the draft report, so that I may be in a better position to discuss it and to see what line I can adopt.

The CHAIRMAN. — The Secretariat—and I should like to pay a tribute to its diligence—tells me it will be able to distribute the draft report this evening.

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<sup>1</sup> See Minutes of the second meeting of the one-hundredth session of the Council.

FIFTH MEETING.

*Held on Wednesday, February 2nd, 1938, at 3.30 p.m.*

*Chairman* : M. BOURQUIN (Belgium).

**Correction of Certain Press Reports : Statement by the Representative of Colombia.**

M. YEPES (Colombia).—I apologise for having to make a correction in the interpretation placed upon some of the ideas which I expressed in my speech yesterday. A local newspaper maintains that I attacked Switzerland in asserting that neutrality was incompatible with Article II of the Covenant of the League of Nations. This is a serious error of interpretation. I put forward a legal argument, an absolutely objective view, which can be applied to any country, including my own ; my intention was to express an abstract conception at which I had arrived after carefully studying all the articles of the Covenant. My remarks cannot be interpreted as referring to any particular State, least of all to Switzerland, a country which I admire for its democratic and republican spirit. To ascribe any other intentions to me, as was done by the newspaper in question, is to misrepresent my ideas and to attribute to me opinions which I do not hold. I would ask that this correction may be mentioned in the Minutes of the present meeting.

The CHAIRMAN.—The remarks made by M. Yepes will appear in the Minutes of the meeting.

**Examination and Adoption of the Draft Report of the Committee.**

The CHAIRMAN.—The members of the Committee received the text of the draft report to the Assembly yesterday evening (document C.P.S.29).<sup>1</sup>

You will see that the text of this draft report has been drawn up in the simplest and most objective manner. It is proposed that the Minutes of our present session and the reports transmitted to us for information<sup>2</sup> should annexed to the Committee's report.

As regards the latter documents, you will remember that some of them have not yet been communicated to us. When they are received, they will naturally be brought to the notice of the States Members of the League as were the other reports, and they should be considered as annexed to our report if they are received in time.

I think it unnecessary to add any further comments on the text before you. I shall be glad to hear the views of the Committee with regard to this report.

M. VALDÉS-MENDEVILLE (Chile).—I again apologise for the request I made yesterday that the report should be distributed the same evening ; if I had been able to foresee the nature of the report, I should not have ventured to cause additional work to be placed upon the Secretariat.

I also apologise for speaking more of what does not appear in the report than of what it contains.

The Chairman was careful to state yesterday that there would be no disguised shelving of the problems under discussion ; but, after reading this draft report, I venture to think that this may well be considered to have happened. Is it not true that, after eighteen months' work, which ought to have been continuous, the Committee records failure to accomplish its task and is adjourning *sine die* ? It has been said that this is a Committee of Enquiry. That is true, but the Committee is of a very special kind. It is so long since it was set up that it is but human to forget sometimes its terms of reference. It may be useful to recall them. The resolution of October 10th, 1936, says :

“ The Assembly decides to set up the Committee . . .

“ The Committee will prepare a report as soon as possible indicating the definite provisions the adoption of which it recommends with a view to giving practical effect to the above-mentioned recommendation of July 4th, 1936.”

I am aware that I may be told that this resolution is based on the recommendation of July 4th, 1936, which was limited ; but that recommendation embodies one essential feature, which is of the greatest and most urgent significance at the present time—namely, the adaptation of the principles of the League of Nations to the lessons of experience. M. Spaak, speaking in the Council,<sup>3</sup> drew, in a masterly manner, the conclusions which must follow from that recommendation in regard to our work. It would be useless for me to read M. Spaak's statements again, as they are no doubt present to the minds of all, or to repeat his statement of our task. I will merely note that nothing has been so much as attempted in that direction.

Permit me, at this juncture, to refer to the speech made yesterday by M. Paul-Boncour ;<sup>4</sup> he is aware of the feelings of admiration with which his country is regarded in my country

<sup>1</sup> The draft report is not published. For the final text, see page 5.

<sup>2</sup> See Annex 2 to 10, pages 41 to 123.

<sup>3</sup> See Minutes of the second meeting of the one-hundredth session of the Council.

<sup>4</sup> See page 31.

feelings which, in my own case, are supplemented by bonds of kinship and spiritual affinity. He is aware of the respectful friendship which I feel for him, and he will remember that, on many occasions, I supported him in the Preparatory Commission for the Disarmament Conference and in the Conference itself, the deep regret for the failure of which I modestly shared with him. He will therefore permit me to state that, in spite of the reassuring facts to which he directed attention and which, after all, are of a practical nature but without any definite guarantee or legal value, the gravity of the situation has never appeared to me to be more acute or the danger of maintaining the present legal *status quo* of the League of Nations more serious than it was shown to be in the moving words which he uttered yesterday.

With regard to universality, which is, as we have maintained, the essential problem, M. Paul-Boncour said he did not think there was any country the entry of which would compensate for the weakening of certain principles which he regards as fundamental. To follow him would I think, be tantamount to abandoning, possibly for ever, the idea of attaining that universality which appears to many of us to be indispensable to the real authority of the League of Nations. In our opinion, the fundamental principles are those laid down in the preamble of the Covenant, and, on that point, we agree with the opinion of the United Kingdom Government expressed by Mr. Eden in the Council.<sup>1</sup> Like him, we hold to these principles, and we entirely agree with him that "true peace and orderly progress and prosperity cannot be looked for in the world unless all nations co-operate in some system based upon those principles". We also agree with him that the impulse towards this ideal may still survive, and we hope, with Mr. Eden, that these differences will be finally narrowed down to differences of method.

That is why—to return to what I said yesterday morning—we have asked for nothing at once, for nothing final. All we have asked is, in short, this. As to the substance of the matter, we have asked that the principle be reaffirmed that the reform of the Covenant is necessary, the object being to achieve universality by methods still to be discussed. I added that, provided this principle was affirmed and a sincere effort undertaken, we could agree to a transitional period with provisions for giving legal force to certain interpretations.

As to procedure, I expressed the strong conviction that the Committee's work should be continued unremittingly and that, in any event, it should not be adjourned to the distant future.

You will easily understand that, on reading the draft report, the Chilian delegation felt deeply disappointed. No affirmation of principle, no recommendation such as is required by the terms of reference of 1936, and adjournment *sine die* of our work!

I am afraid the Committee's report to the Assembly, after eighteen months' work, will provide material for irony or despair according to the different points of view adopted by public opinion. But my delegation does not expect to persuade the Committee to change its views or its methods, if, as may be assumed, the draft report communicated to us last night was prepared in consultation with other delegations constituting, in all probability, a majority. I will confine myself to these remarks and, as the only result of our work is to be that the Minutes will be communicated to the Assembly and the Governments, I would ask that they be recorded therein.

The CHAIRMAN.—The observations of the Chilian representative will appear in the Minutes of the meeting.

Without entering into any discussion, I should like to make clear one or two matters to which M. Valdés-Mendeville has just referred.

In the first place, there were no negotiations about the draft report now before the Committee. It was not submitted beforehand to any delegation or any member of any delegation. I myself am responsible for it, and I would ask my friend and colleague, M. Valdés-Mendeville, to regard that as a proof of my modesty.

Secondly, M. Valdés-Mendeville was kind enough to remind you of the remarks I made yesterday. I should like to re-read them, in the form in which they appear in the Minutes. I ventured to support the Rapporteur's suggestions regarding the future course of our work. Lord Cranborne explained why he thought it desirable, in present circumstances, not to precipitate matters. I fully agree with his views, and I said so very frankly. I ventured to explain as clearly as I could why I thought it would not be wise, in the circumstances, to adopt a definite position regarding the problem before us. This is what I said: <sup>2</sup>

"The slowing-down of our work must not be interpreted as a disguised attempt to shelve the problem before us. That problem has been raised and is still before us. If circumstances lead us to defer its examination for a little while that does not mean that we are shirking it. On the contrary, the reason is that we are anxious to settle it under better conditions."

I am sure we should all be delighted if we could respond at once to the confidence shown in us by the Assembly. We should all be glad if we could report to the Assembly here and now in the following terms: "We have reviewed the various problems connected with the application of the principles of the Covenant, and this is what we recommend". We are all equally anxious, not only to fulfil our mission, but to fulfil it as well as possible. The only difference of opinion which may perhaps separate us amounts to nothing more than a question of

<sup>1</sup> See Minutes of the second meeting of the one hundredth session of the Council.

<sup>2</sup> See page 36.

expediency. Would it not be quite contrary to our common aim, to the aim we all have in view, to seek to adopt any final attitude in the midst of the crisis through which we are passing and which is beyond our scope?

That is the only point on which we differ. I thought I should remind you of it in order to prevent any misunderstanding.

M. UNDÉN (Sweden).—Now that the Committee is called upon to express its views with regard to the adjournment of its work for a considerable period, I should like to say that I do not oppose that adjournment, but, on behalf of my Government, I would ask that the following statement be inserted in the Minutes :

“ Should the Swedish Government be obliged to decide in practice upon its attitude, before the Committee or another organ of the League has reached a decision on the problem raised during the discussion, the Swedish Government will consider itself entitled to adopt a line of conduct in conformity with the declarations made by the Swedish delegation in the Committee.”

M. VALDÉS-MENDEVILLE (Chile).—Mr. Chairman, the silence with which your first words were met, when you asked whether any members wished to submit observations, leads me to assume that there is a general feeling in favour of the adoption of the report. I think, therefore, that the time has come for me to express that final view to which I referred just now. I should, however, like very sincerely to thank you for the explanations you have just given. As regards the first point to which you referred, I would assure you that when I suggested that the report might have been the subject of negotiation, it was not my intention to criticise the Bureau. I simply meant that this report represented the views of what was probably a majority and expressed those views without taking into consideration the views of the minority. This is, moreover, understandable because the report is not an account of all that the Committee has done. It merely records a decision to adjourn and to transmit the Minutes to the Governments.

As to the second observation, this is not the appropriate moment for me to state my views, since nearly all the members of the Committee are agreed on the question. The differences of opinion to which you, Mr. Chairman, referred do not relate to the facts, because the situation is too serious for the members of the Committee to differ to any extent in their recognition of the facts; where they differ is in regard to the conclusions to be drawn from those facts. I will not say, as did M. Gorgé,<sup>1</sup> that the League may prove to be behindhand in recognising the facts, but what I do say is that it may be behindhand in adopting the right method for dealing with them. However, this is not the time to re-open that discussion. Our minds are made up, and now that we are called upon finally to adopt this report, which I have been obliged to criticise and against which I shall vote if a vote is taken, or with which I must express my disagreement if there is no vote, I have the honour to make the following statement on behalf of my Government :

“ Chile has tirelessly maintained, and maintains more than ever, its conviction as to the necessity for undertaking a substantial reform of the Covenant by means of a general consultation of States Members and non-members of the League, this being the only possible solution for the present state of affairs and the only way by which the League can, through the widest universality that can be achieved, acquire its rightful authority.

“ After noting the negative results of the Special Committee's work on these problems, the Chilian Government, taking into consideration the manner in which the Covenant has been applied in the past, finds itself obliged, in view of the existing situation and for so long as this situation may continue, to state that it formally reserves its freedom of action, as regards both the forthcoming discussion in the Council of the problems stated and the adoption in respect of the League in general of such an attitude as circumstances may, in its opinion, require.”

*The report was adopted.*<sup>2</sup>

### Close of the Session.

The CHAIRMAN.—I think our session has not been fruitless. A transition period such as that through which we are passing necessarily produces hesitation, anxiety and misunderstandings. At such times, there are certain things that should be said and an opportunity has been given for saying them. We have listened to important statements which are recorded in the Minutes that are to be annexed to our report. These statements throw light on a situation with which all the Members of the League should be acquainted. They will also, I feel sure, effectively help to remove certain apprehensions and to bring certain points of view nearer together.

The admirable speech delivered yesterday by the representative of France,<sup>3</sup> echoed at once by the delegate of Sweden, is proof of what can be done amongst us as the result of an effort of sincere and mutual comprehension, for, behind all our controversies, there is something that goes far beyond them and unites us all, and that is our fidelity to the League. I am well aware that professions of faith of this kind are not always of very great weight, but this one, I feel, borrows from present circumstances a particular significance which will escape no one.

<sup>1</sup> See page 13.

<sup>2</sup> For the text of the report, see page 5.

<sup>3</sup> See page 31.

By asserting our devotion to the League to-day, we are not making merely a formal gesture ; we are expressing a considered conviction and determination. We mean that, in the midst of the general confusion, the League of Nations and the ideal for which it stands retain their full value in our eyes. We mean, too, that, whatever happens, it is important that they should be maintained on their own plane.

The League was not created to take sides in the interplay of rival policies. The only ideology which it professes is respect for law and love of peace. It is not, cannot be and never will be a coalition in the traditional sense of that word. Those who created it saw in it, above all else, an organ of the community of States, an instrument of collaboration and appeasement. It is true that to-day circumstances impede the normal accomplishment of its duty, but when the atmosphere becomes less heavy and it is possible to take up once again the essential work of the peaceful organisation of international relations, the very existence of the League will then appear as of inestimable benefit.

In proclaiming the fidelity which we still feel towards the League to-day, we are thinking not only of present circumstances, but also of that future which is still uncertain, but in which we place our best hopes and which it will depend upon us, by our wisdom and our prudence, not to compromise.

I declare closed the third session of the Committee.

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Geneva, September 8th, 1937.

ANNEX 2.

PARTICIPATION OF ALL STATES IN THE LEAGUE OF NATIONS.

*Report submitted to the Committee by Viscount Cranborne.\**

I.

1. The subject of the participation of all States in the League of Nations falls into two sections. Of these, one, but the less important, relates to the rules and procedure for the admission of non-member States to the League and raises such questions as whether the present rules are satisfactory and, if not, what changes could and should be made. These questions, which are of a technical character, are considered in the Annex to the present report. This Annex is in two parts. The first consists of a memorandum prepared by the Secretariat of the League; the second of a commentary thereon by the Rapporteur. Certain parts of this commentary are not without interest on the general question of universality, in particular paragraphs 35-37 and 39-40.

2. The report itself deals with what is believed to be the central problem, not only of the particular question of the participation of all States in the League, but also of the general question of the "Universality of the League of Nations", of which universal membership of the League is but a part. This problem arises from the fact that membership of the League is not (and never has been) universal. For the Committee on the Application of the Principles of the Covenant, it raises such questions as the following (amongst others): to what extent is the absence of universal membership due to the nature of the present provisions of the Covenant? Could universal membership be achieved, or at least materially facilitated, by an alteration of those provisions and, if so, what alterations would be necessary to that end? Is it of paramount importance to achieve a universal membership of the League, and is this a consideration which should take precedence over all others: more specifically, is the importance of achieving universal membership such as to warrant the steps and, it may be, the sacrifices which might be found the indispensable conditions of securing it? These questions do not exhaust the subject, but are put down at the outset and, as it were, somewhat at random, in order to give at once a general idea of the nature of the Committee's task. It may be observed that the term "participation" (of all States in the League) has, in the present report, been taken as meaning participation on a basis of full membership, on an equality in all respects with other Members. The possibility of a sort of limited or partial membership is discussed in paragraphs 36-38 of the Annex.

3. The method adopted, in carrying out a detailed analysis of the subject, is to propound a series of questions, which, in one form or another, it is thought that the Committee will be compelled to put to itself and, without suggesting definite answers or conclusions, to indicate the factors which the Committee will have to consider in arriving at a conclusion for itself. Since there is more than one avenue of approach, the various questions may show some overlapping. But this should have the advantage of leading to a more adequate all-round study. The main points to which consideration is given are the following: the meaning to be assigned to the term universal membership; the object to be attained by achieving it; the results to be expected of it when achieved; the possibility of achieving it, and the steps to be taken to this end; the relative importance of the subject.

II.

4. Before embarking on any detailed analysis, however, it seems desirable to make certain observations of a preliminary character. It is, as will be seen, extremely difficult to consider the question of universal membership of the League apart from the question of the nature of the League itself. Speaking in a very broad and general sense, there are three principal ways in which a community of nations organised for the purpose of promoting international co-operation and of achieving international peace and security can be envisaged, though, of course, each conception admits of a number of variations.

(1) In the first place, there is the League which is organised, not only for the promotion of international peace, but also for its actual enforcement in certain circumstances. Such a

\* *Note by the Chairman of the Committee.* — The Committee to study the Application of the Principles of the Covenant asked a number of rapporteurs to make a survey of the various questions on its agenda, in order to facilitate discussion. The present report has been drawn up in consequence of that decision, and is therefore a purely informative report, in no way binding upon the Committee or prejudging its future decisions.

League would involve provisions whereby, in certain events, its members would be obliged to impose so-called sanctions — economic, military or both. This type of League may, for convenience, be called a “coercive” League. As has already been observed, the sanctions to be imposed under it might vary; they need not necessarily be military, they might be purely economic. Again, there might not necessarily be an obligation to impose sanctions in all cases; this obligation might only arise in certain circumstances of a limited and well-defined character. But whatever the exact nature and extent of the obligations in question, so long as there did exist an obligation to impose sanctions, the League would be coercive in its nature. This type of League is based on the view that it is to a greater or lesser extent possible to anticipate the situations likely to arise in the international sphere, and to lay down beforehand the action to be taken to meet them; that foreknowledge of definite consequences is essential if aggression is to be deterred. It follows from the above that the present League is of the coercive type.

(2) At the other end of the scale, there may be envisaged a League which would involve no obligation to impose sanctions of any kind or in any circumstances, and in which the only duty resting on its members in the event of an international crisis, so to speak, would be to consult with one another. This type of League may be termed a “non-coercive” League. It would, of course, provide machinery for the pacific settlement of international disputes, and its members would bind themselves to make use of this machinery. But, in the event of the procedures of pacific settlement being exhausted without result, or of a member failing to carry out his undertakings as to the employment of these procedures, or of an act of aggression being committed by a member without recourse to them, there would be no actual obligation upon other members to employ any measures of coercion or do more in the first instance than to enter into consultation in regard to the situation.

(3) As a matter of pure theory, the above two classes might be regarded as exhausting the possible types of League in the sense that any League which involves some sort of obligation to use coercion is a coercive League, and any League which does not involve such an obligation and does not actually oblige its members to do more in the first place than consult is a non-coercive League. In practice, however, a third type of League may be envisaged which would, to some extent, partake of the nature of both the above. Broadly speaking, according to this third conception, a non-coercive League is distinguished from a coercive one by the view that the circumstances in which occasion for international action will arise, and the nature of the action to be taken, cannot be determined in advance, and that each case must be dealt with *ad hoc*. As each situation arises, members of the League must meet and consult as to the course to be adopted. But action, even coercive action, is not necessarily excluded. This third type of League, therefore, while not actually obliging its members to do more than consult, might embody in terms a faculty (but not an obligation) to use coercion in certain circumstances, and might provide machinery for regulating the use of coercion on the part of those of its members who, in a given case, decided to employ it. The members of such a League, while not being obliged to use coercion (save perhaps if all were agreed upon it, other than the disputants), would obtain the right to use it as between themselves and other members in certain specified circumstances. One of the legal effects of giving such a faculty would be that no member which had violated the Covenant could, as a matter of juridical right, complain of the use of force against it by other members, or require of these the observance of the rules of neutrality in the dispute involved. In such a League, provision might also be made whereby each member would define for itself the circumstances, if any, in which it would be prepared to bind itself to take coercive measures. The type of League contemplated in this sub-paragraph may for convenience be called an “intermediate” League.

5. The problem of universality varies according as it is considered in relation to the different types of League described above. To illustrate this, attention may be drawn to two paradoxes whose existence renders the approach to the subject of universal membership exceptionally difficult. The *Rapporteur* does not postulate the validity of either paradox; that is not his province. But they obtrude themselves so insistently into any consideration of the matter that no discussion of it can be fruitful in which they are not constantly borne in mind.

6. The first of these paradoxes may be stated as follows. The ground on which the desirability of universal membership of the League is most generally urged is that the League was intended to be universal, and that it will not function properly, at any rate in its present form, unless it is universal. At the same time, it is also suggested that there are reasons for thinking that universal membership will prove impossible of achievement unless the existing provisions of the Covenant are materially altered. It is not for the *Rapporteur* to say whether this view is correct or not; that is a matter for consideration in the Committee. If it were correct, the following position would result: that the steps which would have to be taken to achieve universal membership of the League would in the same breath, so to speak, cause the achievement of it, when realised, to lose a good deal of its value, since the conceptions which so imperatively required universal membership for their full realisation would, in part, have disappeared. In brief, universal membership, in the act of obtaining it, would have been rendered, relatively speaking, unnecessary.

7. The other paradox arises from a different aspect of the same thing. If, contrary to the position taken up in the preceding paragraph, the standpoint of a non-coercive League be adopted and if universal membership were to be regarded as desirable in order to realise the greatest possible measure of international consultation, two things would seem to follow. In the first place, universal membership, in such conditions, might be fairly easy to achieve.<sup>1</sup> On the other hand, its achievement might well be regarded as having relatively little value, on the ground that mere consultation between nations is not a matter that presents great difficulties, whether they are actually members of a common organisation or not. It would be facilitated by such membership, but would not necessarily be dependent on it. It might be argued that, even where absence of membership results in there being no actual obligation to participate in direct consultation, experience has shown that it can often be effected voluntarily and indirectly. In this connection, the separate report on collaboration between the League of Nations and non-member States<sup>2</sup> may be cited as showing that it has already in the past been realised to a surprising extent. This would not be to say that universal membership could ever be other than desirable and useful; it would simply be a question of the degree of importance to be attached to it.

8. To sum up, if a generalisation may be attempted — misleading like so many generalisations, but perhaps also suggestive — there appears to exist on this question of universal membership the double paradox that, in a “coercive” League universality may be essential but impossible of realisation; and that, in a “non-coercive” League, it may be easy of realisation but cease to be essential. Those whose ideal is a more or less coercive League, and who want universal membership in order to make such a League effective, are confronted with the possibility that the principal condition on which alone this ideal can be realised can perhaps only be achieved by sacrificing a large part of the ideal itself. Those, on the other hand, whose ideal is a non-coercive League, for the reason, amongst others, that universal membership would thereby be facilitated, must not overlook the possibility that the achievement of it in these conditions might add little to the world which it would not have possessed without a League at all.

9. The third or “intermediate” type of League mentioned in paragraph 4 above does not raise the paradoxes which have just been noticed in so extreme a form. Those who support this conception of the League would argue that, on the one hand, the removal of obligatory coercion, so to speak, would facilitate the achievement of universal membership, and that, on the other, the idea of coercion would not be entirely sacrificed, since this type of League would not rule out the possibility of coercion and would, indeed, make provision for it in certain circumstances. Finally, universality, if achieved in such a League, could not be said to be valueless, since the League would not merely provide for consultation, but would go beyond that. The Rapporteur does not wish to be understood as recommending such a type of League, or as suggesting that its constitution would solve the League’s problems. He merely wishes to draw attention to the fact that the possibility of a League of this kind is advocated in various quarters, and also to the fact that, from the point of view of attaining universal membership, it may be less subject to certain difficulties which arise in regard to the other two kinds. But the existence of these difficulties, it may be objected, rests on a number of assumptions, not all of them necessarily valid. That is true; and the above reflections are not intended (as will be seen) to prejudice consideration of the subject or to prejudge the issues involved in it, but to be an index to the type of difficulty which will arise.

### III.

#### *What is meant by universal membership of the League of Nations?*

10. To this question there are several possible answers, and it is suggested that the question is of some importance, since on the answer to be given to it may depend the answers to other questions.

(1) The literal meaning of universal membership would be membership covering all the politically organised territory of the globe.

(2) The meaning in which the term has probably hitherto been understood by the Committee is membership extending to all the countries to which membership is open under Article 1 of the Covenant, as at present drafted or as it may hereafter be amended.

(3) In a more popular and perhaps also a more practical sense, universal membership might be regarded as being achieved when the League includes all those States whose co-operation, whether on account of their size, material strength, geographical position,

<sup>1</sup> This, too, must be a matter for discussion.

<sup>2</sup> Document C.S.P. 21 (see Annex 3, page 61).

political or cultural influence, or from whatever factor, is considered essential to its effective working. In an absolute sense, this would be true of all States. Relatively, it is truer of some than of others, and it may be convenient to call these "essential States".

(4) The preceding answer might be put negatively. In that case, what would really be meant in practice, though not in theory, by universal membership would be a membership which would not fail to include all "essential States" — *i.e.*, those without whose participation no scheme of international co-operation could produce the desired results.

(5) Put in its most limited and immediate form, universality to-day would consist in extending League membership to those States which are not at present members, particularly those among them having the character of "essential States".

11. On considering the above question and the possible answers suggested, three further factors should be borne in mind. If it should be decided to deal with the question on the lines of answers (3)-(5), it must be remembered that the nature of an "essential State" may vary with the character which it is eventually decided to give to the League of Nations. This suggests that, not only the possibility of achieving universal membership, but also the meaning to be assigned to the term may depend on the character to be given to the League. This is important, since the converse may also be true — namely, that the character to be given to the League will depend on the degree of importance to be attached to obtaining universal membership, whether in its quantitative form [answers (1) and (2) above] or in its qualitative form [answers (3)-(5)]. Thus these two questions of universal membership and the future character of the League may be found to react upon each other and to be so interdependent that neither can usefully be considered apart from the other.

12. The second factor in considering the question of the meaning to be assigned to the term "universal membership" is to bear it in mind that non-co-operation on the part of a State which is, technically, a member may be indistinguishable in its practical consequences from non-membership. One example at the present time of a total failure to co-operate, amounting to virtual (if temporary) non-membership, will be generally familiar. The problems raised by total non-co-operation on the part of a member are to a considerable extent (though not wholly) of the same order as those involved by non-membership, and are at least as serious; in some respects more serious. It is for consideration, therefore, whether any definition of universal membership which confines itself to the simple fact of membership by all, or by all important, States is adequate; and whether membership for the Committee's purposes should not be understood as meaning effective membership. On this view, the problem of the participation of all States in the League is at least in part the problem of securing, not merely their actual membership, but their constant and effective co-operation when they are members. It is certain that the framers of the Covenant assumed a will to collaborate, without which no League, however perfect its framework, can function.<sup>1</sup> This, too, shows the close relationship existing between the subject of the present report and the other questions which confront the Committee.

13. As a corollary to the foregoing proposition, the converse should be noticed — namely, that just as membership may be nullified by a refusal on the part of the member concerned to co-operate, so may the effects of non-membership be mitigated by a willingness on the part of a non-member to co-operate voluntarily and to take action *pari passu* with League action. It may even happen, if indeed it has not already happened, that a (so to speak) "willing" non-member is of more value to the League than an unwilling member; and this fact is a suggestive one in any consideration of the importance of achieving universal membership. It should be borne in mind because it has a bearing on two further questions, namely: (1) the price which it is desirable to pay in order to realise universal membership (for instance, it may be thought possible to pay too high a price in order to obtain merely a technically universal membership); and (2) the question of collaboration with non-member States, which is the subject of another report (for instance, it is a matter for consideration by the Committee how far it might be possible to develop such co-operation as an alternative to straining unduly after the achievement of a technically universal membership, if this, for one reason or another, seemed likely to prove barren of practical results).

14. The third factor in considering the meaning to be assigned to the term universal membership is to remember that this subject has a negative as well as a positive aspect. The problem at this date, it may be argued, is not merely how to increase membership and what is the importance to be ascribed to doing so, but how to avoid a further *decrease* of membership. For there are those who suggest that the League is faced to-day with a steady, if slow, drift away from it. On this view, the most immediate aspect of the problem of universality would be the correction of this tendency, and the taking of measures which would at least preserve

<sup>1</sup> "If the temper of goodwill is wanting, the instruments of goodwill must needs fail to function" [*The Times*, April 14th, 1937].

The League has been aptly defined as consisting of "the maximum of co-operation existing between Governments at any given moment"; and, speaking of the spirit of nationalism which prevailed in every country after the economic crisis of 1931, Professor Alfred Zimmern says "this new spirit, being in essence non-co-operative, undermined the very foundations of the League" [*The League of Nations and the Rule of Law*].

intact for the League its present membership, while at the same time laying the foundation for a future increase. The Rapporteur wishes to emphasise that he is not suggesting to the Committee that it should arrive at any of the above conclusions; but only that these possibilities are factors to be borne in mind.

*Why is universal membership of the League desirable ?*

15. This question may seem too obvious to need an answer. But it is in fact one of the most important that the Committee has to consider. It should be noticed that no attempt is made to ask whether universal membership is in fact desirable, since it is assumed that everyone will, on one ground or another, concede its desirability as a general proposition. The really pertinent question is how desirable it is, and what (if any) are the sacrifices which existing Members of the League ought to be prepared to make in order to achieve it. But, before that question can be considered, it is necessary to obtain as clear an idea as possible of the reasons which make universal membership desirable. It may be thought desirable on a variety of grounds. But all of them would probably be found to be different ways of putting one or other of the following propositions, the first two of them positive and based on considerations of general principle; the third negative and based on considerations relating more to the immediate needs of the present moment :

(1) That the conceptions on which the League is based involve universal membership as an ideal and cannot be realised without it. Put differently, that international co-operation is a supreme good and that the fullest measure of it can only be realised if League membership is universal.

(2) That the League was intended by its creators to be, and the Covenant was framed in its present form on the assumption that the League would be, universal, and that the Covenant will not, as regards its more important provisions, work effectively in the absence of universal membership.

(3) That one of the objects for which the League was founded was to supersede the old system of alliances and rival armed camps pursuing different ends, and to substitute therefor membership of a universal organisation in which all States would have an object in common—the preservation of peace; and that the League is at present, for lack of universality, in danger of degenerating into something corresponding to an alliance of its members against non-members, or certain of them; that this alliance is, roughly; speaking, one of those who are satisfied with the *status quo* against those who are not and that this tendency, unless corrected, must lead to that very war which it was the purpose of the League to prevent.

16. The first of the above replies leaves open certain questions, principally that of the object to which the international co-operation, for the realisation of which universal membership is desired, is to be directed. The answer, in one form or another, must be for the promotion or preservation of peace. This leads to the question what sort of a League will best fulfil this function, and to this it is not sufficient simply to reply “ a universal League ”. Universality *in vacuo*, so to speak, is meaningless; and the question of a universal League cannot fruitfully be considered apart from the nature of the League which is to be universal.

17. The second answer contains a number of assumptions which may indeed be true, but are not necessarily true: that the creators of the League did in fact intend it to be universal, that the Covenant was in fact framed in its present form on this basis, and that its more important provisions will not work on any other basis. Everyone of these propositions, as will be seen presently, is capable of being questioned.

18. The third reply in paragraph 15 above raises the whole question of the *status quo*, and of the League as an instrument of peaceful change, in its bearing on the problem of universality. It raises such specific queries as the extent to which the present lack of universality is due to the idea that the League exists to preserve the *status quo*; how far this idea is accurate and justified; whether the League was ever intended by its creators to be a direct instrument for effecting (peaceful) change; whether it ought so to be and, if so, how that can be achieved.

*What is the precise object to be secured by achieving universal membership of the League ?*

19. This is a different way of putting the previous question why universal membership is desirable. It proceeds on the basis that universal membership can scarcely be regarded as an end in itself, but is only to be sought if it will achieve some useful purpose. To those who would answer the question why is universal membership desirable by something on the lines of the first answer given in paragraph 15 above, the object to be secured by universal membership would be the greatest possible measure of international co-operation, both generally and specifically for the promotion or preservation of peace. This, as has been seen, would lead to an enquiry as to the kind of League most likely to produce this result, to which the reply could not merely be “ a universal League ”.

20. To those whose reply would fall within the ambit of the second answer, it would necessarily follow that the object of achieving universality would be to make the League and the Covenant work in their present form or in some form closely akin to the present one. This is a consideration of importance, for it recalls the paradox (already noted in paragraph 6 above) that, if it should appear that universality can in fact only be achieved by a sacrifice or drastic modification of the more important provisions of the Covenant, the achievement of it might, to those of this way of thinking, become of little value. Here again (and see paragraph 17 above) the Committee is faced with certain assumptions the validity of which requires investigation—namely, that it is, in fact, lack of universality which causes the Covenant in its present form not to work, and that the achievement of universality would remedy this defect if it were possible to achieve it while maintaining the present form of the Covenant more or less intact. For instance, it might be argued—with what force the Rapporteur does not purport to judge—that the direct cause of any failures of the League is the refusal or failure of certain of its Members to act in accordance with its principles, and that this refusal or failure is only partly to be accounted for by the fact that membership of the League is not universal. It might also be argued—again, the Rapporteur does not express any opinion—that any such failure has been at least in part due to the inherent facts of certain situations, which would not have been materially different even in a universal League. It could be argued that the Covenant embodies principles which, in the present condition of the international polity, are unsound and would not work even given universal membership.

21. Finally, to those who take their stand mainly on the third answer in paragraph 15 above, the object of achieving universal membership would be not so much to obtain any positive future good as to avoid an immediate and pressing danger—the division of the world into League *versus* anti-League on the basis of satisfaction and dissatisfaction with the *status quo*. In their view, the achievement of universality is both of paramount importance for this reason, and at the same time can only be attained by removing the causes that make its achievement so pressingly necessary. In a sense, it may be said that their object is to render the attainment of universality of less immediate moment by rendering it possible. The questions involved by this point of view have been set out in paragraph 18.

*Is it true to say that the creators of the League intended it to be universal and that the Covenant was drafted on that basis?*

22. The exact intentions of the creators of the League cannot be ascertained. They had to deal with the situation as it existed at the time. Their ideal was no doubt a universal League, though they must have realised it was not immediately attainable. But to say that universality was their ideal is not the same thing as saying that they *assumed* it in drafting the Covenant, though they may have hoped for and even expected it. However that may be, there can, from the formal point of view, be no question but that the drafters of the Covenant specifically contemplated the possibility that there might be States which would not be members of the League and that these States might be sufficiently important for a dispute between them, or between them and a Member State, to present a serious threat to international tranquillity. It is difficult to account for Article 17 on any other basis. Evidence to the same effect exists in other parts of the Covenant—for instance, the first sentence of the first paragraph of Article 11.<sup>1</sup> Still more striking is the fact that the framers of the Covenant clearly contemplated that a Member of the League might wish to renounce membership, and expressly provided for this (Article 1, paragraph 3); and that they also provided for the expulsion of members in certain circumstances (Article 16, paragraph 4), and the cessation of their membership in others (Article 26, paragraph 2). Taking the Covenant as a whole, on the basis of its actual wording, what seems to have been contemplated was a powerful, but not necessarily a universal, League; a League strong enough to enforce its will on an aggressor, but also strong enough to dispense with the assistance of some, even powerful, States, without having its action thereby paralysed. In brief, the framers of the Covenant seem to have assumed great, even overwhelming, strength, but not necessarily universal membership.

23. It is perhaps not only in the above respect that the intentions of the framers of the Covenant have been misunderstood. It is generally assumed that they meant to place against the would-be aggressor an array of force so great that he would not even attempt aggression, and it is, in fact, no doubt true that they meant to discourage the attempt at aggression by making it clear that it would not pay. On the other hand, it is at least arguable that the framers of the Covenant were under no illusion as to the possibility of aggression's being meditated in any circumstances, even in a universal League, and that their main concern was to ensure that it could not succeed; that if war occurred, the League would win. This has a bearing on the question of universality, for it can be argued that the greatest value of universal membership is the deterrent effect which it alone might be expected to have on the potential aggressor. It is less easy to argue, at any rate so long as the League retains a sufficient

<sup>1</sup> "Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effective to safeguard the peace of nations." [Italics added.]

preponderance of strength (this is a point which will be reverted to later), that the absence of universality necessarily prejudices in advance the success of League action, even against a powerful aggressor. (But see further, paragraph 26 below.)

24. The framers of the Covenant may, of course, have been mistaken in thinking (if they did think) that the Covenant, as drafted, would function with anything less than universal or quasi-universal membership. But that is another question. They may have been wrong in their assumptions, but at the moment it is only the nature, and not the validity, of those assumptions which is under discussion. These assumptions, so far as it is possible to ascertain them from the wording of the Covenant, seem to be as stated in the preceding paragraphs, and what calls for notice is that the immediate basis (though doubtless not the ultimate ideal) on which the framers of the Covenant seem to have worked—viz., great, even overwhelming, but not necessarily universal, strength—has, in fact, been realised.<sup>1</sup> The League has never been universal, but it has always included the overwhelming majority of States, and at all times the majority of the so-called Great Powers.<sup>2</sup> Why, then, has it not functioned as it was intended to do? There can be only two possible replies. Either the strength of the League could have been effectively used, but has not been; or it could not in the circumstances have been effectively used, and would not have availed if it had been—i.e., the framers of the Covenant were wrong if they thought that anything less than universality would suffice. In the first case, the ultimate conclusion would be that the principles embodied in the Covenant are unsound, not because they will not work in theory, but because they are not worked in practice—i.e., they go beyond what is really sanctioned by international public opinion. In the second case, the conclusion might equally be that these principles are unsound, but because they require for their realisation a universal membership which has never been realised. Finally, there would remain the question whether, even if universal membership could be achieved, it would necessarily cause the League in its present form to function satisfactorily. All these matters must be considered.

25. It must, however, also be noticed that even the assumptions which the framers of the Covenant did apparently make—namely, great, even overwhelming, but not necessarily universal, strength—may be falsified; that membership may not only not increase, unless the right steps are taken, but may decrease, so that a preponderance of force, or at any rate of, so to speak, Great Power force, would not be available to the League. On this view, the problem of achieving increased membership would, in order to counteract this danger, if for no other reason, be a paramount one.

*Is universal membership essential to the proper functioning of the League in its present form; is it true to say that the Covenant will not work without it?*

26. This is a highly controversial question. But it is necessary to ask it and to attempt a summary, necessarily incomplete and inadequate, of the arguments on either side. In support of an affirmative answer, the following points may be noticed:

(1) As regards economic sanctions, it may be urged that, whatever their ultimate and potential value in a protracted struggle, experience has shown that their action is both uncertain and too slow. Particularly is this the case where the League is dealing with an act of aggression long meditated and prepared for by the laying-in of the necessary stocks of material, and where the victim is a State which is not in a position to put up a prolonged resistance. If to these inherent defects of the economic weapon, which might operate to make it ineffective even in a universal League, there be added the fact that, owing to lack of universality, only an incomplete measure of economic sanctions can be applied, and that important sources of supply will remain open to the aggressor State, it becomes almost a foregone conclusion that this method of coercion must fail. A vicious circle is set up here, because the fact that the sanctions are slow and uncertain in their operation and, moreover, on account of lack of universality, subject to important gaps, reacts in its turn upon their effective application even by Members of the League. Certain of these may already be reluctant to apply these sanctions for a variety of reasons. For instance, they are calculated to cause loss as well to those who apply them as to the State against which they are applied; their application may entail financial and political repercussions of an embarrassing character. States, therefore, which might be willing to apply economic sanctions if there were a reasonable prospect of success become reluctant to do so where there is uncertainty as to the ultimate outcome. These considerations are of especial moment in regard to that type of economic sanction which verges on a military

<sup>1</sup> There is, of course, room for argument whether at this date the preponderance of effective strength within the League is really much greater than the strength outside it.

<sup>2</sup> Of the seven so-called Great Powers, four were original Members of the League: France, Italy, Japan and the United Kingdom. These were joined by Germany in 1926, making five. Japan ceased to be a member in 1935, but Russia had become a Member in 1934. Germany subsequently ceased to be a member, leaving four—France, Italy, Russia and the United Kingdom.

sanction or is calculated to provoke reactions of a military character on the part of the Covenant-breaker.

(2) Considerations of a similar kind apply also in the case of military sanctions. They are less strong, however, because, whereas it is fairly clear that, save in special cases, economic sanctions are unlikely to be successful, or to be successful quickly enough, unless universally applied, it is less easy to say that military sanctions would not succeed because (on account of lack of universality) there were States which, so to speak, remained neutral. If, for instance, fifty States should be ready to apply military sanctions against an aggressor, it would not be easy to affirm *a priori* that these sanctions must fail because there were five or ten States outside the League which were not prepared to join in their application. A good deal here depends on geography; in certain cases, it might be possible to state definitely that, for geographical reasons, the participation of a given non-member in the application of military sanctions would be essential to success. Again, something would depend on the extent to which non-members were prepared (not merely not to assist the League but) to give active aid to the Covenant-breaker. It may also be urged that, although lack of universality might not necessarily mean that military sanctions must fail, it might well make success more or less difficult and protracted. It might mean that wars on behalf of the Covenant, instead of being relatively short and speedily successful, would involve a prolonged struggle into which Members of the League would have to throw their whole resources, with the result that ultimate success might be achieved only at a price which would make its realisation of doubtful value.

27. The arguments in favour of a contrary point of view have already been indicated in part in paragraph 20 above. The following points may also be noticed :

(1) No attempt has ever been made to apply the Covenant in its entirety; and it cannot, therefore, be affirmed positively that the attempt, on the ground of lack of universality, would not have been successful.

(2) It may be argued that lack of universality was itself the reason why the attempt was not made. But it can also be argued that the reason was something different; for instance, an invincible reluctance on the part of Governments and peoples to become involved in a war for a cause not directly affecting their own immediate interests.

(3) It is at least arguable that if the Members of the League were really ready to apply the Covenant in its entirety, they would be successful, probably, in preventing the attempt at, and certainly in defeating the realisation of, aggression, from whatever quarter; though lack of universality might render success to a greater or lesser degree more difficult, dangerous and protracted. It would be misleading to leave this argument, however, without noticing that it assumes preponderant strength on the part of the League, an assumption which, as has been seen (paragraph 25), may not be justified.

*Would the achievement of universal membership cause the League in its present form to function adequately ?*

28. While many people do not hesitate to say that the Covenant will not, as at present drafted, work in the absence of universal membership, most would pause before affirming that it necessarily will work even if that condition is realised. Even in a universal League, the facts of particular cases might render effective action difficult—and the same psychological, economic and other causes as exist at present might prevent that full co-operation, without which even a universal League could not take successful action. As has been noticed in paragraph 26 (1) above, it is by no means certain that the economic weapon would always function adequately even in a universal League. Probably few would venture to say more, therefore, than that the achievement of universal membership would greatly increase the chances of success, though without being able to ensure it, and, if this is true, it would have a bearing on the question of the price which it was desirable to pay for the achievement of universal membership.

29. It is now necessary to study the question of the possibility of achieving universality and the steps to be taken to that end, as opposed to the object of so doing and the results of it when done, which have been considered hitherto.

*Why is membership of the League not universal now ? Is the present lack of universal membership due to the nature of the existing provisions of the Covenant ?*

30. This question cannot be answered with certainty, because it is not possible to gauge the exact motives of those States which have refused to become or to remain members of the League. It is nevertheless an important question to which an answer must be attempted.



31. There are countries not members of the League which have never actually refused or renounced membership. The question of their becoming members has never really arisen, either because they have not been sufficiently organised politically or have not been completely independent internationally, or because they have only lately attained this status and have not as yet seriously considered becoming members of the League. No special difficulty arises with reference to this class of non-member, which need not be further considered here.

32. The States which have actually refused or renounced membership of the League<sup>1</sup> may be divided into two main categories: those which have done so on grounds of principle and those which have done so for some special reason peculiar to their case. With the latter category the Committee is not, generally speaking, concerned, because it can take into consideration only matters of principle and cannot, with certain exceptions, provide for special cases which no amount of ingenuity could foresee or guard against. In certain instances, however, it might be possible to remedy specific grievances. It has been suggested, for instance, that a revision of the method of allocating seats on the Council might tend to encourage the acquisition of League membership. This is given but as an example, and in any case such measures, even if desirable, could only be palliatives.

33. The real difficulty arises in regard to those States which have refused or renounced membership on grounds of principle. These would seem to fall into three classes, though a given State may fall into more than one of these:

(1) The first class consists of those which seem to be opposed to the very idea of general international co-operation, consultation and control as such, and whose international contacts outside ordinary diplomatic intercourse are limited to *ad hoc* conversations or negotiations with particular countries as and when the occasion requires.<sup>2</sup>

(2) Secondly, there are States which are not opposed to the general principle of international co-operation, consultation and control, but dislike definite commitments or the assumption of actual membership of an international organisation. Such States might be willing to co-operate and consult so long as they were not asked to undertake any obligation to do so, or to become members of an international body.

(3) Finally, there are States which are neither opposed to international co-operation, consultation and control, nor reluctant to assume commitments or the membership of international organisations, but which disapprove of the particular commitments enshrined in the League Covenant as at present drafted and of the organisation which the League at present embodies.

34. The existence or possible existence of yet another class of non-members may be noticed, as to which it is difficult to say precisely that their objections are based either on grounds of principle or on some particular fact which operates in their case. In this class would fall those States whose "ideology", political circumstances or geographical situation might cause them to be within the sphere of influence, so to speak, of another non-member, whose example would tend to be followed. Such States might experience a double pull, towards the League and away from it, and their non-membership might be bound up with that of the other State concerned, so that the acquisition of membership by the latter would also remove the obstacle to its acquisition by them.

35. It seems clear that the present want of universal membership of the League can only be directly attributed to the existing constitution of the League in respect of the States belonging to the third of the classes in paragraph 33 above — a class, moreover, which does not necessarily exhaust the more important absentees. If this is so, it follows that a reorganisation of the League, and a revision of the Covenant, would not necessarily effect more than a partial cure. It might not meet the objections, for instance, of the States in the second class, since these objections seem to relate to any form of general international organisation. And even if it were possible to satisfy these States, there would still remain the States in the first class, whose position might remain unaffected by anything that could be done in the way of so-called League reform.

36. The present analysis could only be carried further in regard to States of the first class by considering such abstruse questions as whether the objections of these States to international co-operation and consultation arises out of special circumstances which could be altered, or are of a fundamental and inherent nature. Broadly speaking, it may be surmised that no State is inherently averse from international co-operation and consultation, and that such aversion,

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<sup>1</sup> The following is believed to be a complete list of the States which are not members of the League or which have given notice of their intention to withdraw: the United States of America, Germany, Japan, Brazil, Paraguay, Guatemala, Honduras, Nicaragua, Salvador, Costa Rica and Sa'udi Arabia. In addition, there are a number of countries whose status and qualifications for League membership are indeterminate, such as Iceland, Liechtenstein, Monaco, San Marino, Andorra, the Yemen, Danzig, Tibet, and the Philippines. This latter list does not purport to be exhaustive.

<sup>2</sup> "You must consider the problem on the theory that it is not a question of having this provision or that provision of the Covenant, but that these . . . States object to the whole conception of international control" [speech of Lord Cecil in the House of Lords, June 30th, 1937].

where it exists, can probably be traced to special, if, as a rule, deep-seated, causes. On the other hand, it might be argued that the removal of these causes lies outside the ambit of League reform and may be beyond the competence of the Committee. If this were so it would, of course, have a bearing on the relative importance to be attached to seeking universal membership and on the extent of the sacrifices which it was desirable to make to that end.

*In so far as the present lack of universal membership is attributable to the existing nature of the League and Covenant, what exactly are the features to which objection is felt ?*

37. It has been suggested above that the objections felt to the assumption of League membership are not necessarily all of them attributable to the nature and functions of the League in its present form, but may arise in certain cases from more deep-seated causes. In so far as lack of membership is due to objections felt to the present nature of the League, these objections seem to fall into five main classes. Naturally, a given non-member may entertain any or all of these objections :

(1) There is the contention that the League is unprogressive, a mere instrument for the maintenance of the *status quo* and incapable of adequately providing for necessary international changes. This argument crystallises round the nature and wording of Articles 10 and 19 of the Covenant.

(2) There are the objections which centre round Article 16, and which in effect relate to the existence of a more or less coercive League. These objections, it should be noted, are by no means confined to the military implications of Article 16. The whole idea of so-called sanctions in any form may be repugnant, not only on military, but also on psychological and economic grounds. In addition, even in a case where Article 16 did not in practice involve any very drastic action, the radical departure which it connotes from the former conception of complete neutrality in any struggle would cause it to be viewed with dislike in certain quarters.

(3) There are the objections based on geography. By some it is said that the League is really a purely European institution ; by others that it is not, but ought to be. The core of the objection here lies in a doubt whether any worldwide institution can function. It is said that conditions in, say, Europe, America, and the Far East differ so radically as to require different methods of treatment, the necessary qualifications for which cannot be found in any one body. Put differently, the objection is either that the League in its present form is incapable of functioning adequately outside Europe ; or, alternatively, that no sufficient provision is made to enable it to do so and no sufficient account taken of the position of extra-European States. It is worthy of notice that the drift away from the League has been most marked outside Europe.

(4) There are objections based on a number of miscellaneous and special grounds of relatively minor importance, such as, for instance, the close connection between the League and the Peace Settlement of Paris (though this is perhaps a facet of the first class of objection noticed above) ; or there may be objection to the manner in which the executive authority of the League is regulated (*i.e.*, to the constitution and powers of the Assembly, Council and Secretariat).

(5) Finally, it is also worth noticing the following class of objection. It is arguable (see paragraph 41 below) that, although the framers of the Covenant hoped to prevent war from occurring at all, their more immediate aim was to establish the principle of the international adjudication of disputes and to ensure that war should not take place until after the dispute had been submitted to judicial settlement, arbitration, or enquiry by the Council. But it seems to be precisely this principle to which the greatest objection is felt by some States. They would not, in many cases, object to international consultation and co-operation, even perhaps to common action, but appear to have a deeply felt repugnance to assuming any obligation to submit matters in dispute between them and other countries, particularly those said to involve considerations of honour or vital interest, to any form of international adjudication.

38. The above answers to the questions why the League is not universal now and what the provisions of the Covenant are to which objection is taken are based on the assumed views of the absentee States. But it would be possible to approach the first of these questions differently and to give it a different answer—namely, that the League is not universal because the League has failed to function adequately. To this it would not necessarily be a sufficient reply to say that the League has not functioned because it has not been universal ; for it is possible to argue (see paragraphs 20 and 26) that the failure of the League is not wholly or even principally due to its lack of universal membership, and that it would not necessarily function adequately even if it was universal. The Rapporteur expresses no opinion on the merits of the argument, but the questions raised are such as must certainly be considered.

39. With reference to the matters contained in paragraph 37 above, the Rapporteur has had to content himself with simply drawing attention to the various grounds on which objection to the present League and Covenant has been urged. It would be possible to write a dissertation on each of these, but that would be to exceed the scope of the present report, both as regards space and because it would impinge on the province of others. But there is one subject which, on account of its great importance to the question of universality (see paragraphs 15 (3) and 18), must be further discussed — namely, that of the League as an instrument for maintaining or for changing the *status quo*.

*Is it true to say that the League was intended by its founders to be an instrument for effecting peaceful change and that, contrary to such intention, it has become an instrument for maintaining the status quo ?*

40. It seems clear that the founders of the League intended it to be an instrument for ensuring, so far as possible, that such changes as were effected should be effected by peaceable methods. It is less easy to argue that they were concerned with the question of change as such, and it would appear that they left it to Members of the League to decide for themselves whether to make any changes or not. The League places no obstacle in the way of such changes as its Members may desire to effect, except — and here is part of the real gravamen of the charge against the League — the obstacle that war must not be resorted to except in the circumstances envisaged by the Covenant. On the other hand, and this is the remaining part of the charge, the League, it is said, does not specifically provide for change, or facilitate it, or embody adequate machinery for effecting it, even where there is a consensus of opinion that it is necessary. It has removed the old means of effecting necessary change — war — but has substituted for it no new method.

41. Leaving aside the question, which raises issues of a larger character, whether the changes effected by war are desirable or likely to lead to a permanent settlement, it seems clear that the last part of the above argument is inaccurate, so far as the Covenant is concerned. The Covenant, as such, does not wholly remove the possibility of war, or, in consequence, of effecting change by war. What it really requires is that war shall not be resorted to until peaceable methods have first been exhausted. For instance, where a dispute is submitted to the Council under Article 15 and there is a unanimous report by the Council, all that the Members of the League agree to do is not to resort to war against the party who complies with the report. They do not undertake not to resort to war against the party who does not. Supposing, therefore, that, in a dispute about territory, the Council had recommended the surrender of certain territory by one State which refused to comply, there would apparently be nothing, so far as the Covenant goes, to prevent a resort to war to compel compliance, provided the necessary delay of three months was observed.<sup>1</sup> The total prohibition of war arises from the Pact of Paris rather than the Covenant. To say, therefore, that the League is an instrument for preserving the *status quo* amounts to saying this : that in a world in which war has, professedly, been outlawed, except in actual self-defence, the League has failed to create machinery for effecting necessary change by some other method. Hence, the argument would run, it cannot hope to secure or retain the membership of those States which are dissatisfied with the *status quo* and desire to change it. It is at this point that the question is seen to have an important bearing on the problem of universality.

*Ought the League to be (inter alia) a direct instrument for effecting necessary international change and, if so, how could that end be achieved ?*

42. This question is too vast to be discussed within the scope of the present report. It must suffice to draw attention to its connection with the problem of universality, and to offer the following brief and incomplete reflections. If it be admitted that the basic object of the League, whatever its form, whatever its powers, is to promote and preserve peace, it follows that one of the principal aims of the League must be, not only to make war impossible, or difficult, or unprofitable, as the case may be, but also to make it universally unwanted ; that it does not suffice to prevent or discourage unsatisfied States from resorting to war, it is necessary to give reasonable and proper satisfaction to unsatisfied States. It has been pointed out in a recent work<sup>2</sup> that the Covenant of the League “ assumes a new spirit in the whole field of international politics. It presupposes a transformation of Power-politics into Responsibility-politics.” But, it may be asked, how can such a transformation take place except on the basis of a broad measure of contentment with the *status quo* ? The preservation of peace, therefore, in the last resort (except in cases where overwhelming force can be, and in practice is, brought to bear) requires either a *status quo* with which everyone is content or the existence of means, other than war, whereby such a state of affairs can be gradually

<sup>1</sup> It may, of course, be argued that a resort to war in such a case would be contrary to Article 10. But it would not be contrary to Article 15, and consequently would not be a resort to war within the meaning of paragraph 1 of Article 16, such as to entail the application of sanctions.

<sup>2</sup> *The League of Nations and the Rule of Law*, by Professor Alfred Zimmermann.

brought about. Whether the creation of these means lie wholly within the scope of League reform may, however, be a debatable question.

43. On the other hand, it must equally be noticed that the creation of adequate means for effecting necessary change entails as the counterpart of the contract, so to speak, that the demands for change which are put forward shall be just, reasonable and necessary; and that there shall be a peaceable acquiescence if they are rejected. It is here that the heart of the problem perhaps lies. What are just, reasonable and necessary changes? Who is to be the judge? How is acquiescence in any rejection to be guaranteed, and how is a refusal of acquiescence to be dealt with?

44. There is a further question. Is it possible to effect change at all, even necessary, desirable change, except in an atmosphere of security? It may be argued that to say that change, or the means of creating change, is a pre-condition of security and peace is to invert the true order of things. First create security, guarantee peace, it may be said, and the conditions will then exist in which just and necessary changes can be carried into effect. There are arguments for and against this view, but it would not be possible to discuss them here.

*Is universal membership possible of achievement, and, if so, what steps would have to be taken to that end?*

*Is universal membership possible of achievement if the Covenant is left as it now stands?*

*Could universal membership be secured by an alteration of the Covenant, and, if so, what alteration?*

*Would the creation of a non-coercive League result in the achievement of universal membership, and, if so, would it be worth achieving in those conditions?*

45. The above questions are closely connected and may conveniently be considered together. The considerations set out in paragraphs 30-36 of the present report may suggest both that universal membership will be difficult of achievement and that it may even not be capable at present of being completely achieved by any scheme of League reform. Must it be concluded from this that universal membership is impossible of realisation by any means which lie to the Committee's hand? Not necessarily, because it is never possible to be completely certain of the motives which actuate States in refusing membership. Moreover, these motives may change. Further, the possibility cannot be ruled out that the creation of a League which really functioned, within whatever limits, wide or narrow, might by the attraction set up by all efficiently functioning institutions break down the barriers of opposition. For this reason, it may even be maintained that universality is by no means impossible of achievement in the League as it stands at present (see paragraphs 20, 26 and 38), if the League, as it stands at present, could be made to function properly. And to reply that it is precisely the absence of universality which prevents such functioning is to beg the question, or at any rate to shirk an important part of the issue that faces the Committee.

46. On the other hand, it would be equally unwise to ignore the great difficulties which lie in the way of achieving universal membership of the League. In so far as the present lack of universality is directly attributable to the objections felt in certain quarters to the nature of the existing League and Covenant, attention has already been drawn (paragraph 37 above) to the particular aspects of the League and Covenant on which these objections bear, and the general character of the objects to which alterations would have to be directed in order to overcome these objections. But, as has been seen (paragraphs 33-35), certain of the objections entertained towards the League are of so deep-seated and fundamental a nature that (subject to the points noticed in paragraphs 38 and 45) they might not necessarily be overcome by any scheme of League reform. For this reason, it is not possible to say definitely that even the creation of a non-coercive League (see paragraphs 4 (2) and 7 above) would solve this particular problem. That it would facilitate its solution none will deny, but this, it might be argued, would be mainly because such a League would have been emptied of its controversial content, an act which would at the same time cause it to lose much of its value and render the main object for which it had been carried out (the achievement of universality) of little essential utility when gained. As against this, it might be argued that the sacrifice would be more apparent than real, since a coercive League which is not universal will not function, and nothing is lost by giving it up in order to achieve universality. There is clearly room here for argument and counter-argument. The Rapporteur expresses no opinion, except to say that the possibility of the "intermediate" type of League mentioned in paragraph 21 (3) must obviously not be lost sight of, though on the other hand it does not, of course, necessarily afford any complete solution of the problem.

47. What, then, is to be the conclusion, that the securing of universal membership should or should not be a paramount consideration? It is not the province of the Rapporteur to

express an opinion on this, one of the central topics on which the Committee has to decide, but he may attempt to draw together the threads traced in the present report and out of which any decision must be woven.

*What is the relative importance to be assigned to the achievement of universal membership of the League ?*

48. There are two methods of approach to this topic. There are those who, whether in the belief that the ills of the League are mainly due to lack of universal membership, or on the ground that a universal League is supremely to be desired in itself, or because they foresee the danger of a membership still further decreased than at present, and of the division of the world into rival camps, regard the taking of steps to facilitate universal membership as the paramount object of League reform, to which all other considerations should be subordinated. The views of this class might be summarised by saying that the important thing is not so much the terms of the Covenant as the universality or otherwise of the League, though the two are necessarily interdependent. On the other hand, there are those whose main concern is with the nature of the League itself, and who regard the achievement of complete universality as a relatively secondary though important topic. Their views might be summarised in the opinion that, if the terms of the Covenant are good in principle and effectively carried out in practice by the Members of the League, universality will follow sooner or later. Two aphorisms will serve to sharpen the distinction between the two schools of thought. The first school would declare that it is better to have an unlimited (universal) League with limited powers than a limited League with unlimited powers. To characterise the second, the saying of M. Litvinov may be recalled : " Better a League without universality than universality without League principles ".

49. Advocates of the first school must be prepared to deal with the following arguments, which will certainly be urged against their view :

(i) That there is no truth in the view that the League was founded on any assumption of universal membership, and no certainty that its difficulties are wholly or even mainly due to the lack of it ;

(ii) That it is doubtful whether universal membership can be achieved at all by any scheme of League reform or by any measures which it would be within the competence of the Committee to recommend ;

(iii) That, even if universal membership could be achieved, it would only be at the cost of emasculating the League to the point where it would retain little practical utility, and where the realisation of universal membership would have little meaning ; in fact, that the achievement would stultify itself in the act of realisation, like the bee which kills its enemy but itself dies in the act ;

(iv) That too high a price should not be paid, nor too great an importance be attributed to something the indispensability of which cannot be demonstrated ; the realisation of which is uncertain, perhaps impossible ; the value of which, when realised, questionable ; and which cannot be guaranteed to produce the results expected of it.

50. The case against making the achievement of universality a consideration of paramount importance is stated above in its extreme form. Arguments equally strong can be urged against the opposite view — namely, that universality is not necessarily the first consideration, and that this place should be assigned to a decision on grounds of principle as to what the nature of the League should be. Supporters of this view may be met with the following objections :

(i) That the League, however perfect in theory, will be of no use unless it works well in practice, and that, in so far as the efficient working of the League is bound up with the extent of its membership, no decision can be come to on the nature of the League without taking into consideration the question of universality ;

(ii) That the failures and difficulties of the League are mainly due to its lack of universal membership and that the League in its present form will not function without it ;

(iii) That to regard universal membership as incapable of achievement is to despair of the League, since in the last analysis no League will work which is not universal or quasi-universal except a League which is not required to do anything and is therefore valueless ;

(iv) That it is a mistake to imagine that the conditions which would make universality possible would necessarily have the effect of rendering the League useless, and that it is not difficult to envisage a League in which universal membership could both be achieved and fulfil an important function ; that such a League would be worth paying a high price for, and that the gains to be expected from it would outweigh the sacrifices, more apparent than real, which the achievement of it might entail in certain directions.

51. The raw material necessary for deciding between these rival points of view will, it is hoped, have been found in the preceding paragraphs of the present report. There is of course a third standpoint, from which both these views would be regarded as being both right and wrong. The question of universal membership, it might be said, cannot be considered apart

from the nature of the League which it is desired to make universal, nor the nature of the League apart from the possibility of achieving for it a universality without which any League must be at the worst powerless, and at the best imperfect. On this view, the two questions are interdependent and cannot be considered apart. Politics, it has been said, is the art of the possible. The same may be true of the League and of League reform. And in politics the achievement of the possible consists in the reconciliation, or rather the combination, of opposing points of view.

52. The interdependence of the two topics of universality and the nature of the League might be illustrated as follows. Assuming that the achievement of universal membership is a matter of great importance, whether it be actually of paramount importance or not, it might be asked why this is so. The answer would be because there is some highly valuable object to be attained thereby, or some great danger to be avoided. If the first, then what object? If the answer is that it is, in order to make the League work, this would at once lead to the question, what sort of League? If the reply to this were, the present League or something very like it, then there would be the further questions, is the present League a desirable League, is its failure to work due to lack of universality, will it work when universality is achieved, can universality be achieved at all while retaining the present form of League? If, on the other hand, the reply were to make some other sort of League work, then the nature of that other League would have to be determined or at least discussed first, and at the same time it would also have to be decided how far the achievement of universal membership was really necessary to the adequate functioning of any sort of League other than the present one. If, on the other hand, the immediate object of seeking universality should be to avoid some danger, such as splitting the world into rival camps for and against the *status quo*, or the possibility of a membership still further decreased, a discussion would be involved concerning what is wrong with the *status quo*, how far it can be remedied and by what means. Again, if the object of universality should be the promotion of peace, it would have to be considered how far the achievement of universality *per se* without other measures would effect that end.

*What place should be assigned to the consideration of the question of the participation of all States in the League in the scheme of the Committee's work?*

53. The answer to this question will depend to some extent on the view taken of the importance of achieving universal membership of the League as part of any process of League reform; but, speaking generally, there would seem to be two principal ways in which the Committee could deal with the matter. The Committee could embark at an early stage on matters of fundamental importance concerning the application of the principles of the Covenant and the various avenues of possible League reform. If the Committee desires to do this, there is little doubt, as the present report seems to show, that the consideration of the topic of universal membership would have the effect of bringing fundamental considerations to the fore, and of leading to a discussion on them. The advantage of this method of procedure would be that the topic of universality would be kept constantly related to those other topics without which any consideration of it may be thought difficult, and that these other topics would equally be kept related to that of universality without which consideration of them may be thought valueless. The disadvantage would perhaps be that, to a decision on fundamental points, which might be long in reaching, there would be postponed the determination of certain other matters of minor, but still considerable, importance, on which otherwise it might be possible to take decisions at a relatively early stage.

54. The other method of proceeding would be to embark, not on any discussion of fundamentals as such or of universal membership as an isolated topic, but to take step by step the various matters which the Committee would, in any event, have to consider — Article 10, Article 11, Article 16, Article 19, and so forth — and to consider the question of universality in connection with each of these separate topics. This method of procedure might have the advantage of a degree of relative speed and ease in achieving progress; but, on the other hand, the disadvantage that great difficulty might be found in relating one subject to another or in obtaining a balanced view of the topic of universality as a whole.

*At what stage should the views of non-members be sought with reference to the Committee's work?*

55. The answer to this question depends so entirely on the view which the Committee takes as to the relative importance of the problem of universality, and of the method of procedure to be adopted with reference to that problem, that it would serve no useful purpose to discuss it here. It may be more fruitful to discuss rather whether the views of non-members should be asked for at all. The argument in favour of so doing is that the Committee, knowing the desiderata of these States and the conditions on which they might be willing to join the League, would be the better able to proceed with its work. As against this, it may be argued that the Committee already has all such knowledge concerning the attitude and objections of non-members as is really necessary to enable it to carry out its task; and that universality, if it is achieved, should be the result, not of conditions, as it were, laid down in advance by non-members, but of the merits of the League itself and of the Committee's work.

Annex.

THE RULES AND PROCEDURE GOVERNING ADMISSION TO AND LOSS OF  
MEMBERSHIP IN THE LEAGUE OF NATIONS.

January 12th, 1937.

PART I. — MEMORANDUM BY THE SECRETARIAT OF THE LEAGUE. \*

The method by which a State not a member of the League can become a member is laid down in Article 1, paragraph 2, of the Covenant. Before analysing this paragraph, it is to be noted that, in the first paragraph of Article 1, it is stated that the original Members of the League should be those of the signatories which are named in the Annex to the Covenant and also such of those other States named in the Annex as shall accede without reservation to the Covenant.

2. Of the original Members signatories of the Treaty of Peace, the United States of America never took up its membership, Brazil and Japan have subsequently withdrawn from the League under paragraph 3 of Article 1, and Ecuador only took up her membership on September 28th, 1934, on which date she notified her decision to become a Member of the League.

3. Of the States invited to accede to the Covenant, the Argentine Republic, though represented at the first Assembly, communicated to the Secretary-General on September 28th, 1933, the law voted by the Argentine National Congress under which the Argentine Republic acceded to the League of Nations.

4. Paraguay gave notice on February 25th, 1935, of its intention of withdrawing from the League.

5. As regards Switzerland, the Council of the League, on February 12th, 1920, took note of the perpetual neutrality of that country in the following terms :<sup>1</sup>

“ The Council of the League of Nations, while affirming that the conception of neutrality of the Members of the League is incompatible with the principle that all Members will be obliged to co-operate in enforcing respect for their engagements, recognises that Switzerland is in a unique situation, based on a tradition of several centuries which has been explicitly incorporated in the Law of Nations ; and that the Members of the League of Nations signatories of the Treaty of Versailles have rightly recognised by Article 435 that the guarantee stipulated in favour of Switzerland by the Treaties of 1815 and especially by the Act of November 20th, 1815, constitute international obligations for the maintenance of peace.

“ The Members of the League of Nations are entitled to expect that the Swiss people will not stand aside when the high principles of the League have to be defended. It is in this sense that the Council of the League has taken note of the declaration made by the Swiss Government in its message to the Federal Assembly of August 4th, 1919, and in its memorandum of January 13th, 1920, which declarations have been confirmed by the Swiss delegates at the meeting of the Council and in accordance with which Switzerland recognises and proclaims the duties of solidarity which membership of the League of Nations imposes upon her, including therein the duty of co-operating in such economic and financial measures as may be demanded by the League of Nations against a Covenant-breaking State, and is prepared to make every sacrifice to defend her own territory under every circumstance, even during operations undertaken by the League of Nations, but will not be obliged to take part in any military action or to allow the passage of foreign troops or the preparation of military operations within her territory.

“ In accepting these declarations, the Council recognises that the perpetual neutrality of Switzerland and the guarantee of the inviolability of her territory as incorporated in the Law of Nations, particularly in the treaties and in the Act of 1815, are justified by the interests of general peace and as such are compatible with the Covenant.”

6. Paragraph 2 of Article 1 of the Covenant reads as follows :

“ Any fully self-governing State, Dominion or Colony not named in the Annex may become a member of the League if its admission is agreed to by two-thirds of the Assembly, provided that it shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments.”

7. The first Assembly had before it requests from a number of States desirous of joining the League. They were : Albania, Austria, Armenia, Azerbaidjan, Bulgaria, Costa Rica, Estonia, Finland, Georgia, Latvia, Liechtenstein, Lithuania, Luxemburg, Ukraine. A Committee

\* This is one of the memoranda drawn up by the Secretariat. These memoranda were intended originally merely to provide information. If on any particular point any personal opinion appears to be expressed, it must not be regarded as an official opinion of the Secretariat.

<sup>1</sup> See *Official Journal*, March 1920, page 57.

was appointed to study these requests. Its Sub-Committees were requested to investigate the following questions in respect of each applicant :

- (a) Was its application for admission to the League in order ?
- (b) Was the Government applying for admission recognised *de jure* or *de facto* and by which States ?
- (c) Was the applicant a nation with a stable Government and settled frontiers ? What were its size and its population ?
- (d) Was it fully self-governing ?
- (e) What had been its conduct, including both acts and assurances with regard to :  
(1) its international obligations ; (2) the prescriptions of the League as to armaments ?

8. With the exceptions indicated below, this questionnaire has been used by the appropriate Committee of the Assembly in its investigation of the requests from States to join the League up to the present day. The last case was that of Afghanistan (see report of the Sixth Committee to the Assembly, document A.54, of September 26th, 1934).

9. The first question : " Is the application for admission to the League in order ? " means in effect whether the communication of the applying Government is in order.

10. As to the second question, " whether the applying Government is recognised *de jure* or *de facto*, and by which States ", it has habitually been considered sufficient if the Government was recognised by a substantial number of States. At the time of its admission, the Government of Albania had not been recognised either *de jure* or *de facto* by any Governments (document A.173.1920).

11. With regard to the third question concerning the stability of the Government, the fixture of the frontiers, the area and population, in some cases it has been noted that all the frontiers were not at the time fixed.

12. To the fourth question as to whether the country is fully self-governing, the reply in most cases has been to the effect that the State was an independent sovereign State. In the case of the Irish Free State, the reply of the committee was " in the affirmative ".

13. In the case of Ethiopia, the Committee expressed the opinion that the country was fully self-governing, although it found itself unable to determine exactly the extent of the effective control of the central authority over the provinces remote from the capital.

14. As regards the fifth question, point 1, concerning the international obligations of the State, the assurance of the Government of the State of its intention to observe its international obligations has been considered sufficient.

15. In the case of Ethiopia, its representatives were requested to sign a special declaration affecting the question of slavery and the importation of arms and ammunition.

16. As regards point 2, the prescriptions of the League as to armaments, until the meeting of the Conference for the Reduction and Limitation of Armaments, the opinion of the Permanent Advisory Commission for Military, Naval and Air Questions has been asked. The most recent reply of this Committee has been that the existing military, naval and air forces constituted no obstacle to its admission to the League. Since the setting-up of the Conference for the Reduction and Limitation of Armaments, membership of that Conference has been considered to preclude the necessity for raising this particular issue with the Permanent Advisory Commission for Military, Naval and Air Questions.

17. Of the States mentioned above as having been candidates for admission at the first Assembly, the following were admitted : Albania, Austria, Bulgaria, Costa Rica (Costa Rica withdrew from the League on January 21st, 1927), Finland and Luxemburg ; Estonia, Latvia and Lithuania became members of the League at the second Assembly in September 1921. Armenia, Azerbaidjan, Georgia, Liechtenstein and Ukraine were not recommended for admission and did not become members of the League.

18. As regards Liechtenstein, the Committee decided that the application for admission was in order, that the Government of the Principality of Liechtenstein had been recognised *de jure* by many States and had concluded treaties with various States, that the Principality possessed a stable Government and fixed frontiers, that the area of the Principality was of 157 square kilometres and the population between 10,000 and 11,000, that juridically the Principality of Liechtenstein was a sovereign State, but that, by reason of her very limited area, small population and her geographical position, she had chosen to depute to others some of her attributes of sovereignty. Liechtenstein had no army. For the above reasons, the sub-committee were of the opinion that the Principality of Liechtenstein could not discharge all the international obligations which would be imposed on her by the Covenant. In view of the above, the Committee was of opinion that the application of Liechtenstein could not be granted under present circumstances.

19. The Assembly, on the advice of its Committee, expressed the wish that the special Committee appointed by the Council to consider proposals with reference to amendments to the Covenant should also consider whether and in what manner it would be possible to attach to the League of Nations sovereign States, which, by reason of their small size, could not be admitted as ordinary members. The Committee, considering that it was possible to associate



such States in the work of the League without giving them membership, advised the Assembly to await the results of experience in this collaboration before expressing an opinion upon the methods by which they might be admitted to the League (see *Records of the Second Assembly, Plenary Meetings*, September 5th-October 6th, 1921, pages 685-688).

20. As regards Azerbaidjan, the Committee reported unfavourably with regard to its admission to the League. The Government which had made the application was not actually in power in the country. There were frontier disputes with Georgia and Armenia which made it impossible to ascertain with certainty the boundaries of the State of Azerbaidjan. Although the State had obtained *de facto* recognition from the United Kingdom, France and Italy, in January 1920, Azerbaidjan had not been recognised *de jure* by any Member of the League.

21. The same resolution was taken as regards the request of the Ukraine.

22. As regards the request of Armenia, Estonia, Georgia, Latvia and Lithuania, the Committee recommended that the Assembly (1920) should inform their Governments :

(a) That their request for admission had been examined with sympathy, but that the circumstances were such as to preclude the Assembly from arriving at a definite decision.

(b) That pending the subsequent decision of the Assembly, the States might participate in such technical organisations of the League as were of general interest.

23. At the Assembly of 1921, Estonia, Latvia and Lithuania were admitted to membership. Armenia and Georgia did not apply again and there was therefore no vote as to their admission.

24. The first Assembly passed the following resolution :

*The protection of minorities.* — “ In the event of Albania, the Baltic and Caucasian States being admitted to the League, the Assembly requests that they should take the necessary measures to enforce the principles of the Minorities Treaties, and that they should arrange with the Council the details required to carry this object into effect.”

25. At the time of the admission of Germany and Turkey, the Governments of those countries made communications to the Secretary-General which included the following paragraph :

“ The obligations resulting from the said article (Article 16) on the Members of the League must be understood to mean that each State Member of the League is bound to co-operate loyally and effectively in support of the Covenant and in resistance to any act of aggression to an extent which is compatible with its military situation and takes its geographical position into account.”

26. It has been stated above that there have been certain exceptions to the usual procedure for the admission of States. In the cases of Mexico and Turkey, the Assembly decided to invite these States to become Members without waiting for them to apply for membership. On the invitation's being accepted, the States in question were elected by the Assembly without previous examination of the question by a committee of the Assembly.

27. In the case of the Union of Soviet Socialist Republics, thirty Members of the League invited the Union to join the League. On receipt of this invitation, the Government of the Union of Soviet Socialist Republics informed the President of the Assembly, on September 15th, 1934, that it was willing to become a Member of the League. The matter was referred to the Sixth Committee by the Assembly. The Sixth Committee recommended the Assembly to admit the Union of Soviet Socialist Republics into the League and the election took place on September 18th, 1934.<sup>1</sup>

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## PART II. — COMMENTARY BY THE RAPPORTEUR.

### A. — Admission to the League.

28. The relevance of the nature of the existing rules and procedure for admission to the League, in connection with the present report, lies in the question whether these form any obstacle to the participation of all States in the League, or whether any amendments to them would facilitate such participation. It is fairly clear *a priori* that, even admitting imperfections in the nature of the present rules, these can scarcely be numbered among the serious causes which have prevented certain States from becoming or remaining Members of the League. It is evident enough that, subject to the point considered in paragraph 35 below, no alteration, relaxation or improvement of these rules is likely to attract to membership a State which, on other grounds, does not want it. It is probably also true to say that no State which wishes for membership, and is ready and fit therefor, is likely to be deterred or prevented from achieving it by the nature of the present rules.

<sup>1</sup> Germany became a Member of the League following on the Treaty of Locarno, but has since withdrawn. Guatemala, Honduras and Nicaragua have given notice of withdrawal. Iraq and Egypt have become Members.

29. Subject to these considerations, it is, of course, arguable that the rules are capable of improvement — with what justice an attempt must now be made to estimate. As things stand at present, admission to the League is not automatic. No State can become a member merely by declaring that it wishes to do so, or by making an application as a pure formality to be granted as a matter of course. Admission to the League requires the consent of two-thirds of its Members, and is accorded only on certain conditions. It has been suggested, however, and the suggestion has formed the subject of discussion in the Assembly, that this state of affairs is undesirable, and that the rules for admission should be such that if a State did not become a member, this could be attributed only to unwillingness on its part and not to the difficulties of gaining admission, or to a failure to secure the necessary number of votes. This suggestion, though it was, as a matter of fact, put forward at an early stage of the League's existence, is based on a mistaken view of the idea of League membership entertained by the framers of the Covenant. Originally, League membership was regarded as a privilege, eagerly to be sought after, and to be granted only to those States which were considered fit for it.

30. It is clear that the suggestion of automatic membership, while it might facilitate the enrolment of recruits, would be fraught with difficulties and embarrassments. The applications received in the past from such entities as Georgia, the Ukraine and Azerbaidjan, the applications which might be received, indeed have been received, from States concerning whom, though sovereign and independent, there was room for doubt whether they could discharge the obligations they asked to be allowed to undertake — these and other factors indicate that the League must retain some right of control, and there is nothing to indicate that the two-thirds majority rule has ever been abused or led to difficulties in practice. It would, of course, be possible to alter the rule so as to admit new members on a much smaller, even a minority vote ; but it is difficult to find any real reasons for thinking that this is necessary or that it would materially improve the situation.

31. From the point of view of enquiring whether a prospective member is sovereign, independent and politically organised as a State, the five questions enumerated in paragraph 7 in the Secretariat's memorandum appear to be sound, though the second might be regarded as superfluous and could perhaps be dispensed with.

32. As regards the prospective member's intention to observe his international obligations, it has been objected that this requirement is devoid of meaning, since it is never possible to gauge in advance the intentions of a State. On the other hand, it is easy to conceive of cases where this requirement might be of use (for instance, the case of ex-mandated territories), especially to a League which, as its creators intended, was powerful enough to reject applications the *bona fides* of which were not absolutely clear.

33. The requirement concerning armaments (see paragraph 16 in the Secretariat's memorandum) springs from the fact that it was hoped, under the ægis of the League, to arrange for international disarmament, in which case, and if any measure of disarmament were ever achieved, it would be reasonable to expect new Members to undertake obligations similar to those imposed on existing Members.

34. It is possible to argue that the normal practice of *applying* for membership forms an obstacle in the case of those States which, on grounds of prestige or for whatever reason, expect to be invited, and that in certain cases States have refrained until invited from assuming a membership they would have been willing to assume earlier. There is nothing in Article 1, paragraph 2, of the Covenant to prevent the issue of an invitation, and on occasion this has been done (see paragraphs 26 and 27 in the Secretariat's memorandum). It would no doubt be possible to arrange for it to be done in any cases considered appropriate.

35. Is it to be concluded, then, that there is no alteration of the rules of admission which would materially facilitate the achievement of increased membership ? There is one, though whether it is a desirable one is a very debatable question. It is suggested by the circumstances of Switzerland's membership (see paragraph 5 in the Secretariat's memorandum), of Germany's admission to membership, and of the proposals made when the admission of Liechtenstein was under discussion (see paragraphs 18 and 19 in the Secretariat's memorandum). This would be to allow States, in becoming Members, to make conditions or reservations destined to meet their special case and the objections felt by them to the present constitution of the League ; alternatively, to create a special category of Members whose position and obligations (and possibly, but not necessarily, whose rights) would differ from that of other Members. Such a principle has never hitherto been admitted. In the case of Liechtenstein, it was expressly rejected. In the case of Switzerland, what was really done was to recognise an existing " *situation de fait* " — namely, the permanent neutralisation of Switzerland — and to assure that country that in practice she would not be asked to take action incompatible with that position. In the same way, when Germany pointed to her existing " *situation de fait* " — namely, her condition of relative disarmament — the true effect of Annex F of the Treaty of Locarno, in which is embodied the note addressed to her by the other signatories, was to convey to Germany in very guarded language a species of assurance that, in computing the extent of her League obligations, due account would be taken of her military and geographical position.

36. Apart from these special cases where account, in a manner not incompatible with the Covenant, has been taken of existing "situations de fait", the rule has always been rigidly adhered to that new Members must undertake the whole duties of the Covenant and the same obligations as existing Members. The objections to any departure from it, even in the interests of achieving universality, are fairly clear. Attention may be drawn to the following :

(1) It is not certain that relaxation of this principle would, in fact, attract States to membership ;

(2) It is not certain that the membership thus gained would have any real value, or any greater value than the co-operation which at present takes place (see the separate report on this subject) between the League and non-members. It would no doubt be possible to achieve a close collaboration on a basis of part membership, in all technical matters, but the real difficulties of the League are political.

(3) Such a position would raise difficult questions. For instance, would the States concerned be on the same footing as other Members in regard to the right to vote, to a seat on the Council, to receive the assistance of members, and so forth ?

(4) A situation might be created in which there was a multiplicity of different League rights and obligations leading to confusion and great difficulties of interpretation.

37. In spite of these objections, which are serious, the idea is not undeserving of some consideration. It is allied in some respects to the proposals of a more general character which have been put forward in certain quarters, whereby, particularly with reference to Article 16, Members of the League, while assuming certain basic obligations in common — such as, for instance, the obligation to consult — would be permitted to define for themselves the limits within which they would be prepared to take further action.

#### B. — *Loss of Membership.*

38. This may arise in three ways :

(i) From expulsion under Article 16, paragraph 4, in the case of a violation of the Covenant ;

(ii) Automatically, under Article 26, in the case of Members which signify their dissent from an amendment to the Covenant adopted in accordance with the regular procedure laid down ;

(iii) Voluntarily, by withdrawal under Article 1, paragraph 3.

No cases falling under heads (i) or (ii) have ever occurred and these matters do not call for any comment.

39. As regards withdrawal under Article 1, paragraph 3, it might be argued that, from the point of view of realising and maintaining universal membership of the League, it is wrong in principle to permit unilateral withdrawals at all — that States, once Members, should be compelled to remain Members unless their withdrawal was agreed to or imposed by their co-Members ; and that this faculty of withdrawal enables a kind of blackmail to be exercised against the League by Members which threaten to withdraw. Experience has shown that there is some truth in this, and that it has had an unfortunate effect on the conduct of the League in certain cases. It is worthy of notice that the first draft of the Covenant contained no provisions of this kind and that it was only introduced after some discussion and hesitation.

40. On the other hand, it is probably the case that the removal of the provision for withdrawal at this date might frighten from membership even States which might be contemplating it. Further, such a removal would have little practical effect, for experience has shown that a Member desiring to withdraw, but not permitted to do so, would refuse all co-operation or attendance at League meetings, a refusal the results of which would be indistinguishable in practice from a renunciation of membership — if, as has been suggested (paragraph 12 of the main report), universal membership should be regarded as meaning effective membership, no useful purpose would be served by making the continued retention of an unwilling membership compulsory.

41. Withdrawal only becomes effective after two years. The object of introducing this delay was presumably twofold — to give time for reflection and to ensure that a Member should not, by a sudden withdrawal in the course of a pending dispute, alter on the spot the relationship between it and other Members, and the nature of the rights and obligations between them arising from a common subscription to the Covenant. That this delay is not without its uses is shown by the fact that in two cases a notice of withdrawal has been revoked before it finally took effect. But the delay has its drawbacks. The withdrawing Member usually acts from the moment it gives its notice, as if its actual membership were at an end (except, perhaps, as regards the continued payment of its subscription). It refuses co-operation or attendance at meetings. This creates a situation full of embarrassment and difficulty. It is arguable that, while there should be a delay, two years is too long.

42. Withdrawal also does not become effective unless the international obligations of the withdrawing Member, and, in particular, its obligations under the Covenant, have been fulfilled. Where a withdrawal takes place, not in the course or as the result of an international dispute, but for some other reason, there will probably be no question of any obligations left unfulfilled. But where the withdrawal takes place in connection with a dispute, it may happen that it is precisely on account of unfulfilled obligations, and of the condemnation pronounced by the League therefor, that the withdrawal takes place. Yet no attempt has yet been made to deny the validity of a withdrawal on that account. The provision in question is, indeed, difficult to understand, and the effect of it is obscure. Its practical utility is probably small. It is no doubt intended to prevent the legal position and the rights and obligations as between a Covenant-breaking Member and other Members from being altered, and this consideration is important where withdrawal takes place during the currency of a dispute. But it would seem that the two-year delay which has in any case to elapse before any withdrawal becomes effective would be a sufficient safeguard in practice.

43. The drawback of the existing rule, in the above connection, is that, technically, withdrawal attempted in spite of unfulfilled obligations is ineffective : the State concerned remains, in theory, a Member of the League. In practice, the withdrawal has to be recognised as good. It is for consideration, therefore, whether it would not be simpler and more logical to avoid these difficulties and embarrassments by providing, not that withdrawal shall be ineffective if there are unfulfilled obligations, but that a withdrawing Member shall be deemed to have agreed that Members of the League shall, for the purposes of any current dispute, continue to have the same rights against it as if the withdrawal had not taken place.

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Geneva, September 8th, 1937.

ANNEX 3.

COLLABORATION BETWEEN THE LEAGUE OF NATIONS  
AND NON-MEMBER STATES.

*Report submitted to the Committee by Viscount Cranborne.\**

1. The subject of collaboration between the League of Nations and non-member States is part of the general question of the universality of the League. Its relevance to this question lies in the fact that universal membership of the League has not been attained, and that the achievement of it may prove difficult and long delayed. It is therefore natural to ask, assuming the continued existence for the present of a lack of universal membership, how far collaboration between the League and non-member States can take the place of universal membership and mitigate the evils of its non-realisation; whether the fullest measure of possible collaboration with non-members has been achieved up to date and, if not, by what means it could be further developed. In analysing this subject, it is proposed to proceed, as in the case of the report on the participation of all States in the League,<sup>1</sup> by the method of asking certain questions which appear to be of especial importance, and suggesting the factors to be taken into consideration in arriving at an answer to them.

*What is meant by collaboration with non-members, and what is its aim?*

2. Collaboration with non-members cannot, by its nature, be precisely defined. Its incidents vary with every case in which it occurs. The only general principle that can be laid down, but it is an important one, is that collaboration is fundamentally a spontaneous act. Its value, indeed its essence, is that it is voluntary. That rules by themselves will not produce collaboration is clear from the fact that true co-operation may be lacking even between Members of the League.

3. Collaboration can be regarded from two standpoints, which, in a given case, may or may not coincide. It may be regarded as an end in itself. A State may be willing to collaborate (although its interests are not directly involved or affected) because it believes in international co-operation as such and is willing to regard as its reward the indirect benefits which ultimately accrue to all States from the greatest measure of such co-operation. Or collaboration may be regarded as a means to a specific end, in which the interests of the collaborators are more or less directly involved. It is clearly easier to achieve collaboration of the latter than of the former kind.

4. The aim of collaboration between the League and non-member States may therefore be described as twofold: in any given case to realise a definite and limited objective, for instance, the association of a non-member with certain League discussions, his participation in a League conference, his adherence to a League Convention; in every case, and as a matter of general principle, to promote international co-operation as such, and to diminish as far as possible the gap between membership and non-membership of the League. That this gap can never, except in special cases, be entirely bridged; that collaboration, however extensive, can never be a complete substitute for membership, are self-evident propositions. In spite of these facts, there are those who might argue that, as between the development of collaboration with non-members within the general framework of the present League and the achievement of universal membership within the framework of a different League specially devised to render this achievement possible, the balance of advantage might, in certain circumstances, lie with the former. This matter is referred to again in paragraph 16 below. The Rapporteur merely draws attention to it here without expressing any opinion on the merits of the argument.

5. In addition to the aims suggested in the preceding paragraph, it may be hoped that the collaboration of the League with non-members will eventually prepare the way for and facilitate the admission to membership of those non-members who might come to desire it.

\* *Note by the Chairman of the Committee.* — The Committee to study the Application of the Principles of the Covenant asked a number of rapporteurs to make a survey of the various questions on its agenda, in order to facilitate discussion. The present report has been drawn up in consequence of that decision, and is therefore a purely informative report, in no way binding upon the Committee or prejudging its future decisions.

<sup>1</sup> Document C.S.P.20 (see Annex 2, page 41).

*What is the nature and extent of the collaboration with non-members already achieved by the League?*

6. No study of the subject of collaboration with non-members is possible without a full knowledge of the nature and extent of the collaboration which has already been realised during the eighteen years of the League's existence. A memorandum on this subject, prepared by the Secretariat of the League, is attached as an annex to the present report, of which it is intended to form an integral part. It will repay the most careful study. On the basis of this memorandum, a general summary of the existing position may be attempted as follows :

(1) A very great, it might almost be said a surprising, amount of collaboration with non-members has already been achieved, so much so that it is possible to doubt whether it can be carried much further or is capable of appreciable development. Such a view would, however, be more true in the qualitative than in the quantitative sense. The range of subjects on which collaboration has taken place is very great, but it has not occurred in an equal degree with reference to each subject or each non-member State. It has been much more marked as regards certain matters ; and, while in the case of some non-members it has been constant, in the case of others it has been relatively rare. These differences have, however, arisen from the different nature of the subjects involved and the different attitude towards the League of the various non-members, and not from any difference in the attitude of the League itself, which has always been in favour of the largest measure of collaboration possible, and to this end has adopted a very liberal and resilient standpoint.

(2) Subject to the qualification noticed in the preceding sub-paragraph, collaboration with non-members has extended over the whole field of the League's activities. It has, of course, been most marked in technical matters, but has also occurred in the political field.

(3) Quantitatively also, a considerable measure of success has been attained — that is to say, it has, in a number of cases, been possible to associate in a given task a very large number of States, Members and non-members. In certain cases, practically all the countries of the world have been brought to a common conference table. Conspicuous examples of this, affording instances in the technical, economic and political sphere, have been the Dangerous Drugs, World Economic and Disarmament Conferences.

(4) While it would not be true to say that collaboration has been either haphazard or purely spontaneous, it has been largely unregulated in the sense that, save in certain cases to be noticed, it has arisen, not from the provisions of the Covenant or of any rules laid down by the Council or Assembly, but from the desire of the League to associate non-members with its work and the willingness, in a greater or lesser degree, of the latter to respond.

(5) The methods of collaboration have been diverse. The following points may be noticed :

(a) The Covenant does not anywhere lay down any general *principle* of collaboration with non-members ; and only in one specific case does it in terms provide for direct co-operation at all. This is in Article 17, which states that, in the event of a dispute between a Member and a non-member, or between non-members, the latter shall be invited to assume the obligations of membership for the purposes of the dispute.<sup>1</sup> Indirectly, certain other parts of the Covenant imply co-operation with non-members, without actually providing for it ; for instance, the provisions of Article 23, regarding conditions of labour and other kindred matters.

(b) On the other hand, the statutes and constitutions of a number of subsidiary but very important organs of the League, set up under or in consequence of the terms of the Covenant, provide, or have been interpreted as providing, not only for collaboration with States not members of the League, but for collaboration on the basis of membership of the organs concerned or of participation on a footing similar to that of membership. Thus, States not members of the League may be and are members of or participators in such important institutions as the International Labour Office, the Health Organisation of the League, the Transit Organisation, and the Permanent Court of International Justice.

(c) Collaboration is, in one case, enjoined by an Assembly resolution (see paragraph 29, sub-heading 8, of the Annex) — namely, with reference to the application of so-called economic sanctions under Article 16 with the object, if possible, of securing from non-members measures similar to those decided on by the League. Action in accordance with this resolution was in fact taken in the only case where Article 16 has been applied, and not without some measure of success.

(d) Apart from the cases noticed above, collaboration with non-members may be said to be in theory unregulated and unorganised on account of the absence, generally speaking, of express provisions enjoining it or of rules for carrying it out. Actually, it

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<sup>1</sup> See further, as to this article, the footnote to paragraph 10 below.

has taken place so consistently as to have grown into a tradition and to be almost self-functioning. For instance, it has become the regular practice to associate non-members with conventions concluded under the auspices of the League, either by inviting them to participate in the conferences at which these conventions are concluded or by communicating copies to them subsequently and inviting them to accede. Both types of invitation, especially the first, have frequently been accepted. Non-members have participated in sessions of the Council and Assembly and in League Committees of all kinds, with reference to matters of both a technical and a political character. Non-members have, for their part, co-operated with the League by furnishing and exchanging information, by giving facilities in their territories to League organisations, missions and enquiries, by registering their treaties with the League and in other ways. On the political side, special mention may be made of the fact that, in a matter brought before the Council under Article 11 concerning or involving a non-member, the latter would be invited to attend the Council. In the sphere of mandates, it may be recalled that non-membership of the League is no bar *per se* to the holding of a mandate under the League, so long as there is willingness to carry out the terms of the mandate as defined by the League, and to co-operate by furnishing the League with the necessary reports and information concerning the administration of the mandate and by attending the sessions of the Permanent Mandates Commission.

*What are the conclusions to be drawn from the present situation in regard to collaboration with non-members ?*

7. The information contained in the Annex to the present report, and summarised in the foregoing paragraphs, suggests certain conclusions of a general character in regard to the question of collaboration with non-members.

(1) If it were necessary to draw but one single and paramount conclusion, it would probably be this: that the possibilities of achieving international collaboration on a worldwide scale and in regard to a wide range of different matters are evidently very great — given the right circumstances and the right method of approach. The right circumstances cannot of course be exactly defined; they depend on the facts of each case. But, in general, it may be said that, as things are at present, they probably involve a strong interest on the part of those concerned either in the actual subject-matter of the given case, or in some indirect but important factor such as the preservation of peace. On the question of the right method of approach, the next conclusion seemed to furnish a pointer.

(2) Collaboration appears to thrive best in an atmosphere as free as possible from rigid rules and regulations. The less organised it is, the more it is forthcoming. This conclusion is probably overstated. Nevertheless, the striking thing in the history of the collaboration of the League with non-member States is the degree of it which has been achieved in the absence (to a very considerable extent) of definite provisions, either enjoining or regulating it. It is possible to doubt, for instance, whether, had the invitations extended by the League in certain cases to non-members to participate in the League's work been the result less of a spontaneous act than of a definite rule compelling the League to invite such collaboration, the invitations in question would have met with so cordial a response. But this point must not be unduly stressed. Rules formulated with discretion can do no harm, and it may be argued that, at this stage of the League's existence, when the tradition of collaboration with non-members is a settled one, the introduction of a fuller and more definite regulation might even be a gain.

(3) Collaboration has been easiest, most complete and most frequent in regard to technical and economic matters. On the other hand, it has by no means been absent on political questions. In the latter regard, however, it tends to stop short at that entire co-operation which would cause collaboration with a non-member to produce the same effects as membership. Such a result could only be hoped for in a case where the interests of the non-member State concerned were so great that action in conformity with League action might be expected whether that State were invited to take it or not.

(4) Collaboration has been much more marked with reference to some non-members than others. In one case it may be said that, given the absence of membership, everything that could reasonably be expected has been done to co-operate with and extend goodwill to the League. In other cases, collaboration has been difficult and slight. Here is to be seen the distinction between those States which merely object to membership of the League and those which (temporarily, at any rate) appear to reject the very principle of international co-operation and control as such, to which attention is drawn in paragraph 33 (1) of the report on participation of all States in the League. It suggests that one of the fundamental obstacles in the way of increased collaboration by the League with non-members may lie less in any objections felt to the League as such as in this general spirit of non-co-operation. On the other hand, it would serve no good purpose to ignore the converse of this proposition, to which attention is drawn in paragraph 33 (3) of the report on participation — namely, that, in certain cases, the main objection felt is to the League itself. In these cases, it is found relatively easy to achieve co-operation outside the League, but quite impossible if it is sought through the League.

(5) Collaboration directed to a definite end, in which all those concerned are directly interested, is much easier to achieve than collaboration for its own sake and in the interests of the international polity as a whole (see paragraph 3 above). The latter is, indeed, normally only to be expected on the basis of actual membership of the League, involving as it does an obligation to co-operate for the common good whether the interests of the State are, in the given case, directly affected or not. It is a hopeful sign that this last form of collaboration is not unknown in the relationship of the League with non-member States (see paragraph 6 (5) (c) above). At the same time, it is this type of collaboration, both within the League and in the League's relations with non-members, which is at once the most necessary to the proper functioning of the League and the most difficult to achieve.

*To what limitations and disadvantages is collaboration with non-members subject ?*

8. As regards the first part of this question, it is evident that, while the possibilities of collaboration and the results to be expected from it are potentially great, they are not great enough, given the nature and objects of the League. Collaboration with non-members can never, save in special cases, be a substitute for universal membership. It cannot by itself solve the problems of the League. It has definite limitations which could only be transcended with difficulty. Collaboration is subject to failure both quantitatively and qualitatively : quantitatively, since it is difficult thereby to achieve co-operation in every case where it would be achieved given universal membership ; and qualitatively, because, even in a case where it is achieved, it is difficult to carry it so far or to get from it results as extensive as in the case of the latter.

9. The second part of the question — the disadvantages of collaboration with non-members — may appear at first sight shocking ; it may be asked whether such collaboration can have any disadvantages. In fact, it has, though they are, of course, merely relative. Two of a subsidiary character may be noticed first :

(1) Collaboration with non-members must necessarily carry with it the element of uncertainty, and the more important the case, particularly if it is of a political character, the greater is this element. This fact, in a case where collaboration, and the nature and extent of it was of moment, might have a hampering, even a harmful effect, on the actions and decisions of the League. This is perhaps not a reason for refraining from seeking the co-operation in question, but it is a disadvantage under which the system labours.

(2) The League may be placed in the position of a suppliant seeking co-operation ; and, in a serious case, almost in the position of a beggar glad of the crumbs from the rich man's table. Such a position would certainly be contrary to what was originally contemplated for the League — namely, that co-operation with the League would be a privilege which non-member States would seek after, rather than a gift for which the League would be forced to beg.

10. The chief disadvantage of collaboration with non-members is, however, more serious than either of those noticed above. This lies in the fact that an extensive and regular collaboration (but which the non-members concerned are at all times free to accept or reject, as they please) may tend to create a situation in which there remains too little inducement to seek actual membership of the League. It may, indeed, be argued with considerable force that a non-member which is willing to enter into a sufficient measure of collaboration with the League can achieve a state of affairs where it enjoys all or most of the advantages of membership without incurring any of the obligations thereof. As things are at present, such a State can be a member of the technical organisations of the League, participate in all or most League conferences, receive important League services and the benefit of the League's information, experience and expert staff ; it can hold a mandate under the League ; it can, in a number of cases, attend meetings of the Council and Assembly and of League Committees ; it can attend the Council if directly interested in a question brought before the latter under Article 11 ; finally, if attacked, it can accept the invitation extended to it under Article 17,<sup>1</sup> and may perhaps thus obtain the benefits of Article 16. In return for all this, it need assume no obligations and, beyond making certain financial contributions (see paragraph 29, sub-heading 7, of the Annex) and lending its voice at the conferences and meetings it attends, it is not bound in any way. In particular, its position as regards Article 16 is quite unfettered. It has no obligations in the event of a dispute in which it is not concerned, and in a dispute in which it is concerned it can, under Article 17, assume the obligations of membership, or not, as it pleases.

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<sup>1</sup> Article 17 is one which calls for careful consideration on account (a) of the principle which it contains, and the question of the soundness of this principle ; (b) of the ambiguities and *lacunæ* in the drafting of it. These questions, which are more closely allied to those arising in connection with Article 16, are beyond the scope of the present report.



11. It is possible to hold, therefore, that had there not been so great a degree of collaboration with non-members, the disadvantages of non-membership would have been more severely felt. It is not intended to suggest that, on this account, collaboration should be diminished, but merely to draw attention to a point of some importance, since it indicates a possible divergence between the immediate and the ultimate interests of the League. Immediate interests, such as the success of a given conference, the realisation of some important aim, such as the limitation of armaments, the exigencies of an international crisis or dispute, may imperatively demand that the fullest collaboration with non-members be sought. The ultimate interests of the League, on the other hand, if these be regarded as being bound up with the attainment of universal membership, may not necessarily be served by pursuing collaboration to the extent which has been done in the past. On these topics, argument and counter-argument may be invoked at length. The Rapporteur does not feel competent to do more than refer to the matter and pass on.

*What are the present obstacles to collaboration between the League and non-member States and to an increase in this collaboration? Can closer and more extensive collaboration be achieved, and, if so, what steps should be taken to that end?*

12. Answers to these questions will, in effect, be found in the preceding paragraphs. Within certain limits, there are virtually no obstacles to collaboration and, again within those limits, so great a measure of it has been achieved as to make it doubtful whether there is room for any substantial increase. Beyond the limits in question, the obstacles to collaboration are essentially the same as those which tend to prevent membership of the League being universal. The same motives which lead a State to reject membership will, and do, equally lead it to refuse collaboration beyond a certain point. This point may be reached early, or it may be reached later, according to the nature and degree of the interests involved, the mentality or "ideology" of the State concerned, and its attitude towards international co-operation in general and the League in particular.

13. The character of the objections entertained to membership of the League is set out in paragraphs 33-37 of the separate report on participation of all States in the League. Certain of these objections bear particularly on the question of membership. In others, however, are to be found equally the reasons which, in the main, prevent a better collaboration between the League and non-members. It may be recalled that some of these objections are of such a nature that great difficulty must be experienced in removing them. On the other hand, it might be possible to eradicate them to a point where, although universal membership would still not be attained, collaboration with non-members would be facilitated and might receive substantial encouragement. These questions are of so speculative a nature that further discussion of them here would serve no useful purpose.

14. It follows from the above that it is difficult to suggest definite means for increasing collaboration with non-members. It would, of course, be possible, perhaps desirable (see paragraph 7 (2) above), to make more definite provision — in the Covenant, or in League resolutions — for collaboration, and to make it into a more organised and regular system. But, although such a step might make collaboration easier and smoother in its working, given the will to collaborate, it could not by itself create that will; and it is essentially in the creation of the will to collaborate that the heart of the problem lies.

*What is the relative importance to be attached to collaboration between the League and non-members and to increasing such collaboration? What place should the question occupy in the scheme of the Committee's work?*

15. The answer to this question depends to a great extent on the view taken as to the chances of ultimately effecting a substantial increase in the membership of the League. If these chances are considered good, the question of collaboration with non-members would occupy a position of secondary importance. If, on the other hand, the chances of attaining universal membership, or something approaching it, appear remote, the question of collaboration would become of importance as an alternative means of realising in practice the universality of the League. In this connection, the point noticed in paragraphs 10 and 11 above should not be overlooked — that collaboration, if carried too far, may itself be an obstacle to increased membership. This leads to the view that it would probably be a mistake to concentrate in the first instance on the question of collaboration. The larger question of universal membership should be considered first, on the basis that the greater includes the less, and that, on account of the close relationship existing between the two questions, the work done will not be wasted when the subject of collaboration comes to be dealt with.

16. The question of collaboration as an alternative means of attaining universality in practice might assume particular importance if it were found that universal membership could be achieved, if at all, only by an alteration of the Covenant too drastic to command general approval; especially if it is borne in mind that membership of the League is not by itself a

solution of its problems and that the question of adequate co-operation is one which exists within the League itself and as between its Members, as well as in the relations between the League and non-members. Attention is drawn in this connection to the considerations set out in paragraphs 12 and 13 of the report on participation.

*Should the views of non-member States be ascertained on the subject of collaboration ?*

17. This is a question to which the Committee will no doubt wish to give careful consideration. The Rapporteur does not consider it necessary to do more here than draw attention to it.

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**Annex.**

**MEMORANDUM BY THE SECRETARIAT OF THE LEAGUE OF NATIONS  
ON THE RELATIONS OF THE LEAGUE WITH NON-MEMBER STATES.\***

March 19th, 1937.

**I. INTRODUCTION.**

1. The following memorandum seeks to bring out the various types of relationships which have on occasion existed between the League of Nations and States non-members of the League. It will make no attempt to go into the relationships of individual non-member States to the League, or to compare the different policies pursued in regard to the League by different non-member States, or by the same non-member States at different periods.

2. The status of non-member States is itself not necessarily a fixed or static one, but has often changed both favourably and unfavourably, with a change of circumstances. Many non-member States have become members ; some member States have become non-members ; even all three stages of non-member, member and non-member again have been experienced by the same State. To attempt to catalogue all these relationships, to make an individual or comparative analysis, or to trace out an historical evolution, while interesting from many points of view, would be both too long and too detailed for the purposes of this memorandum.

3. Out of these many different relationships, however, have developed certain precedents, even principles, in the broad question of the relationships between the League and non-member States. This memorandum will seek to disengage those precedents and principles from a long and little-studied history, and to classify them in some sort of order. To do this, the question will be approached in a broad, rather than a restrictive, sense, dealing, not only with the Covenant itself, but also with the general complex of activities which flow out of it or are associated with it. At the same time, a conscious effort will be made not to confuse the question of principle with that of political considerations ; hence, the names of individual States which happen to have been involved have been omitted as not essential to the illustration of the principle. A general caution should, however, be added to the effect that the fact that a precedent or principle has been cited does not at all mean that it has been followed frequently ; it may, indeed, have occurred but once, or it may have been repeated sufficiently often to have become a practice. All that it is intended to establish is that the precedent in question has, in fact, been created.

**II. LEAGUE POLICY TOWARDS NON-MEMBER STATES.**

4. The first general consideration in the relationship between the League and non-member States, which the following pages will clearly illustrate, is that the League has shown a very open attitude towards both the membership and, failing that, the co-operation of such non-members. There has been nothing exclusive or limitative in League policy as to non-members ; on the contrary, the League has not only welcomed, but has often consciously sought, the widest degree of participation by non-member States that it was possible in the circumstances to secure. Nowhere so much as at Geneva has it been recognised that the participation of all is to the best interests of each.

5.<sup>7</sup> Actual membership has, of course, been the final goal sought. The League's basic philosophy has been the desirability, even the necessity, in the interests of world peace and

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\* This is one of the memoranda drawn up by the Secretariat. These memoranda were intended originally merely to provide information. If on any particular point any personal opinion appears to be expressed, it must not be regarded as an official opinion of the Secretariat.

co-operation, of universality of membership. It has left no doubt as to its desire to have all States within its membership, and has been large in its interpretations placed upon membership. The most recent indication of this viewpoint is given in the *Study of the Proposals submitted by Members of the League* regarding the application of the Covenant, which, in the chapter on "Universality : Participation of all States in the League", reads :

"The majority of the Governments in their replies express the keen desire that the League of Nations should become universal in actual fact."

6. Failing membership, however, the League has made every effort to reduce the difficulties which such non-membership has inevitably added to the already difficult task of promoting international co-operation and attaining world peace. The document just quoted expresses this view as follows in its chapter on "Co-operation between the League and Non-member States" :

"The majority of the Governments which declared in favour of the universality of the League of Nations had in mind at the same time organised and regular co-operation with the States remaining outside the League."

Thus the League has freely extended its facilities to non-member States ; has invited them to be represented in innumerable conferences, commissions and committees of interest to them, and has in many cases, despite their non-membership in the League, given them precise juridical rights of full equality permitting permanent participation in certain League agencies or activities. In the same way, the League has freely invited unofficial institutions and agencies, as well as prominent citizens and experts in non-member States, to co-operate in work organised by the League, and has frequently entrusted such non-member nationals with positions of high honour or responsibility.

### III. ATTITUDE OF NON-MEMBER STATES TO THE LEAGUE.

7. Non-member States have responded in different ways at different times. This has been true, not only in the comparison of the policy of one non-member State with that of other non-member States, but also of the policy of individual non-member States at different periods of their relationships to the League. Co-operation with the League has varied greatly, from case to case and from time to time. In some cases it has been both free in nature and considerable in amount. In others it has been more restrained in nature or more limited in amount ; in some it was either for a while not undertaken at all or else entirely suspended.

8. There is thus no universal principle underlying the attitude of non-member States towards the League. That attitude varies according to the general political situation at a given moment, the particular situation in which a State may find itself and the variety and extent of the international interests which bring it in contact with the League.

9. Relations of non-member States with the League tend to be closer in a period of *rapprochement* than in a period of strain ; they are more immediate, also, for States near the centre of the League than at a distance ; and they are more diversified in a large State with worldwide interests than for a small State with limited interests.

### IV. MEMBERSHIP IN THE LEAGUE.

10. Membership in the League is open, by Article 1 of the Covenant, to certain States named in the Covenant and to "any fully self-governing State, Dominion or Colony" accepted, with certain guarantees, by a two-thirds vote of the Assembly. This creates for any non-member State the right to apply for membership, and many such States have availed themselves of that right. Thirty-two States were entitled, as signatories of the Peace Treaties, to be original Members of the League, though two did not avail themselves of that right, and two others have since withdrawn. Thirteen other States were invited to accede to the Covenant, and all did so. Sixteen other States have entered the League since the Covenant came into force, as the result variously of direct application, general political agreement, initiative of other States, action of the League itself, or the creation of new States. Certain of these States have since withdrawn, while two other States gave notice of withdrawal, but withdrew that notice before the expiration of the two-year period. One State is at present a candidate for membership. Other political entities are in process of development towards membership, while still others, not qualified for membership, correspond with it.

## V. CO-OPERATION WITHOUT MEMBERSHIP.

11. Beyond actual membership in the League is a very large field embracing nearly all types of international activity, wherein non-member States have taken active part in agencies associated with or created by the League, or in work initiated through them. This has been true, though in differing degrees, of States which have not joined the League at all, of States which have joined it and withdrawn, of political entities looking towards joining it, and of other entities not susceptible of membership. Many agencies, conferences, or activities initiated by the League have thus become completely universal and worldwide in their participation. As examples, the general conferences organised by the League, such particularly as the Conference for the Reduction and Limitation of Armaments, the World Economic Conference, and the Dangerous Drugs Conference, have provided the widest representation of States ever achieved.

## VI. BASES OF SUCH RELATIONSHIPS.

12. The relations of non-member States to the League may be differentiated according to two very different bases, namely :

(i) Those based on positive juridical right established by formal international agreement ;

(ii) Those based on the action of League agencies without the existence of any legal obligation on the part of the League or any legal right on the part of the non-member State.

## VII. CO-OPERATION BASED ON CONVENTIONS.

13. Relationships based on the first category embrace various contractual rights flowing from different international agreements or arrangements. By such agreements or arrangements, often drafted at conferences, attended by non-member States, certain rights have been recognised to such States, as well as certain obligations in case of acceptance of the agreement or arrangement in question. These rights run all the way from full membership to carefully specified participation as, for instance, in the choice of executory bodies. The obligations similarly run from the complete obligations of a fully participating State to that of furnishing information or reports or sharing a part of the common expenses. Non-member States have availed themselves of these provisions in varying degree, depending both on the interest of the subject and the policy of the individual State. A few cases will be given by way of illustration ; they do not, however, aim to be in any sense complete.

14. The Covenant itself provides certain direct or potential rights for non-member States, notably :

Article 1 provides that :

“ Any fully self-governing State, Dominion or Colony not named in the Annex may become a Member of the League if its admission is agreed to by two-thirds of the Assembly, provided that it shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval, and air forces and armaments.”

This article gives non-member States the right to apply for membership in the League, and many such States have duly availed themselves of that right.

15. Article 17 authorises a limited acceptance of the obligations of membership in the League by non-member States or, failing that, appropriate League action in case of a dispute involving a State or States non-members of the League. Though States non-members of the League have appeared before the Council as parties to a dispute (see page 73) and though this article has been referred to in debate, it has not been formally invoked. Its text is as follows :

“ 1. In the event of a dispute between a Member of the League and a State which is not a member of the League, or between States not members of the League, the State or States not members of the League shall be invited to accept the obligations of membership in the League for the purposes of such dispute, upon such conditions as the Council may deem just. If such invitation is accepted, the provisions of Articles 12 to 16 inclusive shall be applied with such modifications as may be deemed necessary by the Council.

“ 2. Upon such invitation being given, the Council shall immediately institute an enquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.

“ 3. If a State so invited shall refuse to accept the obligations of membership in the League for the purposes of such dispute, and shall resort to war against a Member of the League, the provisions of Article 16 shall be applicable as against the State taking such action.

“ 4. If both parties to the dispute when so invited refuse to accept the obligations of membership in the League for the purposes of such dispute, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.”

16. Article 16 also refers specifically to non-member States, as follows :

“ 1. Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall, *ipso facto*, be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial, or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not.”

17. Articles 4 and 5 as to the constitution of the Council and the convening of the first meetings of the Assembly and the Council also refer to a State or an official thereof which has not become a member of the League. These two articles are, however, outside the scope of this memorandum.

18. Other articles of the Covenant, while not referring specifically to non-member States, may be held nevertheless to apply to them. By way of illustration, Article 10, while obligating the Members of the League “ to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League ”, does not contain any limitation as to such aggression or threat or danger of such aggression coming only from a State Member of the League.

19. Similarly, Article 11 must be interpreted to have a scope wider than actual membership in the League in providing that —

“ Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League ” ; and later —

“ It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends.”

Similarly, Article 18 provides that—

“ Every treaty or international engagement entered into hereafter by any Member of the League shall be forthwith registered ”, etc.

Article 19 for the reconsideration of—

“ treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world.”

Article 20 for the abrogation of—

“ any obligations inconsistent with the terms of this Covenant.”

While Article 21 provides that—

“ Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe doctrine, for securing the maintenance of peace.”

20. Finally, Article 23, by which Members of the League accept certain obligations in connection with fair and humane conditions of labour for men, women and children, supervision of the execution of agreements with regard to the traffic in women and children, in opium and other dangerous drugs, in arms and ammunition, freedom of communications and transit and equitable treatment of commerce, the prevention and control of disease ; and Article 24, which deals with the placing under the direction of the League of existing international bureaux, definitely affected matters of interest to non-member States, as has been shown, indeed, by the considerable co-operation extended by such States in the execution of these provisions.

21. The two autonomous organisations associated with the League — the International Labour Organisation and the Permanent Court of International Justice — also make very special provisions for States non-members of the League of Nations :

(a) The Constitution of the International Labour Organisation (Part XIII of the Treaty of Versailles and the corresponding parts of the other Treaties of Peace) has been interpreted

since the first session of the International Labour Conference, which met at Washington in 1919 before the League of Nations had actually begun to function, as permitting States which are not members of the League to be members of the International Labour Organisation. Two States not at the time members of the League were admitted to membership of the International Labour Organisation by the first session of the International Labour Conference in 1919. Another State was admitted in the same manner in 1934 and a fourth in 1935. Two other States, when withdrawing from the League in 1928 and 1935 respectively, retained membership of the International Labour Organisation. Four States are at present members of the International Labour Organisation without being members of the League.

(b) The Protocol of Signature and the Statute of the Permanent Court of International Justice, the first international instruments concluded after the creation of the League, also made definite provisions regarding non-member States.

The Protocol was to —

“ remain open for signature by the Members of the League of Nations and by the States mentioned in the Annex to the Covenant of the League.”

The Statute itself provided that —

“ the Court shall be open to Members of the League and also to States mentioned in the Annex to the Covenant. The conditions under which the Court shall be open to other States shall, subject to the special provisions contained in treaties in force, be laid down by the Council, but in no case shall such provisions place the parties in a position of inequality before the Court. When a State which is not a member of the League of Nations is a party to a dispute, the Court will fix the amount which that party is to contribute towards the expenses of the Court ” (Article 35).

22. This article was amplified in detail by a resolution of the Council on May 17th, 1922. Similarly, the Rules of Court adopted on March 24th, 1932, and several times amended, made various provisions for communications to States entitled to appear before the Court. In 1929, a Committee of Jurists was created to consider revision of the Court Statute, followed shortly by a communication from a State non-member of the League as to possible membership in the Court. This Committee, which, as the Assembly resolution of September 14th, 1929, states, “ included amongst its members a jurist ” of that country, made suggestions for a revised statute. The Protocol subsequently approved on September 14th provided that —

“ For the purposes of the present Protocol, the United States of America shall be in the same position as a State which has ratified the Protocol of December 16th, 1920.”

The revised Statute added new provisions, particularly as to the election of judges and advisory opinions. Article 4 was made to provide that —

“ The conditions under which a State which has accepted the Statute of the Court but is not a member of the League may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the Assembly on the proposal of the Council.”

This was done at the time of the Court elections in 1936, and two States non-members of the League availed themselves of the provision, participating both in the Assembly and the Council. Article 66 laid down that :

“ The Registrar shall forthwith give notice of the request for an advisory opinion to the Members of the League of Nations, through the Secretary-General of the League, and to any States entitled to appear before the Court.”

At the same time, a special Protocol was opened for signature as to the conditions on which the United States of America would become a party to the Statute of the Court.

#### *Technical Organisations of the League.*

23. Two of the technical organisations of the League contain in their basic documents of organisation special provisions affecting non-member States :

(a) The Statute for the Organisation for Communications and Transit adopted by the Third General Conference on September 2nd, 1927, adopted the widest definition of possible membership so far accepted. Article 3 provides —

“ The following shall be deemed members of the organisation according to the present statute :

“ (i) All Members of the League.

“ (ii) All States non-members of the League admitted to participation in the technical organisations of the League by resolution of the Assembly or in the Organisation for Communications and Transit by resolution of a General Conference.”

Article 13 established the Advisory and Technical Committee —

“ to be composed of members appointed by the Members of the League of Nations, and may also include members appointed by members of the organisation which are not members of the League. The number of members of the latter class may not exceed one-third of the number of members of the organisation which are not members of the League. If, however, the number of members of the organisation which are not members of the League is less than three (or six), one member (or two, as the case may be) of this class may be appointed.”

Similarly, Article 13, paragraph 5, provides that —

“ Without prejudice to the provisions of Article 18 with regard to disputes, the Committee may invite a State member or non-member of the organisation to nominate a temporary member, who shall sit on the Committee during the examination of a question with which the said State is particularly qualified to deal.”

Article 18 in its turn establishes a procedure for disputes brought before the Advisory and Technical Committee in its capacity as a conciliation or quasi-judicial body, disputes to which States non-members of the organisation may be parties.

(b) The Health Organisation, as reorganised by the Council resolution of September 26th, 1936, provides for two bodies : a Health Committee composed of the President of the Permanent Committee of the Office international d'Hygiène publique and eleven other members appointed by the Council of the League ; and a General Advisory Health Council the annual assembly of which is convened by the Permanent Committee of the Office international above mentioned. States members of the Office international may be represented at the annual assembly of the General Advisory Health Council of the Health Organisation of the League of Nations irrespective of whether or not they are members of the League.

*Participation of Non-member States in Conferences held or Conventions concluded under the auspices of the League.*

24. Non-member States have been given, and have very frequently accepted, the opportunity to participate in special conferences held, or conventions concluded under, the auspices of the League. This participation has taken two forms :

(i) In inviting non-member States to be represented at such conferences with the right to sign or adhere to any resultant convention on the same conditions as the other States represented.

(ii) In transmitting to them for purposes of signature or adhesion a copy of the convention concluded, the text of the convention usually providing that the decision as to the list of non-member States to be approached belongs to the Council. It is only this second procedure which is followed in the case of conventions drawn up by the Assembly itself.

25. Two Conventions out of the many concluded during the history of the League may be cited as illustrative of various types of non-member participation in League conferences, conventions, or other subsequent work :

(a) The Convention signed at the Second Opium Conference on February 19th, 1925, authorised considerable participation by States non-members of the League by providing that the Convention should be open to signature or accession by —

“ Any State represented at the Conference at which the present Convention was drawn up, by any Member of the League of Nations, and by any State to which the Council of the League of Nations shall have communicated a copy of the Convention for the purpose ” (Article 33).

This Conference had itself been due in part to a non-member State, the Assembly convening it “ as a means of giving effect to the principles submitted by the representatives of the United States of America and to the policy which the League, on the recommendation of the Advisory Committee, had adopted.” The Assembly recommended inviting to the Conference “ all countries which are Members of the League or parties to the Convention of 1912 ”, and the Council acted on the recommendation.

The Convention also provided a Central Board for its administration, its members to be appointed by the Council of the League, Article 19 providing that —

“ The United States of America and Germany shall be invited each to nominate one person to participate in these appointments.”

The Council, the Health Committee, and the Secretary-General of the League, as well as the Permanent Court of International Justice, were entrusted with various duties under

the Convention, their competence being thus recognised by the parties thereto, including States non-members of the League.

Similar provisions are contained in the Convention for limiting the Manufacture and regulating the Distribution of Narcotic Drugs opened for signature on July 13th, 1931, and the Convention of 1936 for the Suppression of the Illicit Traffic in Dangerous Drugs.

The Final Act of the 1925 Conference also made provision regarding expenses entailed by the operation of the Convention adopted by the Conference :

“ The Conference requests the Council of the League of Nations to include in the expenses of the Secretariat the expenses of the Central Board and its administrative services. It is understood that those contracting parties which are not Members of the League will bear their share of the expenses in accordance with a scale to be drawn up by agreement with the Council.”

(b) The International Convention relating to Economic Statistics of December 14th, 1928, followed somewhat the same lines. It was open for signature —

“ on behalf of any Member of the League of Nations, or of any non-member State which was represented at the Conference of Geneva or to which the Council of the League of Nations may have communicated a copy of the Convention for this purpose.”

The participation of States non-members of the League with the Council of the League in the naming of the continuing Technical Committee was also provided as follows :

“ A Committee of Technical Experts shall be appointed at a meeting of the Council of the League of Nations and one delegate from each State not a member of the League of Nations, represented at the Conference of Geneva, on behalf of which ratifications or accessions have been deposited.”

Various other provisions of possible interest to non-member States were also included in connection with revision, exchange of communications, and other administrative arrangements.

#### *Special Arrangements between the League and Non-member States.*

26. One special agreement has been made between the League and a non-member State which established the principle of such agreements. A certain non-member State, which for some time had been transmitting its treaties to the League for publication, in 1934 notified its intention to transmit thereafter to the League on certain terms for registration and publication in the *Treaty Series* all treaties subsequently contracted by it and included in its own Treaty Series. This has led to registration of several treaties between two States neither of which was a member of the League.

#### *Regime of Mandates.*

27. Special mention might also be made of Article 22 of the Covenant regarding mandates, which has in various ways touched upon the question of membership in the League. In the first days of the League in 1920, the Council did not judge that the status of non-member was incompatible with the rôle of mandatory Power, for, in agreement with the Supreme Council, it offered a non-member State the mandate over Armenia. One of the Principal Allied and Associated Powers which had participated in the allocation of the mandates during the Peace Conference did not become a member of the League and consequently share in the rights accorded by Article 22 to States Members of the League. Consequently, it negotiated a series of separate treaties with the various mandatory Powers, often embodying the terms of the League mandates and thus assuring itself comparable rights. More recently has arisen the question as to whether States which have ceased to be members of the League could retain without reciprocity the rights acquired as members, and one such State has announced its intention of continuing its status as a mandatory Power on the same basis as before its withdrawal from the League, has transmitted its various reports, and accredited a representative to the Mandates Commission. Finally, another State non-member of the League has taken steps to retain certain of the rights which it derives from the fact of being one of the Principal Allied and Associated Powers.

### VIII. CO-OPERATION NOT BASED ON CONVENTION.

28. Relationships of the second category are those which are based on special invitation or act of courtesy rather than on contractual right. They would include, *inter alia* :

(i) Invitations to be represented at various conferences, commissions or committees of the League.

(ii) Invitations to co-operate in various forms of continuing or permanent League work.



- (iii) Invitations to communicate information or views on particular questions.
- (iv) Exchange of facilities.

#### IX. TYPES OF CO-OPERATION.

29. Leaving aside the question of origin or juridical basis, the various types of co-operation which have on occasion occurred between States non-members of the League and the League may be grouped as follows :

##### (1) *Representation in the Assembly and the Council.*

States non-members of the League have participated in sessions of the Assembly and the Council, or of committees forming part of them, in several different ways :

(a) In the Assembly and/or the Council when these bodies have acted as instruments empowered by treaty to select the members of international agencies, such as the Permanent Court of International Justice, the Opium Central Board, or the Statistical Committee.

(b) In Assembly committees during the discussion of certain general questions, as in the case of a specially interested non-member State invited in 1923 to participate in the debates of the Fifth Committee on the traffic in opium and dangerous drugs, or of five non-member States invited in 1931 to participate in the deliberations of the Third Committee regarding a disarmament truce.

(c) In Assembly committees arising out of Article 15.

(d) In the Council in connection with certain disputes, either —

(i) as a party to the dispute, or

(ii) as a State specially invited in connection with the Pact of Paris.

(e) In Council committees created either —

(i) Under Article 15 ;

(ii) For technical co-operation with a given State ;

(iii) Under a request for assistance from a given State.

##### (2) *Representation in General Conferences.*

The Assembly and the Council, in organising general conferences under the auspices of the League, have from the outset invited non-member States to participate and such non-member States have done so in large measure. Their representatives, unless otherwise accredited, have had full equality with those of Member States and special provision has frequently been made in conventions or other acts flowing out of such conferences in the interest of non-member States.

##### (3) *Participation in League Committees.*

Non-member States have participated in League committees either—

(a) By special invitation in particular instances ;

(b) By continuing invitation through an original acceptance and subsequent convocations ;

(c) By formal acceptance, in one case, accrediting the representative as " a regular member " of the Committee, this membership and its attributes to be " identical with those of any other member of the committee appointed by Governments."

##### (4) *Ratification of Conventions concluded under the Auspices of the League.*

Non-member States, as previously shown, have frequently ratified or acceded to conventions concluded under the auspices of the League and creating both rights and obligations *vis-à-vis* the League.

##### (5) *Transmission of Information or Opinion.*

A very considerable amount of information and/or opinion has been transmitted in both directions between the League and non-member States. League agencies have frequently, when assembling information or consulting Governments as to their views on questions under study, included non-member States on the same terms as Member States, and in very many cases such non-member States have replied fully and helpfully. Most non-member States

receive all the documents published by the League and several have offices or bureaux in close contact with the League. Information has been transmitted by non-member States either —

- (a) As a contractual obligation under a treaty to which they are a party and which recognises the League as the agency for the reception and dissemination of information ;
- (b) In reply to a specific enquiry ; or
- (c) In continuation of the general system of information and statistics which has grown up about the League services.

(6) *Mutual Assistance in International Co-operation.*

Special facilities or courtesies in connection with aspects of international co-operation of mutual interest have been extended by non-member States towards the League and by the League towards non-member States. League missions or experts have been received in non-member countries and given facilities for advancing their work. Similarly, an international organisation affiliated with the League has been established by special arrangement in a non-member country and full co-operation shown it by the Government thereof. Conversely, an international conference convened by a State non-member of the League was held at the suggestion of its participants at the headquarters of the League, while another State non-member of the League has requested the co-operation of the League's services in the organisation and direction of an international conference which it had convened. Finally, special personnel has on occasion been loaned to meetings held outside the League.

(7) *Participation in League Expenses.*

The question of the participation of States non-members of the League in the expenses of League activities with which they have been associated has come up from time to time throughout the history of the League. It has been approached from three different directions :

(a) International conventions or agreements open to non-member States have foreseen the possibility of the participation of such States in the common expenses, as in the Statute of the Permanent Court of International Justice, or the Opium Conventions.

(b) The Financial Regulations of the League contain detailed provisions for the participation of non-member States in the expenses of any organisation of the League to which they have been admitted as members :

“ Article 22. — (1) States not members of the League which have been admitted members of any organisation of the League shall contribute towards the expenses of the organisation concerned in the proportion in which they would contribute to such expenses if they were Members of the League.

“ The contributions of States not members of the League, which shall be calculated on the total outlay of the organisations to which they have been admitted members, shall be applied exclusively to the expenses of such organisations.

“ (2) The amounts receivable in accordance with paragraph (1) shall be shown separately in the budget ; they shall be entered as revenue in the budget for the financial year for which they have been fixed, and shall be applied to reduce the sums to be contributed by the Members of the League. They shall be collected by the autonomous organisations themselves, which shall, in so doing, be guided by the rules laid down in Article 21 ; the competent officials shall supply the Secretary-General with the necessary information as to the results obtained.

“ (3) The provisions of the first clause of paragraph (1) shall not apply to the case of a State not a member of the League which accepts an invitation to participate in the work of a League organisation without any condition as to contributing to the expenses of the organisation.

“ (4) The amounts receivable in accordance with paragraph (3) shall, when received, be applied to reduce the total sum chargeable for the following year to the Members of the League. The Secretary-General shall secure that the amounts referred to in the previous clause are collected.”

“ Article 23. — (1) (a) The same shall apply to the contribution payable to the expenses of the Permanent Court of International Justice, under Article 35, paragraph 3, of the Statute of the Court, by States which are parties to disputes before the Court and are not members of the League of Nations.”

(c) Certain States non-members of the League have made voluntary contributions towards the expenses of League work with which they have co-operated, on the basis either of—

(i) Attendance at conferences, commissions or committees convened by the League, or

(ii) As a contractual obligation for the implementation of international conventions to which the contributing State was a party.

Contributions have been received from one non-member State since 1923, covering a proportionate share of the extraordinary expenses, such as extra staff, travelling and printing, involved in meetings at which it was represented, but not including general or overhead expenses. Similarly, another non-member State made a payment in 1936 towards the expenses of certain technical committees with which it had been associated the previous year, the payment being received, not as a contribution within the Financial Regulations, but as a voluntary donation to the work of the Secretariat to be accepted by the Council.

(8) *The Application of Article 16.*

Special mention might be made of the relations of States non-members of the League to Article 16 of the Covenant. This question arose in the first days of the League, the second Assembly including in its resolutions on "The Economic Weapon", adopted on October 4th, 1921, the following provision :

" 17. Efforts shall be made to arrive at arrangements which would ensure the co-operation of States non-members of the League in the measures to be taken."

The principle thus adopted in broad outline has been the subject of much subsequent discussion unnecessary to go into in detail here. In the one case, however, when Article 16 has been applied, it was put into operation. On October 21st, 1935, the Chairman of the Committee for the co-ordination of measures to be taken under that article addressed a letter to States non-members of the League transmitting the proposals, decisions and resolutions adopted by the Committee as well as other documents relating to the dispute, and adding that " the Governments represented on the Co-ordination Committee would welcome any communication which any non-member State may deem it proper to make to me, or notification of any action which it may be taking in the circumstances ". A further letter with subsequent information was despatched on November 5th and two other communications later sent to a particular State.

Six non-member States formally replied to these communications. One State put into operation a considerable part of the recommendations made by the Co-ordination Committee. Another reported a series of measures already taken in line with " the independent and affirmative policy of its Government " and " its purpose not to be drawn into the war and its desire not to contribute to a prolongation of the war ". Another replied that it would carefully study the documents ; a fourth that, because of a recent Customs union with another State and its own small size and lack of relations with the belligerents, it contemplated no action of its own in the matter. Two other States refused to co-operate in the measures taken, both citing their non-membership in the League as a reason and one adding also its own special international position. Two States did not reply to the communication, though in the case of one the secretary of the Committee was able to communicate certain information transmitted orally to the Secretariat.

(9) *Unofficial Collaboration.*

While the co-operation of private organisations, institutions, foundations and agencies, as well as that of private individuals of non-member States is not formally a part of the official relations prevailing between the League and the Governments of such States, this memorandum would not be complete without at least a reference to it. The League has had the most effective assistance from leading associations, agencies and foundations in non-member countries, and has frequently called on nationals of such countries for expert and technical co-operation, often of the highest order. While this co-operation has been of a nature not involving the responsibility of the Government concerned, it has nevertheless in many cases had the support and approval of the Government.

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Geneva, August 31st, 1937.

#### ANNEX 4.

### CO-ORDINATION OF COVENANTS.

*Report submitted to the Committee by M. Carlos A. Pardo (Argentine).\**

#### INTRODUCTION.

The object of the present report is to recall in outline the history of the subject with which it deals and to consider what are the questions arising out of the co-existence of the Covenant, the Pact of Paris and the Argentine Pact for which a solution should be sought by the Committee.

#### THE COVENANT AND THE PACT OF PARIS.<sup>1</sup>

##### *The Assembly of 1928.*

It was in 1929 that the Assembly embarked upon a study of the amendments which it might be desirable to make in the Covenant as the result of the recent entry into force of the Pact of Paris. No suggestion, however, was made either in the full debate which took place in the plenary meetings or in the still fuller discussions in the First Committee that any conflict existed between the two instruments. The object in view, as defined in the resolution adopted on September 24th, 1929, was to ensure "that the terms of the Covenant of the League should not accord any longer to Members of the League a right to have recourse to war in cases in which that right has been renounced by the provisions of the Pact of Paris". It was recognised that the provisions of the Pact of Paris could not be incorporated in the Covenant without taking account of the repercussions which this would have upon the application of the Covenant as a whole. Accordingly, the Assembly invited the Council to appoint a Committee of Jurists for the examination of the question.

##### *The Committee of Jurists and the Assembly of 1930.*

The principles upon which the Committee of Jurists proceeded are set out in the introduction to its report (document C.623.M.245.1930.V). In brief, it considered that the task conferred upon it was technical and not political and was to delete from the Covenant "the provisions which authorise war" but that, the Covenant being an organic whole, the prohibition of resort to war must be accompanied by a strengthening of the machinery of pacific settlement. The Committee regarded itself as bound to confine itself to amendments the principle of which was contained in the Pact of Paris.

At the Assembly, the jurists' report was examined by the First Committee and by a Sub-Committee of that body, whose mandate was to consider "the political as well as the juridical aspects of the problem". The Sub-Committee's report suggested a number of changes in the proposals of the jurists' report but reached the conclusion that the two reports should be sent to the Governments for their observations<sup>2</sup> before final action was taken.

This proposal was adopted by the Assembly.

Apart from the fact that changes had been made in the jurists' amendments, certain reasons of a political nature were given by the Sub-Committee for its proposal. Some Members of the League not parties to the Pact of Paris, felt that the proposed extension of the provisions of the Covenant regarding war "should be conditional upon a very thorough examination of the new methods of pacific settlement which are its corollary". At the same time, it would be doubtful whether the "interpretations" attached by various States to the Pact of Paris at the time when they signed or acceded to it "would have the same effect if the case ceased to be one of bringing the Covenant into harmony with the Pact of Paris and became merely one of introducing the principle of prohibition of resort to war into the Covenant of the League of Nations".

The proposed amendments had "given rise to other questions as to the compatibility of the amended Covenant of the League of Nations with other treaties and situations which were the object of express reservations when the Pact of Paris was concluded".

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\* *Note by the Chairman of the Committee.* — The Committee to Study the Application of the Principles of the Covenant asked a number of rapporteurs to make a survey of the various questions on its agenda, in order to facilitate discussion. The present report has been drawn up in consequence of that decision, and is therefore a purely informative report, in no way binding upon the Committee or prejudging its future decisions.

<sup>1</sup> This title will be used for the sake of convenience. The formal name is "Traité général de renonciation à la guerre comme instrument de politique nationale, signé à Paris le 27 août 1928".

<sup>2</sup> A consultation of Governments had already taken place the results of which were before the Committee of Jurists.

The question of the applicability of the sanctions of Article 16 to the new obligations which would result from the contemplated amendments was one on which all the Members of the League did not as yet hold the same views.

The stage which the discussion had now reached can be seen from the following table based on one drawn up by the Secretariat for the purpose of the consultation of the Governments and which shows in parallel columns the original text of the provisions of the Covenant for which amendments were proposed, the proposals of the jurists and those of the Sub-Committee.

| PRESENT TEXTS.  | AMENDMENTS PROPOSED BY<br>THE COMMITTEE OF ELEVEN.   | TEXTS DRAWN UP BY<br>THE SUB-COMMITTEE.  |
|---|--|--|
| <i>Preamble.</i>  | <i>Preamble.</i>   | <i>Preamble.</i>   |
| In order to promote international co-operation and to achieve international peace and security by the acceptance of obligations not to resort to war, . . .   | In order to promote international co-operation and to achieve international peace and security by accepting the obligation not to resort to war, . . .   | (Same text as proposed by the Committee of Eleven.)  |
| <i>Article 12.</i>  | <i>Article 12.</i>   | <i>Article 12.</i>   |
| 1. The Members of the League agree that, if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or judicial settlement or to enquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the judicial decision or the report by the Council. | 1. The Members of the League agree that, if there should arise between them any dispute likely to lead to a rupture, they will only employ pacific means for its settlement.<br>If the disagreement continues, the dispute shall be submitted either to arbitration or judicial settlement, or to enquiry by the Council. The Members of the League agree that they will in no case resort to war for the solution of their dispute.                             | 1. The Members of the League agree that, if there should arise between them any dispute likely to lead to a rupture, they will in no case have recourse to war for the settlement of the dispute and will only employ pacific means for this purpose. If the dispute cannot be otherwise settled, it shall be submitted either to arbitration or judicial settlement or to enquiry by the Council.   |
| 2. In any case under this article, the award of the arbitrators or the judicial decision shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.   | 2. (No change proposed.)   | 2. The award of the arbitrators or the judicial decision shall be given and the report of the Council shall be made within a reasonable period.  |
| <i>Article 13 (Paragraph 4).</i>  | <i>Article 13 (Paragraph 4).</i>   | <i>Article 13 (Paragraph 4).</i>   |
| The Members of the League agree that they will carry out in full good faith any award or decision that may be rendered, and that they will not resort to war against a Member of the League which complies therewith. In the event of any failure to carry out such an award or decision, the Council shall propose what steps should be taken to give effect thereto.              | The Members of the League agree that they will carry out in full good faith any award or decision that may be rendered, and that they will not take any action against any Member of the League which complies therewith.<br>In the event of any failure to carry out such award or decision, the Council shall propose what measures of all kinds should be taken to give effect thereto; the votes of the representatives of the parties shall not be counted. | The Members of the League agree that they will carry out in full good faith the award or decision rendered in a dispute to which they have been parties. They further undertake in no way to support a State in refusal to carry out an award or decision.<br>In the event of any failure to carry out such an award or decision, the Council shall propose what measures of all kinds should be taken to give effect thereto; the votes of the representatives of the parties shall not be counted. |
| <i>Article 15 (Paragraph 6).</i>  | <i>Article 15 (Paragraph 6).</i>   | <i>Article 15 (Paragraph 6).</i>   |
| If a report by the Council is unanimously agreed to by the members thereof, other than the representatives of one or more of the parties to the dispute, the Members of the League agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.  | If the report by the Council is unanimously agreed to by the members thereof, other than the representatives of one or more of the parties to the dispute, the Members of the League agree that they will comply with the recommendations of the report. If the Council's recommendation is not carried out, the Council shall propose suitable measures to give it effect.  | If the report by the Council is unanimously agreed to by the members thereof, other than the representatives of one or more of the parties to the dispute, the Council shall invite the parties to comply with the recommendations of the report. The Members of the League undertake in no way to support any party in refusal to comply with such recommendations.   |

*Article 15 (Paragraph 7).*

If the Council fails to reach a report which is unanimously agreed to by the members thereof, other than the representatives of one or more of the parties to the dispute, the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

*Article 15 (Paragraph 7).*

If the Council fails to reach a report which is unanimously agreed to by the members thereof, other than the representatives of one or more of the parties to the dispute, it shall examine the procedure best suited to meet the case and recommend it to the parties.

*Article 15 (Paragraph 7).*

(Same text as proposed by the Committee of Eleven.)

*Article 15 (Paragraph 7 bis).  
(New Paragraph.)*

At any stage of the examination, the Council may, either at the request of one of the parties or on its own initiative, ask the Permanent Court of International Justice for an advisory opinion on points of law relating to the dispute. Such application shall not require a unanimous vote by the Council.

*Article 15 (Paragraph 7 bis).  
(Suppressed.)*

*Article 16  
(Paragraph 1, First Sentence).*

1. Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall, *ipso facto*, be deemed to have committed an act of war against all other Members of the League . . .

*Article 16.  
(No change proposed.)*

*Article 16  
(Paragraph 1, First Sentence).*

1. Should any Member of the League resort to war in disregard of its covenants under Article 12, it shall, *ipso facto*, be deemed to have committed an act of war against all other Members of the League . . .

*The Assembly of 1931.*

The discussion at the Assembly's session of 1931 and the written statements from twenty Members of the League which were before the Assembly showed that, although there continued to be general support for the policy of inserting in the Covenant a prohibition of resort to war at least as extensive as that contained in the Pact of Paris, divergences of view still persisted as to the nature and extent of the repercussions of this change upon the working of other provisions of the Covenant, more particularly upon "sanctions" under Article 16, and upon such matters as the exercise of the right of legitimate defence and the enforcement of just claims, and as to the further amendments which these repercussions might make necessary.

The report of the Sub-Committee to which the question was referred by the First Committee expressed the view that, though progress had been made, it would be premature to endeavour to draw up amendments in final form for acceptance and ratification by the Governments. At the same time, it was found that some Members of the League saw a close connection between the problem of amending the Covenant and the work of the Disarmament Conference which was about to commence; certain Members stated that they would not ratify the amendments such as were under discussion unless a convention for the reduction of armaments was brought into force. Accordingly, the Assembly on September 25th, 1931, on the proposal of the Sub-Committee and the First Committee, reaffirmed its intention "of continuing the task of inserting in the Covenant of the League of Nations a general prohibition of recourse to war and the principle that the settlement of international disputes may only be sought by pacific means (*i.e.*, the two principles of the Pact of Paris) but decided that the task of securing agreement upon the final text of amendments should be entrusted to a committee of representatives of all the Members of the League which should be convened by the Council during or after the Disarmament Conference.<sup>1</sup>

*Subsequent History.*

Arrangements were made by the Council to permit the committee of representatives of Members of the League to be promptly convened so soon as the proper moment should arrive

<sup>1</sup> The Assembly's resolution provided for the Governments, if they considered it necessary, presenting their views in writing to the Committee. Communications from six Governments have been received and are at the disposal of the Committee of Twenty-eight. With one exception the Governments in question merely refer to the observations which they had already submitted to the Assembly.

but the work of the Disarmament Conference did not develop in such a manner as to make the convocation of the Committee appear desirable.

By resolutions of October 8th and 10th, 1936, the Assembly decided that the question of co-ordination of the Covenant with the Pact of Paris and the question of co-ordination of the Covenant with the Argentine Pact (see below) should be treated as questions of application of the principles of the Covenant and be referred to the Committee of twenty-eight members which it set up to report to it upon this subject. This latter body has accordingly taken the place of the Committee of representatives of all the Members of the League (see the report and resolution adopted by the Assembly on October 10th, 1936).

## THE COVENANT AND THE ARGENTINE PACT.<sup>1</sup>

### *Communication of the Argentine Pact to the Council in 1933.*

The Argentine Pact, which is associated with the name of its author, the Argentine Foreign Minister, M. Saavedra-Lamas — in the same way as the Pact of Paris is associated with the names of M. Briand and Mr. Kellogg — was brought to the attention of the League immediately after its signature at Rio de Janeiro on October 10th, 1933. In the communication which he addressed to the Council on the subject on instructions from his Government, M. Ruiz Guiñazú, Argentine Minister at Berne, suggested that the Pact should be referred to the Committee already set up to consider the co-ordination of the Covenant and the Pact of Paris. He pointed out that the new treaty, so far from conflicting with these two earlier pacts, was directed toward the same objects and in particular sought to render the Pact of Paris more effective (*renforcer l'efficacité du Pacte de Paris*).

### *Action of the Council in 1934.*

On January 18th, 1934, the Council accepted the suggestion of the Argentine Government after a discussion in which the representatives of Italy, Spain, Mexico, Portugal, the United Kingdom, Panama, France, Czechoslovakia, Poland and China successively expressed their sense of the interest and value of the new treaty.

### *Action of the Assembly in 1934, 1935.*

In 1934 and 1935, the Assembly associated itself with the action of the Council. It had, however, no opportunity to discuss the Argentine Pact since the Committee to which that Pact had been referred had not met.

### *Action of the Assembly in 1936.*

At the special session convened on the initiative of the Argentine, the Assembly, by its resolution of July 4th, invited the Members of the League to communicate their proposals for improving the application of the principles of the Covenant. As part of its response to this invitation, the Argentine Government transmitted to the League a pamphlet concerning the Argentine Pact, containing in particular the declaration by M. Saavedra-Lamas which is reproduced in the Rapporteur's memorandum (document C.S.P. 6, Section IV). The following passages may be cited here as dealing directly with the particular question entrusted to the rapporteur :

“ The Treaty of Non-Aggression and Conciliation, in regard to which the material documents are included in the present collection, is not intended to supersede the undertakings laid down in the Covenant of the League, nor is it intended to affect the Pact of Paris ; it aims simply at co-ordinating the three instruments whose common object is world peace.”

“ The Argentine Pact does not claim to replace the system laid down in Articles 10 and 16 of the Covenant of the League. It is put forward now in the hope that it may serve as a link between States Members of the League and non-members. The co-ordination is clearly apparent in the question of non-recognition of acquisitions of territory brought about by force, which constitutes one of the sanctions of the Argentine Pact. This principle may be compared with the resolution adopted by the League of Nations in the Manchurian conflict and with the preamble to the recommendation passed by the Assembly on July 4th, 1936, incorporating in the essential principles of the League the American Declaration of August 3rd, 1932, repudiating territorial acquisitions secured by force.”

“ The examination of the Argentine Treaty by the seventeenth ordinary Assembly of the League is of great importance, inasmuch as the United States of America have acceded to it, and it has been unanimously ratified by the Senate. It may be noted that Members of the League, by acceding to this Pact, would immediately create a juridical

<sup>1</sup> This title will be used for the sake of convenience. The official title is : “ *Traité de non-agression et de conciliation signé à Rio de Janeiro le 10 octobre 1933* ” (Treaty of Non-aggression and Conciliation signed at Rio de Janeiro on October 10th, 1933).

link between the League and non-member States, in every effort for the maintenance of peace. In the spirit of the recommendation passed by the Assembly on July 4th, the application of the Covenant of the League is thus strengthened by the Argentine contribution. But apart from the possibility of innovations and amendments, in the study of which the Argentine is prepared to co-operate, the fact emerges that the system of collective security created is weakened positively by the absence of several of the great Powers, including the great American nation. Justifiable efforts have been made, but in vain, to incorporate it in the League, since it is realised that its collaboration in the work of universal peace has been and will always be essential for its consolidation. While, however, the complexity of the League's machinery caused the refusal of the United States Senate, attention should be directed to the fact, which is perhaps not sufficiently appreciated in Europe, that the American nation offered no objection to subscribing to the undertakings embodied in the Argentine Pact. As a consequence, this instrument, which is open for universal accession, offers to every State that accedes to it the possibility of enjoying, in the lofty interests of conciliation and harmony, the co-operation — of such capital importance — of the great people to which the noble institution of Geneva indirectly owes its creation.

“Furthermore, the Argentine sanctions, added to those of the Covenant, would, by their application, manifestly help to preserve and consolidate the rule of international law in the world.”

The manner in which this problem is regarded by the Argentine Government, so far as regards the Argentine Pact, was further indicated by its representative, M. Cantilo, in the speech reproduced in the rapporteur's memorandum of May 19th, 1937 (document C.S.P.6, Section IV), which terminated with the words :

“This study must deal with the need for facilitating the co-operation of the League with States which are linked to it by other instruments than the Covenant — such as the Argentine Pact, for instance — but which are inspired by the same principle — namely, co-operation with a view to a study of methods for the pacific settlement of international disputes.”

By resolutions of October 8th and 10th, 1936, the Assembly, as already mentioned, included the question of the harmonisation or co-ordination of the Covenant, the Argentine Pact and the Pact of Paris among the *problèmes qui se rattachent à la question de la mise en œuvre des principes du Pacte*, which it referred to the Committee of Twenty-eight.

*Discussion at the Inter-American Conference for the Maintenance of Peace (Conférence inter-américaine pour le maintien de la paix).*

In order not to make the present report unduly long, the rapporteur refers to his memorandum (document C.S.P.6, Section IV) for fuller extracts from these discussions and confines himself to quoting here a few passages which have a direct bearing upon the question on which he has to report.

The conference which met at Buenos Aires from December 1st to 23rd, 1936, was due to the initiative of President Roosevelt. In the letter communicating his proposal of a conference to the Heads of State of the other American Republics, and indicating the measures to be considered, the President said :

“These steps furthermore would advance the cause of world peace inasmuch as the agreements which might be reached would supplement and reinforce the efforts of the League of Nations and of all other existing or future peace agencies in seeking to prevent war.”

In the same spirit, General Justo, President of the Argentine Republic, in opening the Conference, said :

“... As President Roosevelt said in his invitation to this Conference, it is very necessary to consider the means of reinforcing, from the Americas, the peace-making activities of the League of Nations, of which most countries here represented are Members. On the day that the instruments of American origin are successfully co-ordinated with the League of Nations Covenant and with other treaties for the confirmation of law, justice, equity and morality in relations between States, a decisive step will have been taken on the road toward universal peace.”

The President of the Conference, M. Saavedra-Lamas, on December 4th, 1936, declared :

“We must realise that we cannot approach this great problem on mere restrictive lines. We cannot adopt the attitude of continental isolation, an attitude which would be equivalent to saying that we are not living on the same planet.”

Among the instruments adopted by the Conference were :

(a) *A Resolution on the “Co-ordination of Pacific Instruments with the Covenant of the League of Nations (Resolution XXIX, of December 21st, 1936).* — By this resolution the Conference (the delegation of the United States abstaining from voting) decided :

“(1) To recommend to the American States Members of the League of Nations and signatories to the Pact of Paris, the Saavedra-Lamas Treaty, and any other similar agreement signatories to the Pact of Paris, the Saavedra-Lamas Treaty, and any other similar agreements signed in the future, that they request the States which are not Members of the



League and which are parties to the other treaties referred to above, that they co-operate with the League of Nations in the study of the projects for the co-ordination of those various instruments with the Covenant of the League of Nations ;

“ (2) To recommend to the American States which are not members of the League of Nations and are parties to the other aforementioned treaties, that they co-operate with the League of Nations in the measures which it may adopt to prevent war or to settle international conflicts by pacific means, whenever the respective legal systems of said States permit ;

“ (3) That, in due time, the present resolution be brought to the attention of the special Committee now assembled in Geneva to study the co-ordination of the Covenant of the League of Nations with other peace instruments. ”

(b) *Convention for the Maintenance, Preservation and Re-establishment of Peace, signed on December 23rd, 1936.* — The text of this Convention will be found in the Rapporteur's memorandum. It is interesting to note here that the preamble cites the above quoted declaration of President Roosevelt as indicating the proposals to which the Convention is to give contractual form. Articles 1 and 2 provide for consultation between the American Republics, not merely in the event of peace between those republics being threatened or broken, but also in the case of its maintenance being endangered by war outside America. The effect of the Convention was summed up as follows by the delegate of Chile, M. Nieto del Rio :

“ ... This remarkable document declares clearly and explicitly that peace is not an exclusively regional possession, but a matter affecting the whole world ; the document differs from others of a similar nature in that it is general in character. According to the Convention, any war, whether declared or not, whether effective or not, within or outside our continent, which may menace the peace of the American Republics, will be a matter of concern to our Governments and oblige them to consult one another with a view to the institution of a procedure of pacific co-operation, in conformity with the obligations imposed by the pacts and by international morality. ”

(c) *Convention to co-ordinate, extend and assure the Fulfilment of the Existing Treaties between the American States, signed on December 23rd, 1936.* — The text of this Convention, which contains (Article 7) a provision safeguarding the rights and obligations of the parties as Members of the League of Nations, will be found in the rapporteur's memorandum.

#### PRESENT POSITION OF THE QUESTION.

The application of the Pact of Paris and of the Argentine Pact are of course the concern of the parties to each of these instruments, whereas the application and amendment of the Covenant are matters for the members of the League as such.

Accordingly, the question which is described for convenience as that of the “ harmonisation or co-ordination ” of the three pacts is for the Members of the League essentially a question of considering what action of the League or amendments of the Covenant may be desirable as the result of the co-existence of the other two treaties.

In reading the historical part of this report, my colleagues will doubtless have been struck by the difference between the questions which have been raised in connection with the Covenant as the result, respectively, of the entry into force of the Pact of Paris and of the Argentine Pact.

They will also have observed that in neither case has any question arisen of reconciling international obligations which are inconsistent with one another.

#### *The Pact of Paris.*

In the case of the Pact of Paris, attention has throughout been concentrated upon the fact that that treaty contains an absolute obligation not to resort to war as an instrument of national policy — an obligation which, even if interpreted in the light of the preparatory diplomatic correspondence, goes beyond the obligations in regard to abstention from war which are imposed by the Covenant of the League. The efforts of the Assembly and of the Committees which have dealt with the question have been concentrated on the attempt to make the obligations of the Covenant in this respect co-extensive with those of the later pact.

This attitude has not been due to legal or practical difficulties arising from the differences between the two instruments. It has been due rather to the feeling that the Covenant of the League could not be allowed to continue to be less comprehensive in its prohibition of war than the Pact of Paris, and that the conclusion of the latter treaty had proved that it had become possible to block up the so-called gaps in the Covenant by eliminating the cases in which war is possible without a violation of the Covenant.

It has never been disputed that undertakings not to resort to war which go beyond the Covenant can be assumed by Members of the League, or that such undertakings, though not enforceable by the sanctions of the Covenant are international obligations of which the League will take account.<sup>1</sup> On the contrary, the Covenant does not confer any right to go to war, and

<sup>1</sup> Cf. the observations of M. Raestad in the First Committee of the Assembly on September 10th, 1931 (Minutes, First Committee, 1931, pages 34 and 35).

“ M. Raestad (Norway) thought it incorrect to suggest that there was any conflict between the Covenant and the Pact. Some speakers appeared to argue that the Covenant authorised certain wars. It did not authorise them ; it merely did not prohibit them . . . It was the duty of the League organisations set up to watch over the maintenance of peace to apply international law as a whole. They therefore applied the Pact of Paris, which was a very important part of that law.”

although it does not absolutely prohibit war in the sense that every resort to war by a Member of the League is a breach of its provisions and gives rise to sanctions, it regards the peace of the world as in all circumstances a matter with which the League is concerned (Articles 3 (paragraph 3), 4 (paragraph 4), 11 (paragraph 1))<sup>1</sup> and it recognises the value of "international engagements for securing the maintenance of peace" (Article 21).

On the other hand, the Covenant does not, like the Pact of Paris, merely contain obligations to abstain from war and seek pacific settlement of disputes. It is the constitution of an association of nations and imposes upon the members of the association a complete body of rules as regards the methods by which such pacific settlement must be sought and grave concrete obligations in the event of a violation of its provisions. It is this circumstance which explains the difficulties which have so far prevented the incorporation of the provisions of the Pact of Paris in the Covenant.

In the rapporteur's opinion, these difficulties have not become less since the subject was last discussed by the Assembly. There is, on the other hand, a different and simpler aspect of the subject which has not perhaps so far been the object of full discussion (though in practice its importance has become evident) and to which the rapporteur feels attention should be directed. This aspect is the question, not of co-ordination of the text of the two Pacts, but of co-ordination (so far as this depends upon the League) of action under the two Pacts. It need hardly be said that to take up this aspect of the question now would not prejudice subsequent action in the form of amendment of the Covenant.

### *The Argentine Pact.*

The question of co-ordination of the Covenant with the Argentine Pact has from the outset presented itself as one of co-ordination, not of texts, but of action.

The latter instrument is one which can serve as a link between the Members of the League and non-member States. It is a treaty which has proved acceptable to States which, like the United States of America and Brazil, do not at present feel disposed to accept the obligations of membership of the League, and also to the American Republics which are Members of the League and to numerous Members of the League in Europe.

The Argentine Pact thus makes it possible for non-members and Members of the League to bind themselves by certain common obligations which have the same purpose as the Covenant of the League and the Pact of Paris. The first article condemns wars of aggression, whether or not the State attacked is a party to the treaty, and imposes pacific settlement of all disputes upon the contracting parties. Article 2 gives express contractual form to a principle which has been considered to be expressly or implicitly contained in the other two Pacts — namely, that territorial questions must not be settled by violence and territorial arrangements so effected must not be recognised. In the third article are provisions as to the measures (excluding always diplomatic or armed intervention)<sup>2</sup> which the parties undertake to adopt in case of violation of Articles 1 or 2 in order that they may make every effort for the maintenance of peace. They undertake that "in their character of neutrals they shall adopt a common and solidary attitude", "that they shall exercise the political, juridical or economic means authorised by international law", "that they shall bring the influence of public opinion to bear". Finally Articles 4 to 14 render compulsory a procedure of conciliation during the course of which, and during the period fixed by the Conciliation Commission for deciding upon its recommendations, the parties to the dispute must "abstain from any measure which may prejudice the carrying out of the settlement to be proposed by the Commission and, in general, from every act capable of aggravating or prolonging the controversy" (Articles 12 and 13).

The question for the League and its Members which is raised by the Argentine Government's action in communicating the Argentine Pact to the League and by the reference of that Pact to the Committee of Twenty-eight is therefore the question how best to take advantage of the existence of that Pact for the purpose of strengthening the League in its efforts to maintain peace and ensure pacific settlement of international disputes.

## CONCLUSIONS.

The above analysis of the problem entrusted to the rapporteur is in accordance with the terms in which the Assembly has referred this problem to the Committee of Twenty-eight (Resolution of October 8th, 1936). The relevant paragraph reads as follows :

<sup>1</sup> Cf. the comment upon Article 5 of the draft Protocol for the Pacific Settlement of International Disputes, contained in the report of the First and Third Committees (Assembly 1924 : Minutes, Plenary Meetings, page 492).

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

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

<sup>2</sup> The obligations resting on the parties under other general treaties are expressly safeguarded.

“ Considering that, among the problems which arise out of the question of the application of the principles of the Covenant and which must therefore be covered by the enquiry into that subject, mention should be made of the problem, already considered by the League, of harmonising or co-ordinating the Covenant with other treaties of a universal tendency aiming at the pacific settlement of international disputes — that is to say, the Treaty for the Renunciation of War, signed at Paris on August 27th, 1928, and the Treaty of Non-Aggression and Conciliation, signed at Rio de Janeiro on October 10th, 1933, on the initiative of the Argentine Republic, which treaties fall within the scope of Article 21 of the Covenant and, like the Covenant, are designed to ensure the maintenance of peace ; ”

It is significant that the Assembly uses the term “ co-ordinating the Covenant with other treaties ” and that it expressly recognises the Pact of Paris and the Argentine Pact to be treaties which “ fall within the scope of Article 21 of the Covenant and, like the Covenant, are designed to ensure the maintenance of peace ; ”

The Pact of Paris has met with practically universal acceptance and the Argentine Government naturally hopes that the same universality may be attained by the Pact of which it took the initiative and which has already been accepted in principle by all the American Republics and many European States and ratified by thirty-one States. But this would not solve the present problem so long as the League of Nations was not also universal in membership.

At present there exist three general treaties which aim at the same supreme object — namely, the consolidation and maintenance of world peace, although they differ as regards the precise nature of the undertakings through which they seek to attain this object. Two of these treaties have as contracting parties States which are not members of the League, and one of them provides in case it is violated for an elastic system of measures with a view to the maintenance of peace. Our immediate task is to consider how the League can contribute to ensuring that where the common purpose and the obligations of all three treaties are in danger of violation, or even are actually violated, the common interest of the parties to all three may be recognised and parallel action (if not concerted) by the parties to the two other treaties may reinforce the effect of the action taken in virtue of the Covenant of the League. The Inter-American Conference for the Maintenance of Peace on December 21st last adopted a recommendation, which has been quoted above, asking those parties to the Pact of Paris and the Argentine Pact which are not members of the League, to co-operate in this way with the League. On various occasions, the League has sought and been aided by such co-operation. In the rapporteur’s opinion such co-operation calls for mutual consultation or at least exchange of information between the League and the non-member States. It would seem that the League might now take a measure of a general character by formally recognising the identity of aim of the three Pacts and more particularly by establishing the rule that its own competent organs, when the occasion arises, should take whatever steps may be expedient with a view to consultation or exchange of information with non-member States parties to the Pact of Paris or the Argentine Pact. One would thus establish collaboration in the application of the measures taken by the League to prevent war or to secure peaceful settlement of international disputes, so far as was possible under the laws of the States in question.

**Annex.**

**TEXT OF THE PACT OF PARIS AND THE ARGENTINE PACT,  
OMITTING FORMAL PROVISIONS (DISPOSITIONS PROTOCOLAIRES).**

**I. TREATY FOR THE RENUNCIATION OF WAR (PACT OF PARIS), SIGNED AT PARIS  
ON AUGUST 27th, 1928.**

The President of the German Reich . . . . .

Deeply sensible of their solemn duty to promote the welfare of mankind ;

Persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples may be perpetuated ;

Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process, and that any signatory Power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this Treaty ;

Hopeful that, encouraged by their example, all the other nations of the world will join in this humane endeavour and by adhering to the present Treaty as soon as it comes into force bring their peoples within the scope of its beneficent provisions, thus uniting the civilised

nations of the world in a common renunciation of war as an instrument of their national policy :

Have decided to conclude a Treaty, and for that purpose have appointed as their respective Plenipotentiaries :

Who, having communicated to one another their full powers found in good and due form have agreed upon the following articles :

*Article I.*

The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

*Article II.*

The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

II. TREATY OF NON-AGGRESSION AND CONCILIATION (ARGENTINE PACT),  
SIGNED AT RIO DE JANEIRO ON OCTOBER 10th, 1933.<sup>1</sup>

The States hereinafter named, in an endeavour to contribute to the consolidation of peace, and in order to express their adherence to the effort that all civilised nations have made to further the spirit of universal harmony ;

To the end of condemning aggression and territorial acquisitions secured by means of armed conquest and of making them impossible, of sanctioning their invalidity through the positive provisions of this Treaty, and in order to replace them with pacific solutions based upon lofty concepts of justice and equity ;

Being convinced that one of the most effective means of insuring the moral and material benefits the world derives from peace is through the organisation of a permanent system of conciliation of international disputes, to be applied upon a violation of the hereinafter mentioned principles :

Have decided to record, in conventional form, these aims of non-aggression and concord, through the conclusion of the present Treaty, to which end they have appointed the undersigned Plenipotentiaries, who, after having exhibited their respective full powers, which were found in good and due form, have agreed on the following provisions :

*Article I.*

The High Contracting Parties solemnly declare that they condemn wars of aggression in their mutual relations or against other States, and that the settlement of disputes and controversies shall be effected only through the pacific means established by international law.

*Article II.*

They declare that, between the High Contracting Parties, territorial questions must not be settled by resort to violence and that they shall recognise no territorial arrangement not obtained through pacific means, nor the validity of an occupation or acquisition of territory brought about by armed force.

*Article III.*

In case any of the States engaged in the dispute fails to comply with the obligations set forth in the foregoing articles, the Contracting States undertake to make every effort in their power for the maintenance of peace. To that end, and in their character of neutrals, they shall adopt a common and solidary attitude ; they shall exercise the political, juridical or economic means authorised by international law ; they shall bring the influence of public opinion to bear ; but in no case shall they resort to intervention either diplomatic or armed. The attitude they may have to take under other collective treaties of which said States are signatories is excluded from the foregoing provisions.

*Article IV.*

The High Contracting Parties, with respect to all controversies which have not been settled through diplomatic channels within a reasonable period, obligate themselves to submit to the conciliatory procedure created by this Treaty, the disputes specifically mentioned, and any others that may arise in their reciprocal relations, without any further limitations than those recited in the following Article.

<sup>1</sup> Translation supplied by the Argentine Government.

*Article V.*

The High Contracting Parties and the States which may hereafter accede to this Treaty may not formulate at the moment of signing, ratifying or adhering thereto limitations to the procedure of conciliation other than those indicated below :

(a) Controversies for the settlement of which pacifist treaties, conventions, covenants, or agreements, of any nature, have been concluded. These shall in no case be deemed superseded by this Treaty ; to the contrary, they shall be considered as supplemented thereby in so far as they are directed to ensure peace. Questions or issues settled by previous treaties are also included in the exception.

(b) Disputes that the Parties prefer to settle by direct negotiation or through submission to an arbitral or judicial procedure by mutual consent.

(c) Issues that international law leaves to the exclusive domestic jurisdiction of each State, under its constitutional system. On this ground, the Parties may object to their being submitted to the procedure of conciliation before the national or local jurisdiction has rendered a final decision. Cases of manifest denial of justice or delay in the judicial proceedings are excepted, and should they arise, the procedure of conciliation shall be started not later than within the year.

(d) Questions affecting constitutional provisions of the Parties to the controversy, in case of doubt, each Party shall request its respective tribunal or supreme court, whenever vested with authority therefore, to render a reasoned opinion on the matter.

At any time, and in the manner provided for in Article XV, any High Contracting Party may communicate the instrument stating that it has partially or totally dropped the limitations set thereby to the procedure of conciliation.

The Contracting Parties shall deem themselves bound to each other in connection with the limitations made by any of them, only to the extent of the exceptions recorded in this Treaty.

*Article VI.*

Should there be no Permanent Commission of Conciliation, or any other international body charged with such a mission under previous treaties in force, the High Contracting Parties undertake to submit their controversies to examination and enquiry by a Commission of Conciliation to be organised in the manner hereinafter set forth, except in case of an agreement to the contrary entered into by the Parties in each instance :

The Commission of Conciliation shall consist of five members. Each Party to the controversy shall appoint one member, who may be chosen from among its own nationals. The three remaining members shall be appointed by agreement of the Parties from among nationals of third nations. The latter must be of different nationalities, and shall not have their habitual residence in the territory of the Parties concerned, nor be in the service of either one of them. The Parties shall select the President of the Commission of Conciliation from among these three members.

Should the Parties be unable to agree, they may request a third nation or any other existing international body to make those designations. Should the nominees so designated be objected to by the Parties, or by any of them, each Party shall submit a list containing as many names as vacancies are to be filled, and the names of those to sit on the Commission of Conciliation shall be determined by lot.

*Article VII.*

Those tribunals or supreme courts of justice vested by the domestic law of each State with authority to interpret, as a court of sole or final recourse and in matters within their respective jurisdiction, the Constitution, the treaties or the general principles of the law of Nations, may be preferred for designation by the High Contracting Parties to discharge the duties entrusted to the Commission of Conciliation established in this Treaty. In this event, the tribunal or court may be constituted by the whole bench or may appoint some of its members to act independently or in Mixed Commissions organised with justices of other courts or tribunals, as may be agreed by the Parties to the controversy.

*Article VIII.*

The Commission of Conciliation shall establish its own Rules of Procedure. Those shall provide, in all cases, for hearing both sides.

The Parties to the controversy may furnish, and the Commission may request from them, all the antecedents and data necessary. The Parties may be represented by agents, with the assistance of counsellors or experts, and may also submit every kind of evidence.

*Article IX.*

The proceedings and discussions of the Commission of Conciliation shall not be made public unless there is a decision to that effect, assented to by the Parties.

In the absence of any provision to the contrary, the Commission shall adopt its decisions by a majority vote : but it may not pass upon the substance of the issue unless all its members are in attendance.

*Article X.*

It is the duty of the Commission to procure a conciliatory settlement of the disputes submitted to it.

After impartial consideration of the questions involved in the dispute, it shall set forth in a report the outcome of its work and shall submit to the Parties proposals for a settlement on the basis of a just and equitable solution.

The report of the Commission shall, in no case, be in the nature of a decision or arbitral award, either in regard to the exposition or interpretation of facts or in connection with juridical consideration or findings.

*Article XI.*

The Commission of Conciliation shall submit its report within a year to be reckoned from the day of its first sitting, unless the Parties decide, by common accord, to shorten or extend that term.

Once started, the procedure of conciliation may only be interrupted by a direct settlement between the Parties, or by their later decision to submit, by common accord, the dispute to arbitration or to an international court.

*Article XII.*

On communicating its report to the Parties, the Commission of Conciliation shall fix a period of time, which shall not exceed six months, within which the Parties shall pass upon the bases of settlement it has proposed. Once this period of time has expired the Commission shall set forth in a final act the decision of the Parties.

Should the period of time elapse without the Parties having accepted the settlement, nor adopted by common accord another friendly solution, the Parties to the controversy shall regain their freedom of action to proceed as they may see fit within the limitations set forth in Articles I and II of this Treaty.

*Article XIII.*

From the outset of the procedure of conciliation until the expiration of the term set by the Commission for the Parties to make a decision, they shall abstain from any measure which may prejudice the carrying out of the settlement to be proposed by the Commission and, in general, from every act capable of aggravating or prolonging the controversy.

*Article XIV.*

During the procedure of conciliation the members of the Commission shall receive honoraria in the amount to be agreed upon by the Parties to the controversy. Each Party shall bear its own expenses and a moiety of the joint expenses or honoraria.

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Geneva, August 17th, 1937.

ANNEX 5.

REGIONAL OR CONTINENTAL ORGANISATION  
OF THE LEAGUE OF NATIONS.

*Report submitted to the Committee by M. Boris Stein.\**

1. An historical review of the political tendencies of continentalism and regionalism which have arisen since the foundation of the League of Nations reveals two main currents. The first is a tendency to replace the present League of Nations, which comprises the vast majority of the States of the world, by a federation of continental leagues. The other tendency is to add to the present structure of the League of Nations special agreements covering a particular region. If this region comprises States connected by geographical or other bonds, such a tendency may be termed *regionalism*. If, however, the region is an entire continent and if the organisation comprises all the States situated in it, this tendency may be called *continentalism*. It is therefore evident that the difference between regionalism and continentalism is only one of degree. Continentalism is merely regionalism in which the region attains the dimensions of a continent.

2. There is no doubt that a study of the first of these tendencies of regionalism or continentalism (the idea of replacing the existing League of Nations by a federation of continental leagues) is outside the scope of this report. The Assembly of the League of Nations, in entrusting the Committee with the duty of improving the Covenant of the League of Nations evidently could not recommend the examination of tendencies which reject the fundamental principles of the Covenant. To replace the League of Nations, which comprises countries irrespective of their geographic position, by a federation of continental leagues is a complete denial of one of the fundamental principles of the Covenant. This tendency will therefore not be considered in the present report. It will deal merely with the second of the tendencies mentioned in paragraph 1 — namely, the regional or continental organisation of the League of Nations, which does not reject but supplements the present organisation of the League.

3. Having thus defined the main subject of the present report, it is necessary from the point of view of method to make a distinction between this report and the other reports dealing with parallel subjects. In the development of the ideas of regionalism and continentalism since the foundation of the League of Nations, the theory of regional agreements of security undoubtedly occupies the first rank. The very valuable report by M. Paul-Boncour is devoted to the study of this subject. The present report naturally does not claim to repeat or supplement M. Paul-Boncour's report, in which the question of regional agreements is very thoroughly discussed.

4. With a view to the best classification and the best method of studying the ideas of the regional-continental organisation of the League of Nations (considering this idea as subsidiary and not as opposed to the existing organisation of the League), the subject of the present report should be divided into the following heads :

- (a) Regional-continental organisation in relation to the American continent ;
- (b) Regional-continental organisation in relation to the European continent ;
- (c) The effect of regional-continental organisation on the internal structure of the League.

The idea of regional-continental organisation in respect of other continents than Europe and America has been scarcely mentioned in writings and political discussions ; there is therefore no need to deal with it in the present report.

5. The idea of continentalism in regard to America is to some extent reflected in the Covenant of the League of Nations. Article 21 of the Covenant expressly mentions the Monroe doctrine. Since 1920, there has scarcely been an Assembly of the League of Nations in which this doctrine has not been touched upon in some form or other or in which attempts have not been made to interpret it in relation to the Covenant of the League. Very definite information on this subject is to be found in the Memorandum by the Secretariat No. 1 (Chapter V). It should, however, be observed that the existence of Article 21 of the Covenant on the subject of the Monroe doctrine and the discussions on this question have not, as far as the doctrine

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\* *Note by the Chairman of the Committee.* — The Committee to study the Application of the Principles of the Covenant asked a number of rapporteurs to make a survey of the various questions on its agenda, in order to facilitate discussion. The present report has been drawn up in consequence of that decision, and is therefore a purely informative report, in no way binding upon the Committee or prejudging its future decisions.

of the League of Nations is concerned, as yet led to the formation of a theory of American continentalism. A considerable development in the idea of continentalism in relation to America took place at the Pan-American Conference held in 1936 at Buenos Aires. The official report of the Conference mentions more than ten plans submitted by the various American delegations based almost entirely on the idea of continentalism. According to the classification adopted in the present report, these plans may be divided into two groups; the first group includes plans based on the idea of continentalism as a substitute for the universal organisation of the present League of Nations — *e.g.*, the scheme for the organisation of the American League of Nations put forward by the delegation of the Dominican Republic, or the scheme for the creation of a Pan-American Court of Justice put forward by the Peruvian delegation, etc. The second group includes schemes based on the idea of subsidiary continentalism, such as the draft Pan-American Pact of Collective Security submitted by the Brazilian delegation, etc.

As stated above, it is impossible in the present report to study theories and plans which reject one of the fundamental principles of the League of Nations. The negative part of the ideas of American continentalism in relation to the present organisation of the League of Nations is therefore not taken into consideration. As regards the second group — namely, plans based on the subsidiary idea of continentalism, which are intended to supplement the general obligations of the Covenant of the League by special regulations establishing connections between the countries of a given continent (America) — it is absolutely impossible to study these plans independently of the reply to one of the questions appearing on the programme of work of this Committee — namely, the question of the co-ordination between the Covenant of the League and the Saavedra Lamas Pact. This question is dealt with in another report before the present Committee. It may be pointed out that the principles of co-ordination between these two pacts must serve as a basis for deciding whether the plans of American continentalism belonging to the second group (*i.e.*, those in which the continentalism is subsidiary) are not outside the subsidiary conception itself. The fundamental principles of this subsidiary conception will be explained below.

6. The principal scheme embodying the idea of European continentalism is undoubtedly the plan for European Union put forward in 1929 by M. Briand. It seems unnecessary to reproduce in the present report either the plan for European Union or the very interesting discussion which took place during the Assembly of 1930, and I will merely quote two paragraphs of the resolution adopted by that Assembly. These paragraphs emphasise the fundamental principles and the framework of subsidiary continentalism.

“Being convinced . . . that close co-operation between the Governments of Europe in every field of international activity is of capital importance for the preservation of peace;

“Sharing the . . . opinion that such co-operation, whatever form it may assume, should be within the framework of the League of Nations, in complete accord with the League and in the spirit of the Covenant, etc.”

It is well known that, as a result of the discussion on the Briand plan, the Commission of Enquiry for European Union was set up. The work of that Commission represents a very thorough study of the idea of European continentalism, and is entirely in accordance with the conception of subsidiary continentalism. The idea is confirmed in the following remarks made by M. Politis: “One conclusion is in my opinion certain: at the present time, the continental or regional aspect of certain questions is more apparent than ever; *it would be of interest to examine separately all European questions, but without removing them from the universal framework of the League of Nations.*”

It should be added that the work of the Commission of Enquiry for European Union never went outside the framework of the League of Nations, was never opposed to the organisation of the League, and was always imbued with the idea of the subsidiary character of continental organisation. It may therefore be believed and hoped that these ideas are not dead and that they will, at a fitting moment, serve the cause of strengthening the Covenant of the League and all its activities.

7. The Briand plan is not the only one based on the idea of European continentalism. It should be observed that the proposals put forward by the French delegation at the Conference for the Reduction and Limitation of Armaments on November 14th, 1932, known as the “Paul-Boncour Plan”, also embodied the plan of the European security pact.

Similarly, the draft Disarmament Convention submitted by the United Kingdom delegation to the Conference on March 16th, 1933, also embodies the plan of the European pact. Without entering into a discussion of these two pacts, which form a part of the report submitted by M. Paul-Boncour, it should be observed that there is an important difference between these two plans on the one hand and the Briand plan on the other. The three plans are not dissimilar from the geographic point of view, since all three relate to the States of the European continent as a whole. They are, however, different in substance: while the Briand plan embodies every field of *co-operation* between the States of the European continent, the Paul-Boncour plan of 1932 and the plan of the United Kingdom delegation of 1933 only concern *questions of security* in the relations between the States of the European continent.

8. As stated above, the present report will not deal with regional agreements, which are analysed in M. Paul-Boncour's report. It may be merely noted that this group of agreements includes the Rhine Pact (Locarno), the Balkan Pact, and lastly the mutual agreements of the countries belonging to the Little Entente.



9. The continental idea appears in the procedure for electing the non-permanent Members of the Council of the League of Nations. A recommendation adopted by the Assembly on December 11th, 1920, expressed the idea that three non-permanent Members of the Council should be chosen in Europe, three in America, one in Asia or any other part of the world. This idea of representation in the Council by continents has been maintained until the present time. Thus three (non-permanent) Members of the Council are American countries.

10. Certain *general conclusions* may be drawn from the above remarks :

(a) The idea of continentalism-regionalism itself is not incompatible with the fundamental principles of the League of Nations unless it is regarded as the idea of replacing the present League of Nations, which comprises the vast majority of the States of the world, by the federation of continental leagues. This latter conception is *in direct contradiction with the fundamental principles of the League of Nations*.

(b) The continental-regional system is only admissible as *subsidiary to the present organisation of the League of Nations*. The main object of this supplementary subsidiary structure must be *to strengthen and define general obligations incumbent upon all Members of the League*.

(c) In order to accomplish this object (consolidation of the Covenant and reinforcement of its general undertakings), a continental-regional organisation *must not go beyond the Covenant but must be in full agreement with its principal rules and be constructed in accordance with its spirit*.

(d) The continental-regional organisation may cover both questions of security and any other questions (for instance, economic questions) concerning the relations of a certain group of States.

11. The obligations assumed by the Members of a given continental-regional group cannot either annul or diminish the obligations assumed by all the Members of the League of Nations under the Covenant. On the other hand, the Members of the group may assume supplementary obligations going beyond the general undertakings of the Covenant but without being contradictory to it.

12. The Statutes of any continental-regional union must be in full agreement with the Covenant of the League of Nations and registered in accordance with the rules of the League.

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Geneva, November 4th, 1937.

## ANNEX 6.

### CHOICE OF METHODS.

*Report submitted to the Committee by M. Francisco Umaña-Bernal.\**

1. Only a very few Governments in their replies to the circular of the Secretary-General of the League of Nations dated July 4th, 1936, considered as a whole the problem of the choice of the method to be adopted for improving the application of the principles of the Covenant.

Following the chronological order of the replies, the Government of the Union of Soviet Socialist Republics was the first to raise the problem as a whole in speaking of the "difficulties that would be encountered by the procedure for amending the Covenant under Article 26" and in advising, for "the more precise and effective application of the principles of the Covenant", the method of Assembly resolutions or of a Protocol open for signature by the Members of the League.

Later, the Government of the Argentine Republic also referred to the problem as a whole by recommending that the procedure adopted should be that of "interpretative rules of an emergency character pending the introduction of formal amendments, as was done in 1921 in the case of the principles governing the use of the economic weapon and as was proposed in 1923 for the use of military measures; it should be understood that the latter will not be binding on Members not implicated in the disputes, or having an indirect interest therein".

In the joint declaration of the Ministers for Foreign Affairs of Denmark, Finland, the Netherlands, Norway, Spain, Sweden and Switzerland, reference is made in general terms to the difficulties which will in practice stand in the way of the method of amendments to the actual text of the Covenant.

The delegation of the Republic of Panama also analyses the problem and comes to the following conclusion: "In the view of the delegation of Panama, any League action or resolution the object of which is to restrict, vary or extend the meaning that is rightly placed upon any article of the Covenant, in accordance with its clear and literal signification, is, in substance, an amendment of that article, even though such action or resolution be styled an interpretation".

The Belgian Government stated the problem as follows: "The Government does not contemplate a revision of the Covenant by way of amendments, for experience has shown that their ratification is always uncertain and cannot, in any case, be secured without long delays, owing to procedure. It would be better to follow, as far as possible, the method adopted by the 1921 Assembly, whereby the Covenant would be made more elastic by the Assembly's giving an interpretation of certain of its articles for the guidance of Governments in applying them."

2. In other replies to the circular of July 4th, 1936, many Governments, without approaching the problem as a whole, expressed more or less definitely their opinion as to what procedure should be adopted or rejected.

Such, for example, is the case as regards the replies of Afghanistan, China, Denmark, Estonia, Finland, Latvia, Liberia, Lithuania and the Netherlands, which state in different terms and with greater or less emphasis that, in the opinion of the Governments of those countries, no change should be made in the present wording of the articles of the Covenant.

On the other hand, the Swiss and New Zealand Governments admitted the possibility of amendments, those of Peru and Colombia proposed substantial reforms, without, however, indicating the method to be followed to realise them, and Panama suggested a new world international conference for the revision of the Covenant.

Other Governments, like those of Bulgaria, Estonia, Finland and Iran, are in favour of an interpretation of the Covenant, the present text of which would be left unchanged. As regards the actual method, Lithuania signifies her preference for agreements supplementary to the Covenant, and Uruguay for interpretative resolutions by the Assembly.

3. After the replies to the circular of July 4th, 1936, the delegates of several countries expressed themselves more clearly regarding the problem with which we are dealing at the ordinary session of the Assembly and made very important statements.

\* *Note by the Chairman of the Committee.* — The Committee to study the Application of the Principles of the Covenant asked a number of rapporteurs to make a survey of the various questions on its agenda, in order to facilitate discussion. The present report has been drawn up in consequence of that decision, and is therefore a purely informative report, in no way binding upon the Committee or prejudging its future decisions.

At this session, the delegates of the Argentine Republic, Australia, Canada, Cuba, Czechoslovakia, France and India declared themselves to be opposed to the amendment of the text of the Covenant. Those of Australia and France said that they preferred a method of interpretation, and those of Hungary and Czechoslovakia declared themselves in favour of the method of Assembly resolutions.

4. Of the forty-two countries which have so far given their opinion on the problem, either verbally or in writing, twenty-two have shown themselves frankly hostile to any change in the actual text of the Covenant, while only five admitted the possibility of such amendment. Nine of them recommend in principle a method which, without modifying the present wording, aims at supplementing or interpreting it.

#### THE PROBLEM BEFORE THE COMMITTEE.

1. When, in December 1936, the Committee of Twenty-eight began its work, the question with which we are dealing was placed on the programme at the request of the delegate of Uruguay, M. Guani, who stated the problem in the following terms: "He now desired to make a suggestion in regard to the method to be followed by the Committee in improving the application of the principles of the Covenant — a point which did not indeed take priority of all other discussions, but was none the less of primary importance.

"The possible methods were three: (1) amendments to the Covenant; (2) agreements supplementing the Covenant, and (3) Assembly resolutions on amendments to the Covenant".

M. Guani asked that, in the classification made by the Committee, this problem should be placed among the principal questions.

2. The Chairman of the Committee, following up M. Guani's suggestion, proposed that the question should be placed in the first category, which was agreed to. The Chairman summed up the problem as follows: "Whatever solutions they might reach in regard to the substance of the problem, it was essential to know the methods of discussion. The choice was between amendments to the Covenant, agreements supplementing the Covenant, resolutions by the Assembly, and so on. Each method had its advantages and its disadvantages, and a choice had to be made between them. That constituted a problem of general application."

#### THE THREE METHODS SUGGESTED.

##### A. *Amendment of the Covenant.*

1. Article 26 of the Covenant reads as follows:

"(1) Amendments to this Covenant will take effect when ratified by the Members of the League whose representatives compose the Council and by a majority of the Members of the League whose representatives compose the Assembly.

"(2) No such amendment shall bind any Member of the League which signifies its dissent therefrom, but in that case it shall cease to be a Member of the League."

There has been much discussion, both in the League and elsewhere, regarding the origins and scope of this article and the intentions of its authors. We know that Lord Robert Cecil proposed it in the Drafting Committee of the Covenant, and it will be remembered that it gave rise to discussions which referred rather to general principles than to the details of the procedure roughly outlined in its text. We also know that the second paragraph did not appear in the original text.

2. It has several times been asserted that Article 26 is somewhat vague and lends itself to contrary interpretations, particularly as regards its co-ordination with the first paragraph of Article 5, which lays down the famous unanimity rule. It has also been said that it does not indicate sufficiently clearly the conditions and formalities required to effect a valid amendment.

The deficiencies of Article 26 were pointed out in the 1921 Assembly, when several proposals for the amendment of the Covenant were put forward. To remedy these deficiencies, that Assembly adopted the following resolution:

"The Assembly recommends to the delegations that no resolution of amendment shall be passed during this session unless it receives a three-fourths majority, in which there shall be included the votes of all the Members of the Council represented at the meeting."

This resolution, which was adopted unanimously, was the subject of only one reservation, that made by the Czechoslovak delegation, which stated that its vote did not imply the acceptance of the interpretation placed on the Covenant by the Committee.

3. The interpretation which the 1921 Assembly's resolution wished to place on Article 26 aimed at establishing that unanimity is not required for the approval of resolutions referring to amendments to the Covenant, and that the majority referred to in the text of the clause in question must be three-fourths.

In practice, this resolution also gave the Members of the Council present the right to veto any proposals for the amendment of the Covenant.

4. The Assembly's resolution of 1921, as will be seen from the text, was only a recommendation to the delegations and only referred to the discussions of that session. The terms of that resolution were observed to the letter during the session in question, and of the fourteen amendments put forward two were adopted, although they were not unanimously voted for by those present.

5. Subsequently to the 1921 Assembly, two resolutions amending the Covenant were adopted by the Assemblies of 1924 and 1925. The discussion of these amendments, both of which referred to the text of Article 16, gave rise to a number of statements in the First Committee which should be quoted here. The report of the First Committee to the 1924 Assembly says :

“As has been explained by the British delegate, this proposal (for an amendment) arises from the fact that the original text of Article 16, paragraph 1, of the Covenant dealing with the economic penalties for violation of the article, was amended by the second Assembly in 1921, but has continued in force in consequence of the amendment having failed to secure ratification by a sufficient number of Members of the League, and in particular by Powers represented on the Council.”<sup>1</sup>

And in 1925 on the occasion of the discussion of a fresh amendment to the same Article 16, the British delegate, Sir Cecil Hurst, spoke as follows at the second meeting of the Committee : “Under Article 26, however, an amendment of the text of the Covenant had to be ratified by half the Members of the League and by all the States represented on the Council.”<sup>2</sup>

6. The 1921 Assembly also laid down that as regards the form to be given to amendments, the procedure to be followed after the adoption of the amendment by the Assembly should consist of the drawing-up of a Protocol under which the States Members of the League formally accepted the amendment. This Protocol, signed by the President and Secretary-General, would be open to ratification in the usual way.

7. Since the first session of the Assembly of the League, sixteen amendments to the text of the Covenant have been put forward, of which only five have come into force ; none of the eleven others has obtained a sufficient number of ratifications.

It should also be noted that of the five amendments in force, four only became effective three years after their approval, and one only five years after. None of them, moreover, involved any fundamental change.

#### *B. Interpretation of the Covenant : Adoption of Rules for Application.*

1. Among the countries which, in their replies to the circular of July 4th or in the opinion expressed by them at the first Assembly, opposed any change in or amendment to the Covenant, several advised the interpretation of the provisions of the Covenant or the adoption of rules regarding such an interpretation by means of Assembly resolutions.

2. When, after studying the proposals for the amendment of Article 16, the First Committee of the second Assembly submitted its report, it recognised that these proposals should be embodied in a protocol open for ratification by all the States Members, and not in an ordinary resolution. This was stated in the plenary meetings by the French delegate, M. Reynald, who also said : “The Covenant has only acquired its full strength because it has been submitted for the ratification of the public authorities, because it has received the constitutional adherence of the peoples who have adhered to the League of Nations. The day must never come when a people could consider that decisions of such a nature as to weaken the text or modify it have been taken without due regard to its constitutional forms.”<sup>3</sup>

At the fourth Assembly, during the discussions on the Council's resolution regarding the appointment of a committee of jurists to study certain points relating to the interpretation of the Covenant, the Netherlands delegate, Jonkheer Loudon, spoke as follows : “Nevertheless, an opinion by a committee of jurists may be useful, and I have no doubt that the Council will communicate its resolution to all the Members of the League. This resolution, based on the advice of the jurists, will not necessarily constitute the final word in this question of international law, since, in the last resort, the interpretation of the Covenant is, as I am sure is the opinion of all of us, within the competence of all the Members of the League.”<sup>4</sup>

In the following year, at the fifth Assembly, the Greek delegate, M. Politis, added on the same subject : “The Council's resolution approving these replies as a whole cannot possibly be regarded as finally settling the question. As my honourable colleague, M. Loudon, reminded us last year, and as M. Gustave Ador repeated the day before yesterday, the interpretation of the Covenant falls within the sovereign competence of the States Members of the League of Nations.”<sup>5</sup>

<sup>1</sup> Records of the Assembly, 1924 : Plenary Meetings, page 463.

<sup>2</sup> Assembly, 1925 : Minutes of the First Committee, page 8.

<sup>3</sup> Records of the Assembly, 1921 : Plenary Meetings, page 417.

<sup>4</sup> Records of the Assembly, 1923 : Plenary Meetings, page 142.

<sup>5</sup> Records of the Assembly, 1924 : Plenary Meetings, page 100.

At the same Assembly, the delegate of Colombia, M. Urrutia, said that it was inadmissible that the Council should interpret the Covenant. He added: "Not even the Assembly can interpret the Covenant, for it is an international treaty and can only be interpreted by the Governments themselves. The Council must keep within the limits of its constitutional powers, while the Assembly must on no account exceed the powers vested in it. This is the only possible democratic conception of the League."<sup>1</sup>

At the fourth session of the Council, in 1926, the Italian representative, M. Scialoja, said that he did not think that the Covenant could be amended under the appearance of an interpretation, since any amendment of the Covenant was subject to the approval of all the States Members of the League.

At the 1927 Assembly, the Rapporteur of the Third Committee, M. de Brouckère, recognised that the Assembly was not entitled to interpret the Covenant.

3. Whenever the Assembly and the Council have adopted resolutions aimed at defining the meaning of the Covenant or facilitating its application by regulations, it has been stated more or less explicitly that these were not compulsory provisions but recommendations, "rules for guidance" or lines of conduct. Such, in particular, is the case as regards the resolutions of October 4th, 1921, concerning the economic weapon, that of September 26th, 1927, regarding the report of the "Committee of the Council" and that of September 20th, 1928, concerning M. Rutgers' report for the Committee on Arbitration and Security. As regards the Council's resolution of March 17th, 1926, concerning the replies of the Committee of Jurists, we have already seen that the binding character of this resolution was disputed in the Assembly.

### *C. Agreements Supplementary to the Covenant.*

1. The Governments of several States Members of the League seem to have arrived at the conclusion that the improvement of the Covenant or of the "application" of its principles should be achieved by means of supplementary agreements.

This does not mean regional pacts of security and mutual assistance, or regional or continental organisations within the framework of the Covenant, on which subjects the Committee has received most interesting reports from M. Paul-Boncour and M. Boris Stein, but treaties, protocols or agreements of a more general tendency and of a universal character.

2. These agreements of general scope were also referred to in Article 21 of the Covenant, which says:

"Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe doctrine, for securing the maintenance of peace."

3. Already in the "Committee on Amendments to the Covenant" set up by the first Assembly of the League, the opinion was expressed that Article 21 was inadequate, and a proposal by the Czechoslovak Government supplementing and explaining the text was adopted. Later, during the discussions of the First Committee of the second Assembly, opinions were expressed to the same effect. Nevertheless, this Committee rejected the explanatory amendment of the Amendments Committee, and, in its report to the plenary Assembly, it submitted the following conclusions, which were approved by the Assembly's resolution of October 4th, 1921:

"The First Committee has examined the different proposals concerning Article 21. It has recognised the utility of the ideas on which they are based. However, it is of the opinion that the time has not yet arrived for a revision of the article. This opinion is further strengthened by the fact that the present text does not exclude the application of the ideas mentioned above. The Committee therefore proposes to the Assembly that Article 21 should be retained in its present form, and draws the Assembly's attention to the fact that agreements between Members of the League tending to define or complete the engagements contained in the Covenant for the maintenance of peace or the promotion of international co-operation, may be regarded as of a nature likely to contribute to the progress of the League in the path of practical realisations.

"Such agreements may also be negotiated under the auspices of the League of Nations, for example, in special conferences, with its assistance."

4. Within the framework of the guiding principles laid down in the resolution of October 4th, 1921, the Assembly has frequently dealt with the negotiation of agreements aimed at defining or supplementing the provisions of the Covenant. Sometimes it has approved resolutions in favour of such agreements; sometimes it has itself elaborated them, and has submitted them to the study of the Governments concerned.

In this connection, mention may be made of the "Model Rules for the Organisation of Conciliation Commissions" in 1922; the "Draft Treaty of Mutual Assistance" in 1923; the "Protocol" of 1924 "for the Pacific Settlement of International Disputes"; the "General Act of Arbitration" of 1928, and the "Model Bilateral Conventions for the Settlement of Disputes" of the same year; the "Convention on Financial Assistance" of 1930 and the "General Convention to strengthen the Means of preventing War" of 1931.

<sup>1</sup> Records of the Assembly, 1924: Plenary Meetings, page 102.

5. Of these seven proposals, only four really had the character of treaties or agreements supplementary to the Covenant, and it should be remarked that of these four only one has hitherto come into force, because the formalities required for the adoption of the other three have not been completed.

#### FINAL CONCLUSIONS.

1. According to the proposals made by our Chairman and approved by the Committee at its session held in December, 1936 regarding the task entrusted to the Rapporteurs, there is no question of "analysing the various points of view or considering how the various trends of opinion can be reconciled : the problem itself must be clearly defined". Our business is "not to arrive at solutions or make proposals to the Committee for the settlement of the problems, but to pave the way for the discussion in plenary meeting".

2. In this connection, the following observations may be made :

(a) The only method of amending the text of the Covenant is that laid down in Article 26 of the Covenant itself. Apart from this, there is no provision on the subject which is binding on the Members of the League.

(b) Experience has shown that this method presents numerous difficulties, and that, in the majority of cases, it has given no result, even in regard to amendments of limited scope.

(c) The majority of the Members of the League seem to be of opinion that neither the Council nor the Assembly is entitled to interpret the Covenant by means of resolutions, which have at most the value of recommendations for guidance, the binding character of which is disputed.

(d) As even the provisions of the Covenant and of public treaties are not always strictly carried out, it seems still less likely that recommendations considered as not binding would be faithfully observed.

(e) As regards agreements supplementary to the Covenant aiming at completing or explaining it, the results have not been very encouraging in practice, owing to the slowness of the machinery of ratification.

(f) As the Uruguayan delegate, M. Guani, said, in raising the question, the matter is not a preliminary but a primary one. There would be no point in the Committee pronouncing an opinion on the method to be followed before deciding what reforms should be examined.

(g) When embarking upon a thorough study of the question, it will be necessary to determine the exact scope of the Assembly's resolutions and to ascertain the manner in which the States Members interpret Article 26.

(h) These two special points might be cleared up, for example, by a further consultation of the States Members.

(Signed) Francisco UMAÑA-BERNAL.

Geneva, September 8th, 1937.

ANNEX 7.

ARTICLE 10 OF THE COVENANT.

*Report submitted to the Committee by M. Nasrollah Entezam.\**

The memorandum of the Secretariat contains detailed documentary information regarding Article 10, to which the reader is referred. The present report has the purely objective purpose of drawing certain general conclusions regarding Article 10, and offering certain additional suggestions.

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I. OBJECTIONS TO THE PRINCIPLE OF ARTICLE 10.

Opposition to the principle of Article 10 was apparent at the time the Covenant was being drawn up.

The American Senate in its opposition to the Covenant was particularly concerned with Article 10.

At the first Assembly of the League, the Canadian Government submitted a proposal for the abolition of Article 10 ; and this furnished an occasion for a large number of Members of the League to give expression to their approval of the article. In 1922, the Canadian Government withdrew its proposal for abolition and submitted a proposal for the amendment of the article.

After three years of discussion of the article by the League, the First Committee adopted a draft resolution in 1923 in interpretation of the article, the effect being to define the scope of the obligations under the article in certain connections. The resolution was not adopted, one vote (that of Iran) being given against it.<sup>1</sup>

Since that time, Article 10 has ceased to be questioned. It would appear that the apprehensions, to which it had given rise, have been largely dispelled by experience. The Canadian Government has been alone in maintaining its opposition to the article in connection with the application of the principles of the Covenant.

The reasons why the article has obtained general acceptance would seem to be as follows :

On the one hand, the experience of seventeen years has shown the value of the principle embodied in the article as a condition of international order. The violation of that principle has always given rise to great trouble. Moreover, it seems that the much desired accession of the United States of America to the League is in no way dependent at the present time on the abolition or maintenance of the article, so that its abandonment on this score would be quite useless.

II. CERTAIN POINTS ARISING IN CONNECTION WITH ARTICLE 10 HAVE BEEN CLEARED UP BY GENERAL AGREEMENT.

The discussion of the early years of the League were not in vain : they made it possible to clear up certain points hitherto felt to be obscure.

1. In the first place, it has been asserted, in reply to criticisms on the subject, that the purpose of Article 10 is not blindly to perpetuate the territorial *status quo* and to obstruct changes for which there is good justification. What the article prohibits is resort to force for the purpose of effecting such changes. As the Committee of Jurists explained in 1921 :

“ The fundamental idea of Article 10 is as follows : No change can henceforth be made, as a consequence of aggression, in the territorial integrity and political independence of States, which are essential elements of their international status ; such changes can only be made as a result of peaceful negotiations.”

Accordingly, in condemning any kind of resort to force, Article 10 does not prevent the countries concerned from putting forward their claims peacefully.

\* *Note by the Chairman of the Committee.* — The Committee to Study the Application of the Principles of the Covenant asked a number of rapporteurs to make a survey of the various questions on its agenda, in order to facilitate discussion. The present report has been drawn up in consequence of that decision, and is therefore a purely informative report, in no way binding upon the Committee or prejudging its future decisions.

<sup>1</sup> There were twenty-nine votes for the resolution : twenty-two members were absent or abstained from voting.

2. One interpretation of Article 10 appeared to imply that the Council had power to address injunctions to States Members of the League. This point has now been cleared up. It is the almost unanimous view of the Members of the League that the Council makes recommendations — to which, clearly, Governments ought to pay the utmost attention, but without being bound by them — and does not issue orders or injunctions.

If, as is generally admitted, the decision in regard to implementing the undertaking rests with the Governments, it would appear that, where there is no recommendation by the Council, Governments are not relieved of their undertaking, for the implementation of which they take the necessary action on their own responsibility.

3. The question whether the undertaking in Article 10 involves an obligation on States to proceed to military sanctions was raised in the general discussion on Article 10. It was pointed out that, if Article 16 does not create any obligation to proceed to military sanctions, there is no reason why such sanctions should be obligatory in the case of Article 10. It would appear that this interpretation is that of the majority of Governments ; and the fact that this is so should be noted.

At the same time, the terms of the undertaking under Article 10, do not in themselves imply any such limitation and — should international conditions become more favourable (as it may be hoped they will) — another interpretation of Article 10, in closer conformity with the letter and spirit of the article might prevail.

### III. QUESTION OF THE RELATIONS BETWEEN ARTICLE 10 AND VARIOUS OTHER ARTICLES OF THE COVENANT.

#### 1. *Ad Article 10 and Articles 12-17 of the Covenant.*

It has been asked whether Article 10 prohibits resort to war in cases where Articles 12-17 do not prohibit resort to war.

A view expressed by a number of Governments is that Article 10 proclaims a general principle, for the application of which it is necessary to refer to Articles 12-17 of the Covenant. If this view is accepted, it would appear to follow that, as for the application of Article 10 it is necessary to refer to Articles 12-17, Article 10 in its turn must condition the application of Articles 12-17.

The general view in question has met with determined opposition.

Neither the Assembly nor the Council of the League have formulated any doctrine on this point, which was deliberately left untouched in the draft interpretative resolution of 1933.

#### 2. *Ad Article 10 and Article 19 of the Covenant.*

Article 10 and Article 19 have been represented as complementary each to the other ; and the first drafts of the Covenant did in fact combine in a single article the provisions now found in the two articles.

Since Article 10 imposes an obligation on members of the League to respect and preserve the territorial integrity of Members of the League, it is essential that States which put forward territorial claims should have peaceful machinery at their disposal to enforce those claims. This is the contingency for which Article 19 provides.

The opponents of Article 10 have drawn attention to the fact that Article 19 has never been applied ; and they see in this a reason for the weakening of Article 10. We are doubtful as to the force of this criticism. In the first place, Article 19 is an article providing for changes of an unusual character and of unquestionable seriousness ; and, as such, it is not an article calling for constant application, so that the fact of its not having been enforced during a period of seventeen years after a time of extensive territorial changes has nothing abnormal about it. In the second place, it rests with the members of the League to apply Article 19. If they have not done so up to the present, Article 10 cannot be made responsible for their inaction.

Moreover, it may be thought that other articles of the Covenant of the League besides Article 19 make it possible to facilitate legal changes and changes in existing conditions. Furthermore, changes in existing legal status have in fact been made during the period since the war by means of bilateral negotiations or international conferences ; and, if Article 19 has not been applied, its spirit has governed the changes in question.

### IV. CONCEPTION OF ARTICLE 10 WHICH HAS PREVAILED IN PRACTICE.

It has been pointed out that there have been two opposing conceptions of Article 10, as between which discussion has remained open (see Section III, 1 above).

It would appear, however, that, in practice, Article 10 has hardly been treated as other than a general rule of principle, for the application of which resort has been had to the procedure provided by other articles.

This practical development has been made easier by the fact that a breach of Article 10 frequently involves the simultaneous violation of other articles, some of which go into greater detail than Article 10.

Whatever the political significance of the practice in this matter in the light of current political conditions, the fact remains that the Covenant does not in any way impose this conception of Article 10. The wording of the article is such as to admit of its being regarded as the basis of an independent rule of procedure. Its potentialities in this connection are noticeable for the reason that it may be desirable some day to have recourse to them.



## V. EFFECTIVENESS OF ARTICLE 10 IN PRACTICE.

Article 10 has frequently been violated. It is for this reason that the Government of Panama in its observations on the application of the principles of the Covenant wonders whether it would not have been better not to include the positive obligation at present embodied in the article.

Article 10 is not the only article of the Covenant that has been violated; and the fact of its having been violated does not mean that it has been altogether ineffective. It is necessary to bear in mind what the Covenant of the League (of which Article 10 is a fundamental and categorical article) has succeeded in avoiding, as well as what it has been unable to prevent. Nor is it by the elimination of a valuable rule that the evils occasioned by failure to conform to the rule can be abolished.

### Conclusions.

The Committee of Twenty-eight will no doubt desire to study the problems arising in connection with Article 10; and it will be for the Committee to draw the conclusions from its study. We may however, in conclusion, note certain points and offer certain suggestions on particular issues.

1. Article 10 is the only article in the Covenant which refers explicitly to aggression; but the idea of aggression is implicit in other articles of the Covenant. The practical importance which a relatively large number of countries attach to the definition of the aggressor is a point which should be borne in mind. A number of international Conventions now, of course, embody a definition of the aggressor in terms (1933).

Instead of seeking to weaken Article 10 by relegating it to oblivion or interpreting it in a restrictive sense, it appears to us desirable to assert the conspicuous moral and political importance of the principle of the prohibition of aggression which this article embodies.

Article 10 makes no pretensions to determine existing positions *de jure* or *de facto*. As such, it clearly postulates, on the other hand, the existence of peaceful means of effecting necessary transformations. The development of such means must be sought. But the fact must be stressed that existing situations *de jure* cannot continually or casually be called into question.

2. The abolition of Article 10 could only be justified, if offset by a political accession of first-rate importance, such as the admission of the United States to the League. It would be the height of imprudence to lay hands lightly on Article 10 under the influence of vain or uncertain expectations.

3. The remarkable elasticity of the Covenant makes it possible to interpret Article 10 as desired. The tendency has been to treat it as a simple declaration of principle: but there is nothing to prevent it being treated as the basis of an independent procedure, if thought desirable. The general and categorical terms of Article 10 make it perfectly possible, with the approval of the Council, to organise the most effective resistance to aggression.

4. Important issues arising in connection with Article 10 have not been cleared up. In particular, there is the question whether Article 10 prohibits wars which do not come under the provisions of Article 16. It would seem that, under present circumstances, it is undesirable to raise again problems on which there is little chance of reaching agreement.

5. In their observations on the application of the principles of the Covenant, two Governments refer to the conditions of voting under Article 10.

A first point which occurs is the question of eliminating all doubts as to the exclusion of the votes of the parties concerned — *i.e.*, of the parties alleged to be the authors of an aggression or the parties complaining that they are the victims of an aggression, or alternatively the parties alleged to constitute a menace of aggression or the parties claiming to be the object of such menace. It would seem that a normal application of Article 10 — which should, we conceive, admit of a reasonable interpretation of the Covenant — excludes the votes of the parties concerned. An interpretative resolution in this sense should be adopted. Should an irreconcilable divergence of opinion make itself felt, the only way out of the difficulty would seem to be for the Members of the League, whatever their opinions, to agree to ask the Permanent Court of International Justice for an opinion on the subject.

Another question is whether the unanimity rule should be replaced by a majority rule. Some think this desirable: but it presupposes an amendment of the Covenant, to which it would be difficult to secure general assent. This being so, it does not appear to us desirable to recommend any action in the matter; but it remains perfectly clear (since the obligations under Article 10 are a direct consequence of the Covenant) that, where the Council is not in a position to order the Members of the League to implement these obligations, the absence of any recommendation by the Council does not prevent the Members of the League from implementing them. In such a case, the meeting of the Council, even in the absence of unanimity on the part of its members, may still be of high value as giving a lead to the States and co-ordinating their action.

6. The practical value of Article 10 is dependent upon the political and moral condition of the world, and the sentiments of international solidarity by which the peoples are inspired and the Governments are directed. The force of such sentiments may decrease or increase.

That truth cannot be more forcibly put than in the words used by the late lamented M. Scialoja, a great jurist, in the First Committee of the fourth Assembly (1923) :

“ Article 10 possesses an appearance of force which would be destroyed if it were shown to lack legal sanction. Its real value is due to the fact that the principles which it expresses will in the future form part of the conscience of nations. These principles will then have a greater than a merely legal value, because moral conscience is worth more than law.”<sup>1</sup>

7. One final observation appears indicated.

It has been held in regard to Article 10, which is an article essential to the conception of collective security, that certain States exposed to aggression are concerned only to ask for security, whereas other States which are not to all seeming exposed to aggression as a result of various factors, such as their power or their geographical situation, are called upon only to provide security. It is argued that this involves a striking inequality. In fact, the experience of every day shows the ineluctable solidarity of States, and their common interest in not allowing international peace and order to be disturbed in any part of the world. One aggression encourages other aggressions, and the result may be general conflict ; and such conflict may involve incalculable political, economic and social consequences, whether in the near or remote future, even for those States which are furthest removed from the centre of the conflict and are consequently able to remain neutral.

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<sup>1</sup> Assembly, 1923 : First Committee, Minutes, page 17.

Geneva, August 3rd, 1937.

ANNEX 8.

ARTICLE II OF THE COVENANT.

*Report submitted to the Committee by M. Undén.\**

I. GENERAL CONSIDERATIONS ON THE SCOPE OF ARTICLE II.

Article II provides as follows:

" 1. Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise, the Secretary-General shall, on the request of any Member of the League, forthwith summon a meeting of the Council.

" 2. It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends."

In the system provided for by the Covenant of the League of Nations no particular importance was, originally, attributed to Article II. The article is couched in general terms and does not appear to subject Members of the League to specific obligations going beyond those laid down in other articles, nor to provide for action by the League in forms other than those specified elsewhere. Even without Article II, the organs of the League—*i.e.*, the Assembly and the Council—are empowered under Article 3, paragraph 3, and Article 4, paragraph 4, to "deal . . . with any matter within the sphere of action of the League or affecting the peace of the world", whereas League mediation in international disputes is dealt with in the more specific provisions of Article 15. As regards the situation referred to in Article II, paragraph 1—*i.e.*, war or threat of war—Article 10 already stipulates that "in case of any such aggression, or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled". All that Article II adds to the other provisions of the Covenant would appear to be the conventional right of every member of the League to call for the immediate summoning of the Council in the event of war or threat of war and furthermore "to bring to the attention of the Assembly or of the Council" the existence of any international dispute and in this way have the matter placed on the Council or Assembly agenda.

Nevertheless, Article II has gradually come to play an important part in the League's activities. After being interpreted as a mere abstract of the principles more precisely formulated in other articles of the Covenant, it has little by little acquired a significance of its own and considerable scope. This change is no doubt due to the fact that, when calling upon the Council to take action, Governments prefer to do so under the more courteous and less rigid terms of Article II, paragraph 2, rather than base their request on Article 15, which defines the dispute as "likely to lead to a rupture". Nowadays, action under Article 15 is regarded as an indication of the gravity of the dispute and there have latterly been cases (Sino-Japanese and Italo-Ethiopian disputes) in which, after relying in the first place on Article II, a party has subsequently asked for the initiation of the procedure provided for in Article 15 thus implying that the character of the proceedings would thereby undergo a fundamental change. That no such clear distinction was formerly made between Article II and Article 15 is shown, *inter alia*, by the fact that when it submitted to the Council its dispute with France regarding the nationality decrees promulgated in Tunisia and Morocco (1922) the British Government did so under Article 15. The prevailing tendency in this respect might perhaps be stated as follows: in cases of a certain gravity, in which there would appear to be little likelihood of the parties reaching agreement on the terms of a settlement, one of them will prefer that the procedure should be that provided for in Article 15, because, under that article, the Council can adopt a recommendation which will produce certain effects even if either of the parties to the dispute should vote against it.

Side by side with this change in the prevailing conception of the relative importance of Articles II and 15 as regards mediation by the Council in international disputes, there is a clear tendency to invest Article II with greater significance by treating it as the foundation of the Council's action for the prevention of war. This latter tendency is due to the fact that there is no longer the same confidence as formerly in the efficacy of the League's repressive action under Article 16 once war has broken out. Since the drafting of the de Brouckère report (1927) and the adoption by the Council and Assembly of the resolutions based on that report as revised by a Council Committee, great importance is attributed to Article II from the point of view of the provisional measures to be taken by the League with a view to preventing a dispute from

\* *Note by the Chairman of the Committee:* The Committee to study the Application of the Principles of the Covenant asked a number of Rapporteurs to make a survey of the various questions on its agenda, in order to facilitate discussion. The present report has been drawn up in consequence of that decision, and is therefore a purely informative report in no way binding upon the Committee or prejudging its future decisions.

degenerating into an open conflict. Furthermore, the general Convention to improve the Means of preventing War adopted by the Assembly in 1931—which was not ratified and never came into force—may be regarded, in a certain sense, as complementary to Article 11.

By implication, the terms of Article 11 lay Member States under an obligation to accept the examination by the League of any international dispute to which they may be parties. As, moreover, the scope of the article is not limited to disputes directly concerning Member States, it must be construed to mean that the League also regards itself as competent to deal with disputes concerning non-member States—a point of view which is more directly expressed in Article 17 of the Covenant.

Article 11 does not specify what is to be the exact nature of the League's action when dealing with a dispute submitted to it under its terms, but there has never been any doubt that its action must be primarily of a mediatorial character, mediation being understood to include enquiry into the circumstances which gave rise to the dispute. When a dispute is brought before the Assembly or Council under paragraph 2 it is obviously mediation which is contemplated. If the situation is that mentioned in paragraph 1—that is to say, in the event of "war or threat of war"—mediation may also be regarded as a natural form of the "action that may be deemed wise and effectual to safeguard the peace of nations" which it is incumbent on the League to take in such a case. But mediation is not the only form of action provided for in paragraph 1. The words just quoted refer to any action taken by the League with a view to preventing the aggravation of the dispute or its degeneration into an armed conflict. In the present memorandum, a distinction is made between, on the one hand, action by the Council with a view to settling the dispute through mediation, and on the other hand, measures taken by the Council with the immediate object of lessening the tension between the parties and thus preventing the outbreak of hostilities. These latter measures, which are of both a preventive and provisional character, are included under the single term "provisional measures".

According to the view which is now generally accepted, the League's action under Article 11 is confined to mediation and to the above-mentioned provisional measures. Once hostilities have broken out, the situation must be dealt with under Articles 16 and 17. The measures provided for in that case are sometimes referred to as repressive measures in contradistinction to the preventive measures contemplated by Article 11. Failing the application of sanctions under Article 16, or concurrently with their application, the Council may, however, endeavour, even after war has broken out, to restore peace through mediation under Article 11. It should, moreover, be noted that it is virtually impossible to draw a hard and fast line between repressive measures and preventive measures. Under Article 5 of the above-mentioned Convention, to improve the Means of preventing War, it is open to the Council to take provisional measures even after hostilities have broken out.

While Article 11 gives the League unlimited powers to "take any action that may be deemed wise and effectual to safeguard the peace of nations" its scope in other respects is very limited. It does not lay Members of the League under any obligation to comply with the Council's (or Assembly's) recommendations. It further requires that the decision shall be unanimous. It therefore follows that the Council's (or Assembly's) action under Article 11—in so far as it concerns Members of the League—must of necessity be directed to obtaining their voluntary co-operation in the application of the measures deemed appropriate by the other members of the Council (or Assembly).

## II. THE LEAGUE'S MEDIATORIAL ACTION.

*Initiation of the Council's Mediatorial Action under Article 11.* — Any dispute may be brought before the Council (or Assembly) under Article 11 either by one of the parties or by another Member of the League. For the purposes of Article 11, the Council includes the States specially affected, and therefore the parties to the dispute (Article 4, paragraph 5). If the parties, or one of them, do not belong to the Council in the ordinary course they are invited to send a representative to its meetings.

The disputes relating to the Aaland Islands (1920) and the evacuation of Albanian territory by Yugoslav troops (1921) were brought before the Council, not by one of the parties, but by the United Kingdom Government. In certain cases, such a step was taken jointly by a number of Governments not parties to the dispute. The Conference of Ambassadors (representing the French, British, Italian and Japanese Governments) submitted to the Council under Article 11, paragraph 2, the dispute between Poland and Czechoslovakia (1923) regarding Javorzina and also, without express reference to any particular article of the Covenant, the frontier disputes between Hungary and Yugoslavia (1923) and between Hungary and Czechoslovakia (1923). In another case, on the other hand, the Council held that a dispute could not be validly submitted to it under Article 11 by a non-member State. On its instructions, the Secretary-General addressed to the Hungarian Government a note dated November 23rd, 1921, in which he stated that "the summoning of the Council under Article 11 presupposes a request by a Member of the League". In the event of war or threat of war, the Council must be forthwith summoned by the Secretary-General on the request of any Member of the League. In other cases, the Council cannot be summoned to an extraordinary session except as provided by its Rules of Procedure. Unless an extraordinary session is summoned, a dispute to which a Member of the League has drawn the Council's attention is examined by that body at its next ordinary session. In so far as the Assembly is concerned, though matters may be referred to it at any time, an extraordinary session can only be summoned in the circumstances provided for in its Rules of Procedure. Any Member of the League is entitled to lay a dispute before the Council (or Assembly) under Article 11 whether concerned in that dispute or not: the only condition attaching to the exercise of this right is membership of the

League. Furthermore, Article 11 would appear to empower the Council to proceed to the consideration of such disputes of its own motion. This might be done when the Council has been requested to take action by a non-member State or when circumstances falling within the terms of Article 11 have been mentioned in the course of its proceedings without any intention of formally proposing the application of that article.

*Competence of the Council.* — The fact that a dispute brought before the Council by a Member of the League is also of direct concern to a non-member State does not prevent the Council from examining the situation, as it did, for example, in the case of the Aaland Islands dispute, which was brought before it before Finland's entry into the League. Nor is there anything in Article 11 to prevent the Council from offering to mediate, at the request of a Member State, in a dispute between parties neither of which is a Member of the League. (The Rutgers Memorandum, No. 126: document C.A.S.10, February 6th, 1928, page 28.)

To what extent does the fact that a dispute has already been submitted, or, under the terms of an international agreement, must be submitted, to another international organ, prevent mediation by the Council under Article 11?

It is obvious that the Council cannot examine and attempt to settle by conciliation a dispute which has already been brought before the Permanent Court of International Justice or an arbitral tribunal while the proceedings instituted before such a jurisdiction are still in progress. In support of this view, reference may be made to Article 15, which provides that even in the case of a dispute "likely to lead to a rupture" the Council's competence may be contested on the grounds that the dispute has been "submitted to arbitration or judicial settlement in accordance with Article 13" (see also the Council's resolution of March 18th, 1926, regarding a dispute between Greece and Turkey). In the case of a dispute which has not yet been brought before the Permanent Court of International Justice or an arbitral tribunal though the parties are bound by a Convention providing for such a procedure, the Council's mediatorial action, if requested by one of the parties, should, in the nature of things, be directed to inducing the other party to abide by the procedure provided for. The Council cannot, against the wishes of either of the parties, lend itself to an attempt by the other party to evade its undertaking to have recourse to the judicial procedure. But if the situation is so acute as to call for action by the Council under Article 11, paragraph 1, it may recommend the application of provisional measures (see below under III).

The same might apply in the case of a dispute which international agreements provide should be submitted either to a commission of enquiry or to some other international body of more limited competence than a tribunal. It would be inadmissible that, by referring a dispute to the Council, a party would be able arbitrarily to refuse to carry out a convention expressly providing for the conciliation procedure in regard to such disputes. The very fact of the conclusion of a convention implies an intention on the part of the signatory Powers to have recourse to a conciliation procedure other than that provided for in the Covenant. In ordinary cases, the proper course for the Council, according to the generally recognised principles of law and the provisions of Article 21 of the Covenant,<sup>1</sup> would be to decline to attempt conciliation itself and, instead, to refer the parties to the procedure upon which they have themselves agreed, while at the same time doing everything in its power to induce whichever party is attempting to evade that procedure to fulfil its obligations. In exceptional cases, however, intervention by the Council may be justified by the aggravation of the dispute, a contingency which would no doubt imply non-fulfilment by one or other of the parties, of its obligation under the conciliation convention to do nothing to aggravate the dispute. A report submitted by the Commission for the Consideration of the Procedure of Conciliation (document A.10.1922) contains the following passage on the bearing of Article 15 on special conciliation treaties:

"The parties will, in the great majority of cases, find considerable advantage in submitting their disputes to examination by the Commission which they have created. If, however, in the opinion of one of them, the dispute is of such an acute nature as to be 'likely to lead to a rupture'—a somewhat exceptional eventuality which would presuppose in the majority of cases a failure of the parties to adopt the pacific attitude which the Convention imposes upon them during the conciliation preliminaries—Article 15 of the Covenant can be applied. Moreover, even in this case, it will be the duty of the Council, upon request by one of the parties, to consider whether it should keep the examination of the dispute in its own hands or refer it to the Commission for consideration."

Furthermore, the resolution regarding the procedure of conciliation adopted by the Assembly on September 22nd, 1922, makes the following recommendation:

"With a view to promoting the development of the procedure of conciliation in the case of international disputes in accordance with the spirit of the Covenant, the Assembly recommends the Members of the League, subject to the rights and obligations mentioned in Article 15 of the Covenant, to conclude agreements with the object of laying their disputes before conciliation commissions formed by themselves." (See also the Holsti Memorandum (1928), Nos. 44-47: document C.A.S.10, February 6th, 1928, page 11.)

In the opinion of the Assembly, the Council must therefore be free to consider whether a dispute is of sufficient gravity to justify it in substituting itself for the other body in the task of conciliation. In support of this interpretation, it might also be argued that if the Council has been requested to take action under Article 11, paragraph 1, with a view to the application of provisional measures, it would be more appropriate that it should also be responsible for the work of mediation. In any event, it could obviously be entrusted with such work by agreement between the parties.

<sup>1</sup> "Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe Doctrine, for securing the maintenance of peace."

In defining the *nature of the disputes* with which the Council is competent to deal, Article 11, paragraph 2, speaks of "any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends" (the wording of the French text is slightly different; a literal translation would be "any circumstance which affects international relations and *in consequence* threatens to disturb . . ."). At first sight one might be tempted to read into this provision two restrictions in regard to the disputes with which the Council is competent to deal: the first precluding the Council from dealing, without the consent of the parties, with so-called "internal" matters and confining it to "international questions"; and the other precluding it from dealing with questions devoid of political importance in the strict sense of the term—that is to say, questions not likely "to disturb international peace or the good understanding . . . upon which peace depends". It is now generally held that the first of these restrictions does not exist. There can, indeed, be no doubt that questions solely within a State's domestic jurisdiction may also "affect international relations". The Council can, under Article 11, apply the conciliation procedure to the questions mentioned in Article 15, paragraph 8. This interpretation was embodied more particularly in the Geneva Protocol of 1924. That instrument provides, indeed, that even when a State is precluded under Article 15, paragraph 8, from advancing its claims under the procedure provided for in that Article, its right to the application of the conciliation procedure under Article 11 remains unaffected ("Japanese reservation"). (See also the Rutgers Memorandum (1928), No. 151: document C.A.S.10, February 6th, 1928, page 30.) As regards the second of the two hypothetical restrictions mentioned above, the Council has twice in the course of recent years had an opportunity of defining its attitude in the matter, in connection with the disputes submitted to it by the Swiss and Finnish Governments respectively. The Council's conclusions are reproduced in the Annex.

Some questions which in the ordinary course would lie within the Council's competence, cannot be examined under Article 11, because provision is elsewhere made for the application of a special procedure. This applies, for example, to minority questions governed by a minorities treaty. Such questions are subject to a special procedure (see the Council's resolution of June 9th, 1928, refusing to examine under Article 11 a minority question raised by the Albanian Government).

*Conciliation Procedure.* — As stated above, Article 11 makes no express provision for the procedure to be applied in the cases contemplated in paragraph 2. The legal opinion formulated by the First Committee on September 22nd, 1934, contains the following material passage:

"Article 11 could not serve to complete Article 15, for it has a very different character. Its effect is not to confront the States in conflict in a debate to which they alone are parties. It gives the Members of the League of Nations, so to speak, a right of taking proceedings which any one of them can exercise. It contemplates for the effective safeguarding of peace a collective endeavour, operating by persuasion, to bring the parties to accept an amicable settlement. While Article 11, as a general rule, does not go beyond conciliation and requires the concurrence of the parties, Article 15 may, without the assent of the parties, lead to a solution which, though not obligatory, has definite legal consequences, not merely for the parties to the dispute, but also for all the Members of the League." (*League of Nations Official Journal*, Special Supplement, No. 126, page 52.)

The Council enjoys unfettered discretion in the choice of the investigation and conciliation procedure to be followed in disputes referred to it under Article 11. It is unnecessary to do more than mention a few examples of the forms of procedure which the Council is in the habit of employing:

Negotiations between the parties before a Committee appointed by the Council from among its own Members or in the presence of the Rapporteur;

Enquiry into the facts of the dispute by a special Commission or individuals sent to the *locus in quo*;

Formulation by a special Committee of Experts, or some other body, of proposals for the settlement of the dispute;

Enquiry by a Committee of Jurists into the legal aspects of the dispute;

Elucidation of the legal aspects of the dispute by a request to the Permanent Court of International Justice for an advisory opinion.

It goes without saying that two or more of the above-mentioned methods may be combined.

A report adopted by the Assembly under its resolution of September 26th, 1927<sup>1</sup>, includes the following passage on the Council's activities in cases in which there is no threat of war, or which are not of a particularly urgent character:

"(a) The Council will consider the question at a meeting, to be called specially if necessary, to which the contending parties will be summoned.

"(b) The Council can request an organisation, or even a private individual, appointed by it to exercise conciliatory action on the parties.

"(c) The Council may also suggest that the dispute be referred to arbitration or judicial settlement, in accordance with the provisions of Article 13 of the Covenant.

"(d) If there is a doubt as to the facts of the dispute, a League Commission may be sent to the *locus in quo* to ascertain what has actually happened, or is likely to happen. It is understood that such a Commission cannot go to the territory of either party without the consent of the State to which that territory belongs.

"(e) If, for the accomplishment of its task, the Council deems it necessary, it can, in certain appropriate cases, ask for an advisory opinion from the Permanent Court, or else, in certain special circumstances, from a Committee of Jurists appointed by it". (Document A.14.1927, page 77.)

<sup>1</sup> *League of Nations Official Journal*, Special Supplement No. 53, page 23.

As regards the results of the Council's mediatorial action, various possibilities are conceivable. In the first place, the Council may succeed in reconciling the parties and thus bring the dispute to an end. It might, on the other hand, be forced to the conclusion that its efforts at mediation had failed and remove the question from its agenda. There is, however, nothing to prevent its deciding either to close or suspend its proceedings in the matter by adopting a recommendation to the parties, with or without their concurrence, to seek agreement through direct negotiations or to submit the dispute to judicial settlement. In the last place, the Council may decide, even before the question has been explored, to remove it from its agenda, on the grounds that it does not lie within its competence.

*Rules governing Votes.* — Unless they deal with questions of procedure, any decisions taken by the Council under Article 11 require the agreement of all the Members of the League represented at the meeting (Article 5, paragraph 1), including the parties to the dispute whether Members of the Council as ordinarily constituted or sitting in virtue of Article 4, paragraph 5, of the Covenant. Article 11, indeed, does not include any stipulation such as those in Articles 15, paragraphs 6 and 10, and Article 16, paragraph 4, of the Covenant, according to which the votes of the parties are not taken into account in determining unanimity. In matters of procedure, decisions are taken by a majority vote. Questions of procedure include those relating to the competence of the Council when this is disputed. In support of the view that decisions regarding competence are matters of procedure, reference may be made, more particularly, to the statement made in the Council on December 8th, 1925, by the President, M. Scialoja (question of the frontier between Turkey and Iraq, Minutes of the thirty-seventh session, page 128). Similarly, decisions of the Council to close its proceedings concerning a matter with which it has been dealing under Article 11 may be regarded as relating to procedure and capable therefore of being taken by a majority vote. Decisions to set up a committee of enquiry or a committee of jurists may also be taken by a plain majority. On the question of whether the rules governing votes on questions of procedure apply to decisions to ask the Permanent Court of International Justice for an advisory opinion, views differ.

As a recommendation including proposals for the settlement of a dispute requires the concurrence of both parties, the Council's mediatorial action cannot result in a final plan of settlement in cases in which the attempt at conciliation has failed and in which either of the parties votes against the plan proposed. It has sometimes been maintained that if votes are to be governed by this rule the Council's mediatorial action would be paralysed. Such a contention, however, would scarcely appear to be justified. It is, indeed, of only minor importance whether a plan of settlement has been validly endorsed by a decision of the Council or whether it is merely a preliminary plan approved by all members of the Council with the exception of the parties. In practice, the Council has, on occasion, adopted the method of setting up a Council Committee, consisting either of a few or of all of its members, the parties excepted, and this Committee has worked out and submitted a plan for the settlement of the dispute. In one case, the parties deferred recording their votes at the request of the rapporteur, thereby keeping open the possibility of reconsidering their attitudes. Even were the voting rule altered so as to leave the votes of the parties out of account in the case of decisions regarding the adoption of a plan of conciliation, the Council's recommendation would still be no more than a mere proposal which the parties would be free either to accept or to reject. In this connection, it should also be borne in mind that by invoking Article 15 either of the parties may set in motion the procedure provided for in that article, except in the case of disputes which, under paragraph 8, lie outside the Council's competence. In this way, it is therefore possible to secure that the vote will be taken under another rule by which the votes of the parties would not be reckoned in determining unanimity.

In the last place, it is open to doubt whether the unanimity rule laid down in the Covenant must necessarily be interpreted as strictly as has hitherto been the case. At its first session, the Assembly recognised that it could adopt *vœux* by a mere majority. Hitherto the Council, however, has not followed its example in this respect. There is nothing in the Covenant requiring this difference in the practice of the Assembly and Council respectively. Its origin is apparently to be found in a pronouncement of the Committee on Amendments (1920) which, in any case, has been frequently criticised by legal writers. There would, indeed, appear to be no reason why the Council should not follow the Assembly's example in distinguishing between decisions and recommendations on the one hand and *vœux* on the other hand, and allow the latter to be adopted by a majority vote. Thus, in cases in which it was unable to achieve unanimity on a plan for the settlement of a dispute, the Council might, by a majority vote, adopt a *vœu* recommending the parties to accept the plan thus endorsed by the majority.

As has already been stated, practically the same result can be achieved by the submission of a plan of settlement framed by a Council committee. The advantage of *vœux* adopted by a majority vote would merely be that the plan recommended could in that case be represented to have received the approval of the Council and not merely of certain of its members, which might perhaps give it greater weight from the psychological point of view.

*Recommendations of the Council and Assembly.* — Article 11 does not specify by what principles the Council (or Assembly) should be governed in drawing up a scheme for the settlement of a dispute. Article 15 provides that the Council shall make known "the recommendations which are deemed just and proper in regard" to the dispute. The same principle must govern the Council's mediatorial action under Article 11. There is nothing to prevent its adopting a plan of settlement implying a modification of the legal *status quo*.

According to Article 15, paragraph 1, in cases in which the parties have agreed to submit the dispute to arbitration or judicial settlement, this is held to override the Council's competence in the matter. In an earlier passage of the present memorandum, the same rule is presumed to

apply to the Council's mediatorial action under Article 11. It may be asked whether it should be inferred from this rule that, in a dispute of a legal nature, even when the parties are not bound by such a convention, the Council is under an obligation to base its proposals for settlement on the existing legal position. Such an inference, however, could scarcely be reconciled with the express stipulation of Article 15, paragraph 1, mentioned above.

But, whatever may be the construction to be placed upon Article 15, it should be noted that the Council has power to deal under Article 11 with the disputes mentioned in Article 15, paragraph 8—that is to say, disputes relating to questions which are solely within the domestic jurisdiction of one of the parties. There can obviously be no attempt at mediation in a dispute of this kind, unless there is the possibility of putting forward a plan of settlement implying the modification of the existing legal position. As has been pointed out above, however, the Council cannot, under Article 11, put forward a plan of settlement which has not been accepted by the representatives of both parties. But a committee set up by the Council (or by the Assembly) may formulate conciliation proposals contemplating a change in the *status quo*. In effect, moreover, this was what was actually done in regard to the Manchurian and Ethiopian questions.

From this it follows that it is not merely from Article 19 that the League derives the possibility of examining existing treaties or the international situation and of putting forward proposals for the revision of such instruments or of the *status quo*, but that it can also do this under Article 11.

*Co-operation of non-Member States.*— It has already been pointed out in discussing the procedure followed in regard to the Council's mediatorial action, that the Council has, on occasion, appointed a committee of outside experts to study the various aspects of the question and draw up, if possible, a plan for the settlement of the dispute. In such circumstances, it has sometimes included among the members of such committees nationals of States not members of the League. In two cases, for example, the committee appointed by the Council to examine disputes between South-American States included United States citizens. In another case (the Manchurian question), the Council invited a representative of the United States to take part in its examination of the dispute. A decision to invite a State not a member of the League to send a representative to the Council for the examination of a dispute under Article 11 could be taken by a mere majority vote as is the case in regard to questions of procedure (cf. Council Minutes, sixty-fifth session, page 2329).

The Aaland Islands Convention provides that if the question of a violation of the agreement and of the measures to be taken in consequence is brought before the Council, all the Powers parties to the Convention, whether Members of the League or not, shall be invited to sit.

### III. PROVISIONAL AND PREVENTIVE MEASURES.

As regards the initiation of such measures, see under II above.

The Council's *competence* in regard to disputes pending before other organs may be regarded as unlimited in cases in which the purpose of its action is the adoption and application of provisional and preventive measures. As has already been stated above under II, the gravity of the situation may necessitate the adoption of provisional measures by the Council, irrespective of whether the dispute itself is the subject of proceedings before another international organ, such as the Permanent Court of International Justice, a special arbitral tribunal, a conciliation commission or a diplomatic conference.

At the same time, conflicts of competence are by no means impossible. By the terms of its Statute (Article 41) the Permanent Court of International Justice has "the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to reserve the respective rights of either party". In quite a number of instances, moreover, similar powers have been vested by special Conventions in arbitral tribunals and conciliation commissions: see, for example, Article 33 of the General Act of 1928 (document C.537.M.164.1928). It is to be presumed that, in cases in which the situation has reached the degree of acuteness contemplated in Article 11, paragraph 1, no obstacles will be placed in the way of the Council's exercise of its power to examine the dispute, with a view to the adoption of provisional measures, because the tribunal or conciliation commission has also been empowered to prescribe certain classes of provisional measures. The 1931 Convention to improve the Means of preventing War—which, as stated above, though adopted by the Assembly has never come into force—invested the Council with general powers, in any dispute brought before it, to recommend "conservatory measures of a non-military nature relating to the substance of the dispute", such recommendation to be binding on the parties (Article 1: document C.658(1).M.269(1).1931). It also invested it with certain stated powers in regard to conservatory measures of a military character (see below).

Reference must also be made in this connection to the 1930 Convention on Financial Assistance—which likewise has never come into force—the application of which (Article 2) may constitute a preventive measure.

The Council's power to recommend provisional measures under Article 11 is unlimited in so far as concerns the nature of the dispute. Even when, under international law, the subject of the dispute is solely within the domestic jurisdiction of one of the States, the Council may consider prescribing provisional measures. The remarks in Section II above regarding the Council's mediatorial action apply in this connection also.



The Council also has power to consider matters relating to the adoption of provisional measures in the case of disputes between States only one of which is a Member of the League. The report submitted by the Council Committee on March 15th, 1927, and approved both by the Assembly and Council, deals with this point in the following terms (IV, d):

" In the case of disputes between Member States and non-member States, or between non-member States, Article 11 will be applied by the Council in the light of the above observations and bearing in mind the circumstances of each case." (Document A.14.1927, page 78).

The Covenant contains no provision defining the nature of the measures to be recommended. But as has already been stated above, the Assembly, in its 1927 resolution, approved certain general principles in regard to the Council's action in cases of this kind. The resolution describes the 1927 report as " a valuable guide which, without restricting the Council's liberty to decide at any moment the best methods to be adopted in the event of any threat to peace, summarises the results of experience, of the procedure already followed and of the studies so far carried out with a view to the best possible organisation of its activities in case of emergency ". (League of Nations *Official Journal*, Special Supplement, No. 53, page 23.)

The report points out that the very general terms of Article 11 allow of *any action which does not imply recourse to war* against the recalcitrant State,<sup>1</sup> and gives the following examples of the forms which such action may take:

(1) The President of the Council in office at the time may send telegraphic appeals to the parties before the Council's session urging them to refrain from any hostile acts: during the session, the Members of the Council may make verbally, similar recommendations to the representatives of the parties to the dispute.

(2) The Council may indicate to the parties any movements of troops, mobilisation operations and other similar measures from which it recommends them to abstain. It may also recommend the establishment of a neutral zone and the adoption of measures of an industrial, economic or financial nature; if necessary, the Council could fix a time-limit within which the parties would be requested to notify it of their agreement on these points.

(3) Steps may be taken to verify the execution of the measures recommended—*e.g.*, by the despatch of representatives to the locality of the dispute.

(4) Pressure may be brought to bear on any party not complying with the Council's advice or recommendations—*e.g.*, the Council might formally manifest its disapproval and recommend its Members to withdraw all their diplomatic representatives accredited to the State in question, or certain categories of such representatives.

(5) Recourse may be had to warning measures—*e.g.*, naval or air demonstrations.

It goes without saying, and the 1927 report expressly states, that still other measures might be considered.

As regards the invitation to the parties to refrain from any action likely to aggravate the situation, a resolution adopted by the Council on June 7th, 1928, contains the following passage:

" (1) The Council considers that, when a question has been submitted for its examination, it is extremely desirable that the Governments concerned should take whatever steps may be necessary or useful to prevent anything occurring in their respective territories which might prejudice the examination or settlement of the question by the Council.

" (2) When there is submitted to the Council a request for investigation, or the case of a dispute which has been placed on the agenda under paragraph 2 of Article 11, or other articles of the Covenant, such as Articles 13 or 15, the Secretary-General shall immediately communicate with the interested parties, drawing their attention to the resolution under (1) above, requesting them, in the name of the Council, to forward their replies to him without delay for communication to the Council and to inform him of the steps which have been taken". (Council Minutes, fiftieth session, pages 909-910.)

The recommendations to the parties have sometimes taken the form of specific resolutions in which the Council has taken note of the fact that they both professed pacific intentions in the hope that, the resolutions once adopted and made public, they would feel themselves more fully bound by what they had said. The indications regarding movements of troops or other similar measures have sometimes taken the form of an invitation to the parties to evacuate occupied territory, while, in other cases, they have been the result of an agreement with the parties regarding the date of such movements and the manner in which they were to be carried out. In these latter cases, the Council has sometimes appointed delegates to supervise the execution of the measures to which the parties had agreed.

The Council may, of course, at any stage in the procedure send delegates to enquire into the circumstances of the dispute on the spot. In the dispute between Bulgaria and Greece, it appointed the British, French and Italian military attachés to supervise the execution of the measures upon which it had decided in agreement with the parties. In the course of its consideration of the Mosul question, a delegate was despatched to the locality of the dispute to enquire into certain incidents and certain alleged infringements of rights at the frontier. During its examination of the Manchurian dispute the Council secured the assistance of the representatives in Shanghai of the Powers with special interests in the Shanghai Settlements, for the purpose of the negotiations between the parties regarding the cessation of hostilities and the withdrawal of the Japanese troops, and for the purpose of verifying the execution of the agreement concluded in this respect. In connection with the Council's examination of the dispute between Bolivia and Paraguay, a Commission of Enquiry was sent out to the scene of the dispute and similar action was taken in regard to the dispute between Colombia and Peru (1933) when the Council despatched a Commission to Leticia to verify the evacuation of the town by the Peruvian forces.

<sup>1</sup> Document A.14.1927, pages 77 and 78.

As a means of bringing pressure to bear upon the two parties in the Chaco dispute, recourse was had to an embargo on the export of war material. This embargo was not, however, the subject of a direct express recommendation by the Council, which set up a committee of three members to consult the various Governments with a view to securing the application of such an embargo as from a stated date. The Chairman of the Committee of Three carried out the necessary consultations and the great majority of Member States agreed to the measures he proposed. When the question was subsequently brought before the Assembly and the situation had been modified by Bolivia's acceptance of the Assembly's recommendations for the settlement of the dispute the embargo was raised in respect of Bolivia following the notification of the various Governments by the Committee of the Assembly.

As regards means of bringing pressure to bear upon the parties to a dispute, a report dated June 28th, 1935, of the Legal Sub-Committee of the Committee of Thirteen, set up for the purpose of proposing measures to render the League Covenant more effective in the organisation of collective security, contains the following passage:

"The Sub-Committee must point out that, while it is true that particular economic and financial measures may be measures which are possible both under Article 16 and under Article 11, such measures would not have the same purpose and character in the two cases. Whereas Article 16 deals with the case of war resorted to in violation of the Covenant and makes it obligatory to apply sanctions to the Covenant-breaking State, measures recommended under Article 11 would be directed to removing a threat of war; they would have a preventive character; their object would be to check preparations for war which might be made by the State whose attitude was endangering peace by, for example, depriving it of particular supplies. In the absence of any special undertaking to that effect, the States would not be under a legal obligation to comply with the recommendation.

"The Sub-Committee refers to the report approved by the Committee of the Council on March 15th, 1927, which referring to the case of a threat of war states that 'the very general terms of Article 11: "any action that may be deemed wise and effectual to safeguard the peace of nations"', allow of any action which does not imply recourse to war against the recalcitrant State'.

"The Sub-Committee did not feel that much practical importance attached to the question whether economic and financial measures could be taken where the case had been brought before the Council under the second paragraph of the article, as well as where it had been brought before the Council under the first paragraph. The Council will, in fact, appreciate the circumstances and consider whether there is a danger to peace justifying the use by it of the powers conferred on it by the general wording of the first paragraph of Article 11." (Document C.O.S.C./6, June 28th, 1935.)

Paragraph 1 of Article 11 does not refer to the Assembly as competent to take the action contemplated. We think, however, that, in view of the nature of the functions assigned to the League by Article 11, the Assembly, as well as the Council, must be regarded as competent in the matter of the application of paragraph 1. In support of this view, reference may be made to the general principles of the Covenant and in particular Article 3, paragraph 3, which provides that the Assembly may deal with any matter within the sphere of action of the League or affecting the peace of the world.

*The rules governing votes* on decisions relating to provisional measures are the same as those indicated under II above—that is to say, a decision cannot be validly adopted if either of the parties to the dispute votes against it. Experience has shown, however, that this requirement does not necessarily paralyse the Council's action. In certain cases, the situation may be such that neither of the parties desires the aggravation of the dispute, either because it is the result of a fortuitous combination of circumstances rather than of aggressive intentions on either one side or the other, or because the aggressive party deems it necessary to retreat from its position and it can more easily resign itself to such a course if the Council helps to bring about a settlement of the dispute. In certain cases, for example, the parties have accepted, or at least have not voted against, decisions such as those mentioned above under 1, 2 and 3. It is also possible that one of the parties may request the examination of the dispute under Article 15, in which case, the vote on the Council's decision would be governed by the rule laid down in that article. This last case was also discussed in the 1927 report, which stated the position as follows:

"If the action to be taken under Article 11 (first paragraph) is of particular concern to States which are not Members of the Council, such States must, under the terms of paragraph 5 of Article 4, be given a seat on the Council. The procedure instituted under Article 11 in no way implies the exclusion of procedure taken under other provisions of the Covenant. The Aaland Islands question, for example, was referred to the Council by the British Empire in virtue of Article 11; this did not, however, prevent the Council from declaring itself competent under Article 4, paragraph 4, and, at the same time, applying as far as possible Articles 12, 15 and 17.

"Thus, if any action contemplated by the Council as being calculated to preserve peace is taken under the provisions of Article 15, the votes of the representatives of the parties will not count for purposes of unanimity as far as such action is concerned. The report referred to in Article 15, paragraph 6, may, of course, contain any recommendations which the Council may think likely to bring about a settlement of the dispute and prevent a rupture." (Document A.14.1927, page 77.)

Such a course is not, however, always possible. As has been stated above, certain disputes are of such a nature that one of the parties may object to their examination by the Council under Article 15 either on the grounds that they deal with questions which are solely within its domestic jurisdiction or because the possibilities of the procedure provided for in Article 15 have already been exhausted. In such cases, the Council Committee suggests another possibility:

"If the threat of war did not arise out of a dispute coming under Article 15, the Members of the Council not directly concerned in the dispute would still be free to make recommendations, which could not fail to have a considerable moral value." (Document A.14.1927, page 77.)

For the purposes of its mediatorial action, the Council has therefore in certain cases adopted the procedure of setting up a committee of its own Members to draw up a plan of mediation. As has

been stated above, it followed a similar course in regard to the application of the arms embargo in connection with the dispute between Bolivia and Paraguay; on that occasion, a Council Committee, acting through its Chairman, approached the other Governments with a view to reaching general agreement on the proposed means of bringing pressure to bear upon the parties.

The question now arises whether the unanimity rule prevents or impedes effective action in the shape of provisional measures or whether the formal difficulties can be turned in the ways indicated above.

In considering this question, it may be appropriate to distinguish between the effects of the unanimity rule, on the one hand, in so far as the parties are concerned and, on the other, as regards the establishment of co-operation between the Members of the League not involved in the dispute.

As regards the parties to the dispute, a modification of the unanimity rule by which their votes would no longer be reckoned in determining unanimity would have the effect of laying them open to stronger pressure. It is to be presumed that a State which has no aggressive designs, or which is militarily weak, would more readily fall in with the Council's recommendations if they were legally valid than if they merely had the character of recommendations drawn up by certain of the Council's members. On the other hand, it is to be feared that a State with aggressive designs could easily devise pretexts for refusing to accept the Council's decision. It would certainly be unduly optimistic to attach decisive importance to the legal distinction between a *proposal*, which, though put forward by all the Members of the Council with the exception of the parties, cannot, in consequence of the present unanimity rule, be given a legally valid form, and a *recommendation* of the Council adopted by all its Members with the exception of the parties under a modified rule. The practical effects of such a modification on the attitude of an aggressive party would no doubt be negligible.

The second aspect of the problem concerns the attitude of the other Members of the League. In the case of measures upon which the Council can decide without needing to secure co-operation between a large number of Governments—*e.g.*, indications to the parties regarding movements of troops, the establishment of a neutral zone, etc.—the chief importance of the rule governing the vote would lie in its bearings on the possibility of obtaining the assistance of League officials in the application of such measures and the League's liability for the payment of costs of supervision, etc. Such measures as the despatch of commissions of enquiry to the locality of a dispute can be adopted under a majority decision even now. When it is a question of bringing pressure to bear in a form necessitating the co-operation of all Members of the League or a considerable number of them, the present unanimity rule will obviously give rise to difficulties, as the State on which such pressure is to be exerted can prevent the adoption of a valid decision. As has been stated above, this difficulty can sometimes be turned through the establishment of co-operation on the initiative of Members of the Council who do not, however, act in the Council's name—*e.g.*, on the invitation of all the States Members of the Council other than the parties to the dispute. The drawback of such a course will however always be that, in these cases, the measures concerned will not have been expressly decided upon or recommended by the League of Nations. Another and even more important difficulty may arise in certain special cases. In the case of measures the application of which would be contrary to existing treaties—*e.g.*, commercial treaties—the Members of the League bound by such agreements might be prevented from taking part in the action proposed unless it had been recommended by the Council under a legally valid decision. On the other hand, it may be assumed that if a State applies measures unanimously recommended by the Council its action would not be open to objection on the part of other Members of the League, as none of them would be in a position to contest the legality of such action. That being the case, a Member State against which such measures were directed would not be able to contend that they were in conflict with the special obligations of the States applying them, for example, under its commercial treaties with those States. In other cases, on the contrary, voluntary co-operation might be established on the invitation, for example, of a Committee of the Council composed of all the members of the Council with the exception of the parties.

In certain cases, therefore, a change in the present unanimity rule might facilitate the adoption of provisional measures, more particularly of those designed to bring pressure to bear upon one or both of the parties to the dispute, when the application of such measures would be contrary to treaties between the said party or parties and other Members of the League. On the other hand, it should be borne in mind that even a legally valid decision under Article 11 is not binding upon Members of the League, in the sense that they would be *obliged* to co-operate in the measures proposed. Article 11 empowers the Council to recommend certain measures, but does not lay Members of the League under any obligation to take part in the execution of those measures. The Council's recommendations indeed are not mandatory; they have not the effect of placing those to whom they are addressed under any obligation to comply with them. If, for example, the Council were unanimously to recommend a naval demonstration—the Member State concerned not being present at the meeting, so that its vote could not prevent unanimity—no Member of the League would be obliged to send ships to take part in the execution of this measure, unless it thought fit to do so. Even a change in the unanimity rule would in itself do nothing to alter the obligations of Member States in this respect. Such a change might perhaps facilitate the co-operation of the various Governments but could not guarantee it. The position would be different—to return to an example cited above—if the Member States or certain of them had, by a special Convention previously concluded, undertaken to make their vessels available in such a case for the purpose of bringing pressure to bear in accordance with the Council's decision.

It should be observed that opinions differ as to the application of the unanimity rule. There is another school which holds that when the purpose of the decision is to recommend measures directed

against the State which has endangered peace, the negative vote of that State cannot be taken into account in determining unanimity. According to this theory, Article 11 provides that the Council "shall" take any action that may be deemed wise to safeguard the peace of nations. It would, however, be impossible to give effect to this provision if it were admitted that, by its vote, the State responsible could prevent unanimity. As such an interpretation would defeat the ends of the article concerned, it must be rejected (see Annex).

#### IV. CONVENTIONAL PROVISIONS EXTENDING THE POWERS VESTED IN THE COUNCIL BY ARTICLE 11, PARAGRAPH 1.

States can conclude special agreements investing the Council with more extensive powers than those provided for in Article 11. The Treaties of Peace themselves contained various provisions investing the Council with functions not arising out of the Covenant or enabling its decisions to be voted under rules other than those laid down in the Covenant. In this connection, it should be remembered that Article 5 of the Covenant expressly refers in paragraph 1 to "other provisions of the present Treaty". But even in cases in regard to which the Covenant contains no such reference, a treaty provision under which the signatory Powers undertake to accept the Council's decision, even when taken by a majority vote, in regard to some stated question has always been regarded as binding both upon the parties and upon the Council, at least when the Council or Assembly had in some way approved the treaty concerned. The following are a few examples of such contractual provisions, which may be regarded as complementary to Article 11 of the Covenant.

The Convention relating to the non-fortification and neutralisation of the Aaland Islands, signed on October 20th, 1921, provides as follows (Article 7):

" I. In order to render effective the guarantee provided in the Preamble of the present Convention, the High Contracting Parties shall apply, individually or jointly, to the Council of the League of Nations, asking that body to decide upon the measures to be taken either to assure the observance of the provisions of this Convention or to put a stop to any violation thereof.

" The High Contracting Parties undertake to assist in the measures which the Council of the League of Nations may decide upon for this purpose.

" When, for the purposes of this undertaking, the Council is called upon to make a decision under the above conditions, it will invite the Powers which are parties to the present Convention, whether Members of the League or not, to sit on the Council. The vote of the representative of the Power accused of having violated the provisions of this Convention shall not be necessary to constitute the unanimity required for the Council's decision.

" If unanimity cannot be obtained, each of the High Contracting Parties shall be entitled to take any measures which the Council, by a two-thirds majority, recommends, the vote of the representative of the Power accused of having violated the provisions of this Convention not being counted.

" II. If the neutrality of the zone should be imperilled by a sudden attack either against the Aaland Islands or across them against the Finnish mainland, Finland shall take the necessary measures in the zone to check and repulse the aggressor until such time as the High Contracting Parties shall, in conformity with the provisions of this Convention, be in a position to intervene to enforce respect for the neutrality of the islands.

" Finland shall refer the matter immediately to the Council." (Documents C.I.A.12(8); C.419.M.300.1921.)

The provisions of the Rhine Pact may also be quoted in this connection.

The settlement of the Alexandretta question affords a recent example of an undertaking on the part of certain Members of the League to carry out the Council's recommendations in a special case (cf. the Council's resolution of January 27th, 1937).

But the outstanding example of an instrument complementary to Article 11, paragraph 1, of the Covenant was the General Convention to improve the Means of preventing War, adopted by the Assembly on September 26th, 1931, which was an attempt to work out in conventional form the principles which, according to the report of the Committee in 1927, should govern the Council's action in the matter of the prevention of war.

Under that Convention, the parties undertake, in the first place, to accept and apply the provisional measures for the prevention of war unanimously decided upon by the Council, the votes of the parties not being taken into account.

Under Article 1, the parties undertake, as stated above, to accept and apply the conservatory measures of a non-military nature relating to the substance of the dispute. Under Article 2, the parties undertake to carry out the measures prescribed by the Council with regard to the withdrawal of any armed forces of the one party, which may have entered or flown over the territory or territorial waters of the other, or a demilitarised zone. Article 3 provides for the temporary establishment by the Council of a neutral zone, so as to avoid contact between the armed forces of the parties. This measure is, however, subject to the consent of the party concerned. Article 4 empowers the Council to appoint Commissioners for the purpose of verifying on the spot the execution of such conservatory measures of a military character as it may recommend. The signatory Powers undertake to afford these Commissioners every facility for the performance of their duties.

While the obligations arising out of the provisions reproduced above mainly concern the parties to the dispute, that laid down in Article 5 primarily concerns the other Members of the League. Its terms are as follows:

" If any violation of the measures defined in Articles 2 and 3 is noted by the Council and continues in spite of its injunctions, the Council shall consider what means of all kinds are necessary to ensure the execution of the present Convention.

" Should war break out as a consequence of this violation, such violation shall be regarded by the High Contracting Parties as *prima facie* evidence that the party guilty thereof has resorted to war within the meaning of Article 16 of the Covenant." (Document C.658(1).M.269(1).1931.)

It must not, however, be assumed that, in the event of the Council's deciding under Article 5 to take steps to induce a party to execute the measures prescribed by it in pursuance of the Convention, a signatory Power which has not taken part in the vote as a Member of the Council will be required actively to support such steps. Should the Council desire to secure the co-operation of States other than its Members in the measures recommended by it as a means of bringing pressure to bear upon the parties, it must, under Article 4, paragraph 5, of the Covenant, invite such States to send representatives to its meetings and to take part in any decision affecting their own interests (cf. in addition, the Convention on Financial Assistance, Article 28, paragraph 3: document C.611(1).M.237(1).1930).

## V. SUMMARY.

The task of the Rapporteurs was defined by the Chairman of the Committee as follows:

"It would be their business not to arrive at solutions or make proposals to the Committee for the settlement of the problems, but to pave the way for the discussion in plenary meeting. When their work was completed, they would report to the Committee, and their task would be finished."

In the following section, therefore, no proposals are put forward, the Rapporteur confining himself to indicating a number of questions which, in his opinion, should be taken into consideration in the discussion on Article 11.

### A. MEDIATORIAL ACTION OF THE COUNCIL OR ASSEMBLY UNDER ARTICLE 11.

1. The present provisions regarding the right of every Member of the League to bring a dispute before the Council or Assembly would appear to be satisfactory.

It might perhaps be useful to state expressly that the Council has the power to decide, of its own motion, to deal with a dispute under Article 11. Such a possibility might, for example, be of great value in a case in which circumstances to which that article would apply had been mentioned in the course of the Council's proceedings without any single Government being willing to take the initiative in bringing the question before it formally.

2. There would not appear to be any need to alter the rules governing the competence of the Council (or Assembly). Although opinions differ as to the relationship existing in this respect between the Council and another international organ, it would no doubt be preferable to leave the matter to be settled by usage.

3. As regards the mediation procedure, it would appear to be desirable to retain the present system under which the Council is free to choose between various methods. A question which, in the Rapporteur's opinion, might, however, usefully be discussed is whether, in actual practice, the Council would not be well advised in adopting another method than that which it has usually employed hitherto. The system of appointing rapporteurs from among the Members of the Council itself and making them responsible for conducting detailed negotiations with the delegates of the parties to the dispute on far-reaching and difficult questions, would not appear to be entirely rational. The rapporteurs, who frequently are Ministers for Foreign Affairs or are engaged on other highly absorbing duties, cannot be expected to devote to the examination of, usually, complicated questions all the time and attention which would be desirable. In many cases it would, no doubt, be more satisfactory to entrust such duties to private individuals or to a special conciliation commission consisting of members in no way dependent on their Governments who, after exhaustive negotiations with the parties, would endeavour to bring about an amicable settlement of the dispute and would ultimately put forward proposals for such a settlement. The Council's Rapporteur would then be able to report progress to the Council itself.

The Inter-American Treaty on Good Offices and Mediation of 1936 includes an interesting provision in this respect:

"When a controversy arises between them that cannot be settled by the usual diplomatic means, the High Contracting Parties may have recourse to the good offices or mediation of an eminent citizen of any of the other American countries, preferably chosen from a general list made up in accordance with the following article."

4. In the course of the discussions on the Council's conciliation action, it has frequently been urged that such action should be taken at an earlier stage, before the dispute has reached a degree of acuteness at which the failure of any attempt at conciliation is a foregone conclusion. This, however, could scarcely be brought about by the adoption of formal provisions. It rests with the Members of the Council, either singly or jointly, to see that the necessary action is taken in good time.

5. As regards the unanimity rule, it is clear from the considerations set out above that, in so far as its mediatorial action is concerned, the Council has, in practice, scarcely ever been prevented by that rule from formulating proposals for the settlement of a dispute. The Council has, more particularly, been able to adopt the method of appointing a Committee of all its Members with the exception of the parties, or of a limited number of its Members, which, in due course, has submitted proposals for a settlement. It has also been pointed out above that there would appear to be no constitutional objection to the introduction of a system under which the Council—like the Assembly—could adopt *vœux*, which only require a majority vote, in regard to given questions—e.g., a *vœu* expressing the hope that the parties to a dispute will accept the proposals for a settlement drawn up by a Council Committee.

6. It is within the power of the Council (as of the Assembly) to make, on the basis of Article 11, proposals for a settlement entailing a modification of the *status quo*. The League's power to examine the question of the revision of an existing legal position is therefore not merely derived from Article 19. That power is also implicit in Article 11.

7. In one case, the Council invited a State which was neither a member of the League nor a party to the dispute referred to it to send a delegate to its meetings to take part in the discussion on the settlement of the dispute. Were this procedure more extensively followed, the League's possibilities of mediatorial action would, in all likelihood, be greatly increased. The co-operation of non-member States is possible without any change in the Covenant. By a majority decision the Council could invite a non-member State which is not a party to the dispute to take part in its proceedings, though in an advisory capacity only. Such co-operation might conceivably be governed by general principles to be adopted by the Council and Assembly. Certain aspects of this problem, however, are outside the scope of the present report.

## B. PROVISIONAL MEASURES.

1. The present provisions regarding the initiation of provisional measures would not appear to require modification. As regards the Council's right to examine questions relating to such measures of its own motion see under A No. 1 above.

2. Nor would it appear to be necessary to modify the provisions regarding the Council's powers to recommend such measures.

Article 11, paragraph 1, does not mention the Assembly as competent to take the action contemplated. According to the interpretation suggested above, however, the Assembly would also appear to be competent in such matters. It would be desirable that this interpretation should be confirmed in some way.

3. Although Article 11 gives the Council unfettered discretion as to the choice of the measures to be applied, its possibilities of effective action are, however, very limited. In the case of measures to be carried out by the *parties to the dispute* the latter are under no obligation to carry them out, unless they have undertaken to do so either by concurring in the Council's decision or by previous agreements. Under the unanimity rule, either of the parties—if Members of the League—can in fact prevent the adoption of a recommendation by the Council. Similarly, as regards measures the execution of which requires the co-operation of *States not parties to the dispute*, such States are under no obligation to co-operate unless they have agreed either in the case under consideration, or by virtue of previous undertakings, to comply with the Council's recommendations.

4. The Convention to improve the Means of preventing War indicates a method of increasing the Council's powers in relation to the *parties to the dispute*. Were that Convention generally adhered to, the Council's legal position in regard to the parties would be strengthened.

In many cases, the difficulties arising out of the parties' right to take part in votes on decisions relating to provisional measures under Article 11 could, no doubt, be lessened by dealing with the dispute under the procedure provided for in Article 15. According to an interpretation which would appear to have been accepted in practice, the Council's recommendations under Article 15 are, indeed, not confined to proposals for the final settlement of the dispute, but may also include preliminary and provisional decisions.

5. As regards, more particularly, means of ensuring the co-operation of Members of the League *other than the parties to the dispute* in the application of provisional measures, such co-operation was in one case achieved without any formal decision on the part of the Council (embargo on the export of war material to the parties to the dispute). It should nevertheless be borne in mind that the application of certain measures—particularly when not based upon a legally valid decision of the Council—might meet with difficulties resulting from conventions between the parties to the dispute and the participating States. In this respect, it is desirable that the unanimity rule should be modified.

6. In whatever way the unanimity question may be settled, decisions relating to provisional measures voted by the Council under Article 11 do not lay Members of the League not parties to the dispute under any obligation to comply with the Council's recommendations.

A possibility which might be considered is that of increasing the efficacy of the Council's action to prevent war through the adoption of a special convention between Member States. It should, for example, be considered whether the States could not undertake to comply, in the event of a strained situation, with a Council decision, adopted by a stated majority, in favour of an embargo on the export of war material to both or either of the parties to the dispute (cf. the measures taken in connection with the Chaco dispute).

It is also conceivable that Members of the League, or certain of them, would assume obligations of a limited character and undertake, for example, to supervise the observance of a general embargo on the export of war material. If, for the purpose of the organisation of such supervision by the League, a Member State placed at its disposal aircraft, war vessels or personnel, the latter should be invested with the character of organs of the League and in consequence be granted an appropriate international legal status. Consideration should also be given, in this connection, to another method already applied in one special Convention (that relating to the non-fortification and neutralisation of the Aaland Islands). As stated above, the guarantee given by the signatory Powers in that Convention is embodied in a provision under which the said Powers *undertake* to apply any measures

on which the Council may decide unanimously and have *the right* to apply those which it recommends by a two-thirds majority. The Convention also provides that, for the examination of these questions, all the signatory Powers, whether Members of the League or not, shall be invited to send representatives to sit on the Council. This method might perhaps be more extensively employed.

7. The presence of representatives of non-member States at discussions on provisional measures for the prevention of war might, in certain cases, be of great value (see, on this point, the consideration set out in Section A, No. 6, above.)

Upsala, May 15th, 1937.

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Annex.

RESOLUTION OF THE COUNCIL, ADOPTED ON MAY 23RD, 1935, REGARDING WAR DAMAGE SUFFERED BY SWISS CITIZENS.

The Swiss Government's request was in respect of the dispute concerning reparation for damage suffered by Swiss citizens during the war. On the subject of the competence of the Council, a Committee set up by that body concluded as follows:

"The Committee notes that it is not contested that the Council has competence to deal with the case under Article 11, paragraph 2, of the Covenant. It also feels that, the Federal Council having felt itself obliged at the demand of Parliament to call the Council's attention to the case, the application thereto of Article 11, paragraph 2, ought not to be excluded *ab initio* on the ground that, in the view of the parties themselves, peace and good understanding between them are in no way imperilled.

"This circumstance, however, limits the scope of action by the Council. Since Articles 12 and 13 of the Covenant refrain from rendering arbitration or judicial settlement compulsory, the intention of the Covenant cannot be to provide in Article 11, paragraph 2, a procedure to which the Members of the League may have recourse for the sole purpose of obtaining arbitration or judicial settlement of disputes which the other party is not bound to submit to these methods of settlement. On the other hand, the Council cannot decide the issue raised by Switzerland, either in law (assuming the present state of international law to make this possible) or in equity, without usurping the functions of an arbitrator, which Article 11, paragraph 2, does not entitle it to assume. In a dispute like the present dispute, which does not constitute an immediate danger for peace or a conflict of political interests but arises out of a pecuniary claim the legal validity of which is contested, the Committee considers that the Council's action cannot go beyond an effort at conciliation.

"The Committee has explored, in negotiations with the parties, the possibilities of a solution by conciliation. Without prejudice to direct conversations which, in view of the terms on which the parties stand with one another, it considers always possible, the Committee does not think the probable results of conciliation are sufficient to justify maintaining the matter on the Council's agenda." (Council Minutes, eighty-sixth session, page 621.)

In accordance with the Committee's recommendation, the Council decided to remove the question from its agenda, Switzerland voting against the recommendation.

RESOLUTION OF THE COUNCIL, ADOPTED ON SEPTEMBER 13TH, 1935, REGARDING THE CASE OF THE FINNISH SHIPS.

The Finnish request related to a dispute regarding compensation for the use of Finnish ships by England during the war. The Committee which formulated the above opinion regarding the Swiss request concluded as follows:

"The Committee examined the articles which might be invoked in this particular case. It felt that it would, in view of all the circumstances of the case, be difficult to admit that the dispute pending between Finland and Great Britain comes within the category of disputes likely to lead to a rupture within the meaning of Articles 12 and 15 of the Covenant, even when it is recognised that the term 'rupture' is not necessarily synonymous with 'war'. On the other hand, the Committee felt that it was possible to consider paragraph 2 of Article 11, which permits of the intervention of the Council when a Member of the League, in the exercise of a friendly right, brings to its attention a circumstance which threatens to 'disturb international peace or the good understanding between nations'." (Council Minutes, eighty-eighth session, pages 1160 and 1161.)

The Council decided by a majority vote not to proceed with the application of Article 11, paragraph 2, of the Covenant in this case, Finland voting against the Committee's recommendation.

REPORT, DATED JUNE 28TH, 1935, OF THE LEGAL SUB-COMMITTEE OF THE COMMITTEE OF THIRTEEN.

The report dated June 28th, 1935, of the Legal Sub-Committee of the Committee of Thirteen set up for the purpose of proposing measures to render the League Covenant more effective in the organisation of collective security summarises the various opinions expressed by members of the Committee as follows:

"In the first place, some members were convinced that the necessity of allowing Article 11 to be properly applied involved the conclusion that the vote of the State which had repudiated its obligations should not be counted. The article

imposes upon the Council the *duty* to 'take any action that may be deemed wise and effectual to safeguard the peace of nations'. It is evidently impossible for the Council to recommend economic and financial measures, or, in general, any measures whatsoever directed against a State which is endangering peace, if it be the case that this State must vote for the recommendation. According to this view, the interpretation which does not take account of the vote of such States in ascertaining whether there is unanimity, where it is a question of voting recommendations under Article 11 in order to check its preparations for war, is dictated by common sense. It is a general principle of legal interpretation that an interpretation which makes it impossible for a provision to attain its purpose should be rejected. Finally, supporters of this view quoted in support of it the Permanent Court of International Justice's advisory opinion on the Mosul case.

" On the other hand, other members of the Sub-Committee contested the scope attributed to the opinion of the Court and laid stress on the definite language of Article 5, paragraph 1, of the Covenant, reading:

" 'Except where otherwise expressly provided in this Covenant or by the terms of the present Treaty, decisions at any meeting of the Assembly or of the Council shall require the agreement of all the Members of the League represented at the meeting.'

" They went on to argue that Article 11 does not contain any provision excluding application of the rule of unanimity laid down in Article 5 and expressed the view that this rule does not conflict with the object of the article. They observed that, in the case dealt with in paragraph 6 of Article 15, one finds an express provision for not counting the votes of the parties, and that, in Article 16, paragraph 4, the Covenant in like manner provides for expulsion of a Member from the League being effected by the votes of the other Members represented on the Council. Arguing *a contrario*, it was inferred that, in the absence of an express provision of this kind, the rule of unanimity must be applied without any limitation or restriction. Furthermore, it was pointed out that, when, in 1921, the Assembly wished formally to give the Council power to express an opinion as to whether there had been a breach of the Covenant or not, it thought it necessary to put in the new paragraph of Article 16 which it adopted a provision to the effect that the votes of the States concerned should not be counted.

" A member of the Sub-Committee who was in favour of the second interpretation of Article 11 declared that, in practice, it would not give rise to the alleged disadvantages, since a recommendation voted by all the members of the Council except a party would possess very great political and moral authority which would facilitate its being put into execution by the Members of the League.

" In this connection, a Member observed that States had not given up the right of independent action enjoyed by them before the creation of the League; in virtue of this right, they could evidently comply with a recommendation, notwithstanding that the fact that a party had voted against had prevented it from having legal existence. He added, however, that the object of the League of Nations should be to substitute collective for independent action, which latter was both less efficacious and more dangerous. The second interpretation only left room for independent action; it paralysed collective action by the League in the most important matter of dealing with a threat of war.

" Another member of the Sub-Committee was of opinion that, in view of the weight of the arguments which could be adduced on one side and on the other, a definitive reply to the question could only be obtained by means of an advisory opinion from the Permanent Court of International Justice.

" Some Members observed that any reply given to the question before the Sub-Committee would necessarily have effects going beyond the particular case contemplated in the Council's resolution and would apply to all cases except the use of Article 11 for attempts at conciliation of parties to a dispute through the good offices of the Council. They added that the reply given in respect of Article 11 would even prejudice the reply to be given to the same question in respect of other articles of the Covenant. The general application thus attributed to the reply was disputed. On the other hand, it was argued that an interpretation of the Covenant of a general character was a matter for all Members of the League of Nations." (Document C.O.S.C.6, June 28th, 1935.)



Geneva, August 7th, 1937.

ANNEX 9.

ARTICLE 16 OF THE COVENANT: GENERAL OBLIGATIONS.

*Report submitted to the Committee by M. Rutgers.\**

During the seventeen years which have elapsed since the foundation of the League of Nations, the undertakings entered into by Members regarding the prohibition of war and the obligation to submit their disputes to international procedures have evolved in several respects. After the framing of the Covenant of the League, which does not prohibit war absolutely, the Pact of Paris was concluded in 1928, declaring that the High Contracting Parties "condemn recourse to war . . . and renounce it as an instrument of national policy in their relations with one another". Almost all the States are Parties to this Pact; consequently the new principle of prohibition of recourse to war is binding upon them. Furthermore, the optional clause of Article 36 of the Statute of the Permanent Court of International Justice, originally accepted only by a small number of the smaller Powers, is at present<sup>1</sup> binding upon forty-one States, including some of the Great Powers. The development of collective security might have been expected to progress with the prohibition of resort to war and development of the pacific settlement of disputes.

This unfortunately has not been the case. The evolution of the system of collective security has been impeded by various factors, chief among which are the following:

1. NON-UNIVERSALITY OF THE LEAGUE OF NATIONS.

On the foundation of the League of Nations, there was reason to hope that it would achieve universality within a measurable space of time. Germany and the Powers which had fought by her side during the Great War were admitted to the League in succession. Other States belonging to different parts of the world joined the League. The latter thus began to approximate to universality, notwithstanding the absence of the United States of America, and, until 1934, of the Union of Soviet Socialist Republics. During the last few years, however, important secessions have occurred; two Members with permanent seats on the Council have withdrawn. These circumstances create a further element of doubt as to the possible efficacy of the sanctions laid down in the Covenant and increase the burden of such sanctions for States which may apply them.

2. NON-APPLICATION OF ARTICLE 8.

According to a widely-held opinion, collective security depends to a large extent on international disarmament. The failure of the Conference for the Reduction and Limitation of Armaments and the large-scale rearmament of several countries are regarded as facts of very great importance. It is probable, indeed, that a covenant-breaking State would be a heavily armed State. Thus participation in collective action would involve heavier burdens and greater risks than were previously contemplated.

3. DISPUTES CONCERNING THE TERRITORIAL "STATUS QUO".

The territorial status resulting from the war was not the work of *all* the Members of the League of Nations. Some of them contested the equity of the new frontiers. States not parties to the Treaties of Peace were disinclined all along to co-operate actively in the maintenance of those frontiers, and this tendency has, if anything, increased as time went on. It is a matter of regret, in this connection, that Article 19 of the Covenant, which has not yet been applied, does not appear to be capable of bringing about a solution of certain political difficulties.

4. UNFORTUNATE EXPERIENCE IN THE MATTER OF ARTICLE 16.

Article 16 has been applied only once, and then unsuccessfully. In the case in question, conditions were, however, extremely favourable, seeing that there was practical unanimity as to the designation of the aggressor.

\* *Note by the Chairman of the Committee:* The Committee to study the Application of the Principles of the Covenant asked a number of rapporteurs to make a survey of the various questions on its agenda, in order to facilitate discussion. The present report has been drawn up in consequence of that decision, and is therefore a purely informative report in no way binding upon the Committee or prejudging its future decisions.

<sup>1</sup> At July 15th, 1937.

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The Committee will probably reject from the outset any idea of reverting to the former regime of neutrality which existed before the creation of the League. The principle of collective security should not be abandoned. If it were proposed to reduce the League's function to that of a purely advisory organ — that function, be it noted, would still be very important — it could only be with the object of achieving the universality of the League.<sup>1</sup> Subject to this special aspect of the question, Members of the League of Nations intend, it would seem, to maintain the general principles of collective security and action embodied in the Covenant.

As regards the application of these principles, however, the Committee will no doubt have to take into account the present situation of the world and the attitude of Governments. Several Members of the League are inclined to favour a restrictive interpretation of the obligations laid down in Article 16 of the Covenant. As an example of this may be mentioned the statements which appear in the so-called ex-neutrals' Declaration of July 1st, 1936.<sup>2</sup> In view of this tendency, it seems impossible for the Committee at present to think of proposing measures which would add to the weight of the obligations ensuing from Article 16.

It must not be concluded from this that the Committee of Twenty-eight can do nothing in the matter. Collective security would no doubt be enabled to make considerable headway if certain doubts could be dispelled as to the extent of the obligations imposed by Article 16. As the Belgian Government said in its note of November 10th, 1936: "It is important that, in such a serious matter, Governments should know as exactly as possible the extent of their responsibilities and of the outside assistance they can count upon". Enlightenment on those points would be in the interest both of those who are desirous of strengthening the system laid down in Article 16 and of those who wish to restrict its scope. It might perhaps facilitate the entry into the League of Nations of States for which Article 16 is at present a stumbling-block.

The uncertainty which now exists as to the scope of Article 16 is due more particularly to the fact that this article can be interpreted in the light of various documents. There is first the original text of Article 16, followed by the amendments and the resolutions adopted by the Assembly in 1921, with the indications furnished by the preparatory work on the subject. One must not forget certain statements in the Geneva Protocol of 1924, the letter sent by certain Powers to the Reich Government at the time of the signature of the Locarno Treaties in 1925, the de Brouckère report of November 1926, and various memoranda submitted to the Committee on Arbitration and Security in 1928. Arguments in favour of the different interpretations may be derived from these several documents. Arguments may also be derived from the discussions on bringing the League Covenant into harmony with the Pact of Paris and from the discussions in the Political Commission and the General Commission of the Conference for the Reduction and Limitation of Armaments on the definition of the aggressor and other subjects. Lastly, the application of Article 16 in the Italo-Ethiopian conflict creates a precedent.

Any revision of the Covenant would encounter considerable difficulties. It would seem necessary as far as possible to avoid incorporating the Committee's conclusions in amendments to the Covenant. Furthermore, it seems unlikely that the amendments adopted in 1921 will receive the ratifications required for their entry into force. It would no doubt be preferable in the circumstances to adopt a more practical, although constitutionally less perfect, method — namely, that of interpretative resolutions. An attempt might be made, for example, to obtain an agreed text of an interpretative resolution concerning Article 16, summing up the interpretations which it may be desired to adopt for the future.

\* \* \*

It may be useful and opportune to mention various points that might be included in such a resolution. What should be aimed at is not rules of application, but a political document to correspond to existing conditions.

#### (1) *Scope of the Obligation laid down in Article 16.*

(a) The Assembly, in Resolution No. 3 of October 1st, 1921, concerning the economic weapon, pointed out that too strict an interpretation should not be placed on the provision of the Covenant that "Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League". It will no doubt be useful to recall the terms of the aforesaid resolution of 1921: "The unilateral action of the defaulting State cannot create a state of war: it merely entitles the other Members of the League to resort to acts of war or to declare themselves in a state of war with the covenant-breaking State".

(b) It would seem well to specify that it is not desirable that after a breach of the Covenant has been established the sanctions laid down in Article 16, paragraph 1, should be applied immediately and in their entirety. It is desirable that there should be some

<sup>1</sup> See report concerning this question. (See page 41.)

<sup>2</sup> See *Official Journal*, Special Supplement No. 154, page 19.

possibility of graduating their severity and applying them by stages. It must be possible to adapt the practice to the diverse circumstances, which it is impossible to foresee, of each particular case. It will be recalled in this connection that the Assembly made the following declaration in Resolution No. 10 of 1921: "It is not possible to decide beforehand, and in detail, the various measures of an economic, commercial and financial nature to be taken in each case where economic pressure is to be applied". The Memorandum on Articles 10, 11 and 16 submitted to the Committee on Arbitration and Security in 1928<sup>1</sup> expressed the same opinion, saying that such a variety of cases might occur that it was impossible to establish in advance what measures would be possible and useful. The procedure adopted in the case of the Italo-Ethiopian conflict was in conformity with this attitude.

In a given case, circumstances will indicate what economic sanctions may be effective. Consideration may also be given to the political repercussions of economic sanctions and to the risk of sanctions extending hostilities. It will sometimes be necessary to take into account the attitude of States which may employ military measures, either because economic sanctions are insufficient in themselves or because they carry with them the risk of military retaliation.

To conclude, the decisions to be taken will depend on the preventive action of the League of Nations prior to the application of Article 16, on the special military and economic conditions of the covenant-breaking State, on the geographical situation of the country in which the outbreak of hostilities has occurred, on the existence of certain means of communication, and first and foremost on the extent to which effective co-operation can be counted upon from the different Members of the League of Nations, as determined by the political relations existing at the time between the Great Powers. Furthermore, the political treaties concluded by the covenant-breaking State and those concluded by the States which are to apply the sanctions may have an influence on collective action. Lastly, the attitude of non-member States, particularly of some of them, will play a very important part. Their abstention or co-operation, their favourable or unfavourable attitude may have an influence on the policy of sanctions.

(c) There should be some mention of the possibility of a certain differentiation as regards the application of sanctions by the various Members of the League of Nations. Indications on the subject will be found in the 1921 discussions and in the letter sent to the German Government at the time of the signing of the Locarno Treaties. It might be specified, as is done in the fourth amendment of 1921 and in Resolution No. 9 of 1921, that in the interests of collective action or in order to minimise the loss and inconvenience which will be caused to certain Members by the application of sanctions, the coming into force of those measures might be postponed either wholly or partially in the case of particular Members. It might be possible, again, to repeat the terms of the letter sent to the Reich Government on December 1st, 1925, stating that each Member is bound to co-operate loyally and effectively "in support of the Covenant and in resistance to any act of aggression to an extent which is compatible with its military situation and which takes its geographical position into account".<sup>2</sup>

The foregoing considerations should be applied also to economic sanctions, military sanctions and the obligation incumbent on Members of the League to afford passage through their territory to the "forces of any of the Members of the League which are co-operating to protect the covenants of the League". (Article 16, paragraph 3.)

(d) It should be clearly understood that the right to assistance implies that Members benefiting by it shall, as far as possible, ensure the defence of their own territory.

(e) It would be useful to specify, in conformity with the amendment to Article 16 passed in 1924 (*cf.* Amendment No. 1 and Resolution No. 13 of 1921) that economic sanctions will have to be directed against all persons residing in the territory of the covenant-breaking State, without prejudice to the right to apply sanctions against nationals of that State not resident within its territory.

## (2) *Designation of the Covenant-breaking State.*

The idea expressed in Resolution No. 4 of 1921, namely: "It is the duty of each Member of the League to decide for itself whether a breach of the Covenant has been committed. The fulfilment of their duties under Article 16 is required for Members of the League by the express terms of the Covenant and they cannot neglect them without breach of their Treaty obligations", represents the doctrine that is generally accepted to-day.

The need has, however, been recognised of intervention by the League organs to enable States to form a joint opinion. The suggestion first put forward was that there should be a definite decision by the Council in the form, for instance, of an opinion. In this connection consideration was given to the conditions for voting on the decision. It was proposed that the votes of the parties should be explicitly excluded, or that the majority rule should be formally adopted (in the opinion of some, the decision does not require unanimity). There is one solution that permits of achieving the object in view while doing away with the difficulties in regard to voting and at the same time fully respecting the principle enunciated above. That solution is to permit Governments to express themselves individually in the Council and, if it so happens, in the Assembly,<sup>3</sup> after having, if necessary, carried out a collective preliminary investigation.

<sup>1</sup> Minutes of the Second Session, document C.165.M.50.1928.IX, page 123.

<sup>2</sup> See Records of the Special Session of the Assembly of 1926, page 45.

<sup>3</sup> This was in the main the method adopted in 1935 in the case of the Italo-Ethiopian dispute.

### (3) *Definition of the Aggressor.*

The definition of the aggressor is a very important question, on which opinions are divided. It would seem difficult at present to agree on a definition. The discussions in the Committee will show, however, whether it is nevertheless possible to reach a conclusion that could be inserted in a resolution.

### (4) *Application of Sanctions.*

(a) In the case of sanctions other than military sanctions the Covenant makes no provision for intervention by the League organs. But as soon as it was realised that economic and financial sanctions would not be immediately enforced in their entirety, the need was felt of some body to regulate and co-ordinate the application of these measures. The Assembly in 1921 entrusted the task to the Council. In 1935, on the other hand, this function was carried out by a special independent Committee set up as the result of a recommendation of the Assembly.

At this stage of the proceedings it is doubtless not expedient to express an opinion as to the value of the two methods. The fact should, however, be stressed that, if it is to be practical, the method adopted should be such as to avoid the disadvantages attaching to the rule of unanimity.

(b) As regards military sanctions, the Covenant makes it incumbent on the Council to recommend these, whereas there is no such provision in the case of economic sanctions. But, from the fact that it has been held that sanctions other than military sanctions should not necessarily be applied immediately and in their entirety, it follows, *a fortiori*, that the application of military sanctions may be deferred. The question has been raised whether the rule of unanimity laid down in Article 5 prevents the Council from adopting the recommendation mentioned in paragraph 2 of Article 16 without counting the votes of the parties when establishing unanimity, which would in practice prevent the Council from reaching a decision. Be it noted, moreover, that there is nothing apparently to prevent a co-ordination organ other than the Council from dealing with the application of these sanctions.

(c) Separate mention should be made of a special measure which can be taken in application of paragraph 1 of Article 16, namely, a blockade. In so far as this is applied to foreign vessels, outside the territory of the State enforcing it, it will have the effect of exercising constraint *vis-à-vis* third parties in relation to sanctions. In view of the non-universality of the League of Nations, this kind of blockade has appeared to be of little practical value and has been given little consideration.

### (5) *Mutual Support.*

The interpretative resolution might take account of the principle of mutual support, which has been embodied in the Covenant itself.

Article 16 contemplates three possibilities.

First, it may be necessary to minimise the losses and inconvenience resulting from the application of economic sanctions.<sup>1</sup>

Secondly, Members will have to give one another mutual support in resisting any special measure directed against one of them by the covenant-breaking State. It will be recalled that in 1936 the United Kingdom Government raised the question of mutual support in the event of special military measures being directed against a Member by the covenant-breaking State; the United Kingdom Government enquired, in particular, what exactly would be the nature of such assistance.

Thirdly, paragraph 3 of Article 16 provides that Members of the League shall take the necessary steps "to afford passage through their territory to the forces of any of the Members of the League which are co-operating to protect the covenants of the League". It may be asked what this obligation amounts to, and whether a distinction should not be made between the case of mere transit through the territory and the case of the entry of troops resulting in military operations within the territory of the State which is asked to afford passage.

### (6) *Miscellaneous Sanctions.*

Apart from the economic and financial sanctions contemplated in paragraph 1 of Article 16 and the military sanctions contemplated in paragraph 2, there are various other sanctions which it may be well to review, although this enumeration is not intended to be exhaustive.

There are, for instance, the following procedures :

(a) The interruption of diplomatic and consular relations already referred to in Resolutions Nos. 11 and 12 of 1921.

(b) The non-recognition of territorial acquisitions brought about by force. This principle does not appear in the Covenant, but several Members of the League of Nations have accepted it by becoming parties to the Argentine Anti-War Treaty of 1933. Furthermore, the Assembly confirmed the principle on March 11th, 1932, in connection with the Sino-Japanese dispute.

<sup>1</sup> The Co-ordination Committee in 1935, in Proposal V, outlined a scheme for the application of this principle. (See *Official Journal*, Special Supplement No. 150, page 11.)

(c) Financial assistance to a State which is the victim of aggression. Such assistance is contemplated by the Convention on Financial Assistance of October 2nd, 1930, which has not yet come into force.<sup>1</sup>

(d) Exclusion from the League. This is contemplated by paragraph 4 of Article 16 as a measure to be taken against any Member which has, generally speaking, violated any covenant of the League. It might be applied in the case of Covenant-breaking mentioned in paragraph 1 of Article 16.

(7) *Regional Security Treaties.*

A report on this question, which is linked up with that of the application of Article 16 in general, has been submitted to the Committee.<sup>2</sup>

(8) *Aggression by Non-member States.*

Article 17, which deals with the case of a dispute between two States of which one only is a Member of the League of Nations, is necessary to supplement Article 16. At the present time, when certain large States are outside the League of Nations, the hypothesis mentioned in Article 17 is of considerable importance. It would, however, seem premature to deal with the problem before the Committee has examined all the reports which are to be submitted to it.

(9) *National Preparation.*

Will it be necessary to revert to the point raised in Resolution No. 19 of 1921, in which the Assembly recalled the fact that Governments should take the necessary preparatory measures above all of a legislative character, to enable them to enforce at short notice the necessary measures of economic pressure? When in 1935, in the Italo-Ethiopian conflict, the Co-ordination Committee made proposals relating to sanctions, effect had been given to the recommendation of 1921 in a few countries only. It was found possible, however, to put sanctions into operation in the majority of countries within a fairly short period. It is clear, moreover, from the lessons of experience that the measures to be taken may be so different that the only way of conferring on Governments the authority they may require would be to invest the Executive with general powers to adopt the necessary economic and financial measures to put sanctions into force. The Committee will no doubt be of opinion that it is not necessary for it to examine the problems of municipal public law which the application of Article 16 raises in the different countries. Nevertheless, it will perhaps wish to recall the principle of international law which stipulates that States must put themselves in a position to carry out scrupulously the international obligations to which they have subscribed and that they cannot allege the inadequacy of their own public law as a reason for disclaiming their responsibility.

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<sup>1</sup> It has been signed by some thirty States, three of which have since ratified it (Denmark, Finland and Iran).

<sup>2</sup> See report by M. Paul-Boncour on Regional Pacts of Mutual Assistance (document C.S.P.10). (See page 118.)

Geneva, August 5th, 1937.

ANNEX 10.

REPORT ON REGIONAL PACTS OF MUTUAL ASSISTANCE.

*Report submitted to the Committee by M. J. Paul-Boncour.\**

I. FRAMING OF THE TREATIES OF MUTUAL ASSISTANCE OF 1923 AND OF THE PROTOCOL OF 1924, THE LOCARNO AGREEMENTS AND THE RECOMMENDATIONS OF THE LEAGUE OF NATIONS FOR THEIR EXTENSION.

The fundamental aim of the League of Nations is to organise collective security and to apply Article 8 of the Covenant, whereby the Members of the League "recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety". From the outset, therefore, a connection was established between the concepts of security and disarmament, and the two have remained closely linked down to the present time; in 1924, a third concept was added: arbitration. Thus was established the programme of "security, arbitration, disarmament", and all subsequent efforts to organise peace have been based on that programme.

In 1922, the Temporary Mixed Commission set up in 1920 submitted to the third Assembly a report based on Lord Robert Cecil's proposals,<sup>1</sup> in which it was pointed out that Governments would be unable to disarm "unless they received in exchange a satisfactory guarantee of the safety of their countries", and that it was desirable to restrict the obligation to render assistance — the foundation of security — to the continental sphere. This report provided the substance of the resolutions adopted by the Assembly on September 27th, 1922, recommending either a general treaty of assistance, or *partial treaties*.

The lengthy discussions to which this scheme for mutual assistance gave rise may be reduced (if the criticisms of extra-European countries desirous of emphasising their special position in regard to obligations relating to the Continent of Europe are left out of account) to two main questions round which controversy has always centred.

Generally speaking, in the political sphere, those who are opposed to partial treaties have always asserted that they encourage the formation of new alliances and the division of the nations into rival groups.

From a more special standpoint, and in the technical sphere, many countries feel uneasy about the solution usually adopted concerning the automatic operation of partial treaties, which excludes a previous decision by the Council, so that States not parties to the treaties might be compelled to assume grave obligations without the right to decide the matter for themselves.

These objections will of course have to be met when we come to consider the possibility of extending and strengthening regional agreements, the need for which appears to be even more obvious after the experience of the last few years.

\* \* \*

Confining ourselves for the moment to the historical aspect, we find that the Rhine Pact was intended to provide a practical solution for those difficulties: under that Pact, the assistance obligations did not arise automatically; nevertheless the Pact included, for the first time, the important qualification represented by the case of flagrant aggression, in terms the clearness of which has never been surpassed.

The Locarno Treaty arose as much out of the failure of the general plan for a mutual assistance treaty and of the 1924 Protocol as out of the favourable political conditions created by the movement of ideas resulting from the lengthy discussions which these measures had called forth and their profound repercussion on public opinion, which proves that none of our efforts at Geneva are wasted even when they do not lead to definite results. The scope and contents of this Treaty will be analysed in the second part of the present report.

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The seventh Assembly, in 1926, considered the possibility of extending the Locarno Agreements to other regions.

\* *Note by the Chairman of the Committee*: The Committee to study the Application of the Principles of the Covenant asked a number of rapporteurs to make a survey of the various questions on its agenda, in order to facilitate discussion. The present report has been drawn up in consequence of that decision, and is therefore a purely informative report in no way binding upon the Committee or prejudging its future decisions.

<sup>1</sup> See document A.31.1922, page 13.

At its eighth session, the Assembly recommended that a Committee on Arbitration and Security should be set up, and this was done on November 30th, 1927, by a decision of the Preparatory Disarmament Commission.

The Committee's main achievement was the framing of a model Collective Treaty of Mutual Assistance (Treaty D),<sup>1</sup> which was to be revised and recommended seven years later in the report of the Special Committee on Security,<sup>2</sup> of June 25th, 1934.<sup>3</sup>

This model treaty is based on the Rhine Pact, inasmuch as it combines the elements of non-aggression, conciliation, arbitration and mutual assistance which characterise the Locarno instrument.

On the other hand, it differs from the Pact in the following respects :

- (1) It contains no guarantee of the territorial *status quo* ;
- (2) It provides for no guarantee by third States ;
- (3) It provides for the case of States not members of the League being parties to the treaty ;
- (4) It embodies certain provisions for the peaceful settlement of disputes which, in the Rhine Pact, were relegated to an annex ;
- (5) *It does not provide for the case of flagrant aggression.*

Various other essential problems were also studied by the Committee on Arbitration, but no solution could be found for them in the model treaties of mutual assistance. For instance, the Committee considered the problem of the accession of third States to the treaty of Assistance, the importance of demilitarised zones, the duration of treaties of Assistance and the guarantee against aggression on the part of third States.

Lastly, the Committee on Arbitration and Security, the Third Committee of the Assembly and the Assembly itself, expressly recommended that the Council should lend its good offices to facilitate the conclusion of the assistance agreements.

It is a matter for regret that this recommendation has not been carried out.

## II. MUTUAL ASSISTANCE AND THE DISARMAMENT CONFERENCE (1932-1934).

The question of mutual assistance, and hence of regional agreements, has been closely connected with the work of the Disarmament Conference since 1932. The latter's work depended in fact on the progress made from the point of view of security, as each State would be more prepared to disarm if it was protected by a system of pacts affording genuine guarantees. During those three years, therefore, various proposals were made with a view to improving security by the conclusion of mutual assistance pacts.

These proposals include :

- (1) The French proposals of February 5th, 1932,<sup>4</sup> known as the Tardieu Plan ;
- (2) The French proposals of November 14th, 1932,<sup>5</sup> known as the Paul-Boncour Plan, and including the project for a European pact.
- (3) The draft Convention submitted by the United Kingdom on March 16th, 1933,<sup>6</sup> Annex Y, to which, drawn up by the Committee on Security and dealt with in its report of May 25th, 1933,<sup>7</sup> also contained a proposal for a European pact.
- (4) The report of the Special Committee on Security of June 25th, 1934,<sup>8</sup> based on a French proposal of June 6th, 1934.<sup>9</sup>

1. *The Proposals of February 5th, 1932.*<sup>4</sup> — The proposals submitted by M. Tardieu to the Conference consisted chiefly of military provisions, the most striking feature of which was the proposal to create an international force to be placed at the League's disposal. This force would go to the assistance of the State attacked in accordance with a system of assistance forming a corollary to the military provisions and brought into operation by a decision of the League Council or in virtue of a pact of mutual assistance to which the State attacked was a party. The plan also proposed an innovation in the sphere of "regionalisation" by suggesting that the obligations of each State should be graduated, according as it was situated in another or in the same continent as the country attacked, and according as it had or had not a common frontier with that country.

<sup>1</sup> See resolutions and recommendations adopted by the Assembly in 1928 (*Official Journal*, Special Supplement No. 63, page 40).

<sup>2</sup> Set up by the Disarmament Conference.

<sup>3</sup> For text of the report, see Documents of the Conference for the Reduction and Limitation of Armaments, Vol. III, page 885.

<sup>4</sup> See Documents of the Conference for the Reduction and Limitation of Armaments, Vol. I, page 113.

<sup>5</sup> See Documents of the Conference for the Reduction and Limitation of Armaments, Vol. II, page 435.

<sup>6</sup> See Documents of the Conference for the Reduction and Limitation of Armaments, Vol. II, page 476.

<sup>7</sup> See Documents of the Conference for the Reduction and Limitation of Armaments, Vol. II, pages 679 and 688.

<sup>8</sup> See Documents of the Conference for the Reduction and Limitation of Armaments, Vol. III, page 885.

<sup>9</sup> See Documents of the Conference for the Reduction and Limitation of Armaments, Vol. III, page 884.

2. *The Proposals of November 14th, 1932.*<sup>1</sup> — The plan submitted at Geneva by M. Paul-Boncour on November 14th, 1932, under which the obligations assumed were to depend on the geographical and juridical position of States, provided for three series of obligations becoming successively stricter and more definite, the series by which States would be bound depending on whether they were simply signatories of the Paris Pact or were Members of the League, and, within the League, whether they were or were not situated in continental Europe.

Under the first series of obligations, the parties to the Paris Pact were simply required to consult each other in the event of aggression or to impose certain economic and financial sanctions on the aggressor.

The second series provided chiefly for the loyal application of the provisions of the Geneva Covenant strengthened, if necessary, by those subscribed to by the signatories of the Pact of Paris.

The States in the third category, to which the Continental Europe Pact was to apply, were to have the military support of the co-contracting States on a decision of the Council taken by a *majority vote*, establishing the fact of aggression or that the State had been attacked.

The proposed European pact was discussed at length at Geneva during February and March 1933.<sup>2</sup> Opinions differed widely, especially as regards the question of the area to be covered by the pacts, the possibility for States to accede to a pact signed by third States, and the position of the United Kingdom in regard to the future treaty of European assistance. The problem of the authority competent to decide that assistance should be granted was also raised in connection with the first series of obligations affecting States bound by the Paris Pact but not members of the League.

3. *The Proposed European Pact of May 25th, 1933* (included in the report of the Committee on Security Questions<sup>3</sup> and attached to the draft Convention submitted by the United Kingdom).<sup>4</sup> — Although this project was annexed to the United Kingdom plan, it was not drawn up by the United Kingdom Government. Nevertheless, the latter, by assigning to it in advance a place in the proposals of March 16th, recognised the importance of security questions in connection with the problems raised by disarmament.

The Committee on Security, which drew up the report submitted on May 25th, 1933, had received its mandate from a decision of March 10th adopted by the Political Commission of the Disarmament Conference.<sup>5</sup> The Committee on Security, under the Chairmanship of M. Politis, drew up a draft European Pact, which differed profoundly from the French proposals in that the proposed pact did not involve any new obligation of mutual assistance, but merely facilitated the execution of former obligations, enlarging the scope of some of them (Article 16, paragraph 2).

The *main point of interest in this draft was that it suggested a definition of the aggressor*, which was taken up in the agreements arrived at by certain Eastern European States and registered in the London Treaties of July 5th, 1933.<sup>6</sup>

In accordance with this draft, States were also required to accede to the Convention for Financial Assistance of October 2nd, 1930.

4. *Report of the Special Committee on Security of June 25th, 1934.*<sup>7</sup> — The Special Committee on Security, which was instructed by the Disarmament Conference to examine the French proposal of June 6th, 1934,<sup>8</sup> drew up a report which in substance recommended the Members of the League, when concluding agreements of mutual assistance, to conform to the principles laid down by the Locarno Treaties, the London Agreements of 1933 concluded between twelve States on the definition of the aggressor, and the Balkan Pact, signed on February 9th of that year. The Committee considered that, if States desired to follow the path marked out by these international agreements, they should base their future obligations on the model Treaty of Mutual Assistance of 1928 (Treaty D), which appeared to possess both the quality of elasticity and the advantage of steering a middle course between the various tendencies represented in the League.

Lastly, although they have not been officially laid before the Council, mention should be made of the proposals put forward on April 8th, 1936, by M. Flandin at Geneva. From the point of view of mutual assistance the French Minister for Foreign Affairs reverted to the Tardieu Plan by suggesting the creation of an international force. According to the Flandin suggestions (cf. part to be played by the Council under the Cecil proposals of 1923 and the model Treaty of Mutual Assistance of 1928), the European Commission would facilitate, within the European or regional sphere, the conclusion of treaties of mutual assistance and would also supervise the execution of treaties concluded in the European sphere. The Commission would decide by a two-thirds majority whether any treaty, even an old one, between two European countries, was consistent with the new pact.

<sup>1</sup> See Documents of the Conference for the Reduction and Limitation of Armaments, Vol. II, page 435.

<sup>2</sup> See records of the Conference for the Reduction and Limitation of Armaments, Series D, Vol. 5, pages 31-47.

<sup>3</sup> See Documents of the Conference for the Reduction and Limitation of Armaments, Vol. II, pages 679 and 688.

<sup>4</sup> See Documents of the Conference for the Reduction and Limitation of Armaments, Vol. II, page 476, Article 6.

<sup>5</sup> See records of the Conference for the Reduction and Limitation of Armaments, Series D, Vol. 5, page 56.

<sup>6</sup> See *Treaty Series of the League of Nations*, Vols. CXLVII, No. 3391, and CXLVIII, Nos. 3405 and 3414.

<sup>7</sup> See Documents of the Conference for the Reduction and Limitation of Armaments, Vol. III, page 885.

<sup>8</sup> See Documents of the Conference for the Reduction and Limitation of Armaments, Vol. III, page 884.



### III. REGIONAL PACTS OF MUTUAL ASSISTANCE.

In the following pages we shall briefly analyse only the most characteristic agreements for mutual assistance ; the Rhine Pact of Locarno, the Balkan Pact and the treaties concluded between the members of the Little *Entente*.

1. *The Locarno Pact*.<sup>1</sup> — The Rhine Pact of Locarno, which was concluded on October 16th, 1925, represents the first attempt at a regional organisation of security. After the breakdown of the schemes for a general organisation of security — the Treaty of Mutual Assistance in 1923 and the Geneva Protocol in 1924 — the best way to ensure the success of the new effort seemed to be to limit its contractual scope.

The Locarno Pact is also based on the experience of 1923 and 1924 : its clauses combine mutual assistance with arbitration.

Moreover, of the five signatory States, two — Great Britain and Italy — are guarantors only, two — France and Belgium — are guarantors and guaranteed, while one — Germany — is simply guaranteed.

One article provides for the maintenance of the territorial *status quo*, contrary to the model Treaty of Assistance drawn up in 1928.

The demilitarised zones provided for in Articles 42 and 43 of the Treaty of Versailles are expressly mentioned in the Rhine Pact.

The Convention signed at Locarno, in accordance with the principles which were to be embodied in 1928 in the Treaty of Mutual Assistance, is valid only as between the contracting parties ; the criticisms passed on the treaties concluded between certain States, but covering third States — treaties which have often been alleged by their opponents to be a modern form of the old alliances — are therefore not applicable to it.

Another point of capital importance is the question of the entry into operation of the treaty. The Rhine Pact follows a course midway between the draft Treaty of Mutual Assistance of 1923 and the model treaties of 1928 drawn up by the Committee on Arbitration and Security.

The partial treaties provided for in the draft Treaty of Mutual Assistance of 1923 could be brought into operation without a previous decision by the Council. The application of the Locarno Agreement, on the other hand, was subject in principle to a decision by the Council.

Paragraph 3 of Article 4 constitutes an important exception to this rule by providing that, in case of a *flagrant violation*, the parties will not be required to await the decision of the Council. Nevertheless, this organ will make recommendations *later*, and these are binding on the parties.

2. *The Balkan Pact*.<sup>2</sup> — The Balkan Pact, which was signed at Athens on February 9th, 1934, unites four States — Turkey, Roumania, Greece and Yugoslavia — on a regional basis.

Article 1 of this treaty combines an explicit obligation of mutual assistance with an implicit recognition of the *status quo* in the Balkans and an implicit obligation of non-aggression.

The effect of the pact is not confined, as in the case of the Rhine Pact, to the hypothesis of aggression on the part of a co-contracting State. It is intended to operate chiefly in the event of one of the signatories being attacked by a Balkan State which is not a party to the treaty (Albania, Bulgaria).

The Athens Treaty is *open* to third countries, subject to two conditions :

(1) The country must be situated in the Balkans (this refers to Bulgaria and Albania) ;

(2) The admission of such a country must be agreed to by the original signatories of the pact (this condition is similar to that laid down in the partial treaties referred to in the Lausanne Treaty of 1923, which are also open to third parties, but only after consultation between the original signatories of the treaty in question).

The most original provision of the Balkan Pact consists in a *reference to the definition of the aggressor, which had just been given in the London Agreements of July 4th and 5th, 1933.*

3. *Treaties of the Little Entente*. — The Little *Entente* States are bound by the following bilateral treaties :

Roumania and Czechoslovakia, April 23rd, 1921 ;<sup>3</sup>

Roumania and Yugoslavia, June 7th, 1921 ;<sup>4</sup>

Czechoslovakia and Yugoslavia, August 14th, 1920.<sup>5</sup>

These three initial treaties have been supplemented by the General Act of Conciliation, Arbitration and Judicial Settlement, of May 21st, 1929, and the Organic Pact of the Little *Entente*, of February 16th, 1933.

These treaties guarantee the contracting parties exclusively against *third States*. In this respect, they differ from Locarno and operate in only one of the cases in which the Balkan Pact is to be enforced.

<sup>1</sup> Reproduced in the *Treaty Series of the League of Nations*, Vol. LIV, page 289.

<sup>2</sup> Reproduced in the *Treaty Series of the League of Nations*, Vol. CLIII, page 153.

<sup>3</sup> Reproduced in the *Treaty Series of the League of Nations*, Vol. VI, page 215.

<sup>4</sup> Reproduced in the *Treaty Series of the League of Nations*, Vol. LIV, page 257.

<sup>5</sup> Reproduced in the *Treaty Series of the League of Nations*, Vol. VI, page 209.

The Little *Entente* Treaties deal solely with the hypothesis of an unprovoked attack, without referring to more specific cases provided for in the League Covenant.

Lastly, the Little *Entente* Agreements differ from the Balkan Pact and resemble the Locarno Pact by the place given to provisions relating to arbitration, as laid down in the Belgrade Treaty of 1929.

#### IV. CONCLUSIONS.

The sole object of the foregoing historical survey and analysis was to bring out more clearly the present aspect of the problem of regional pacts, which is more urgent than ever. This problem is, we repeat, more urgent than ever, because it was on account of the serious difficulties raised by the application of Article 16 in 1935 and 1936 that the last Assembly decided to give instructions for a study to be made of the application of the principles of the Covenant — a study entrusted to the various rapporteurs who have now met.

The replies received from the Members of the League concerning the reform of the Covenant differed very widely : some States, in view of the difficulties encountered in connection with Article 16, suggested that this clause should be more or less openly annulled ; others, on the contrary, considered it desirable to strengthen its provisions.

There is one point, however, on which the international community appears to be unanimous — namely, that in the form in which it was applied the system of economic sanctions was not in itself a reliable weapon, capable of deterring an aggressor or making him draw back. This conclusion showed that there was no justification for the view expressed during the discussions on Article 16 in the early days of the League — namely, that as sanctions would be extremely harsh in their operation, they should be applied with moderation and progressivity, so as to lessen their effect. After the experience of 1935 and 1936 the problem might now be said to be one of *rapidity and the employment of all the available means*.

How then, if this should be considered expedient, is the operation of Article 16 and of the measures of compulsion for which it provides to be facilitated in future ?

Among the possible replies to this question mention should be made of the solution suggested by the French Government, whose attitude, adopted immediately after the experience of sanctions, has never varied. The French Government considers that *economic* measures against an aggressor can only be fully effective if they are combined with the *military* measures also provided for by Article 16, or at any rate, with the *possibility of taking such measures*. It is not feasible, to employ them, however, unless a plan for their application is agreed upon beforehand, defining the extent of the obligation of the countries concerned to impose military sanctions and fixing in practice the connection, which under Article 16 is merely established theoretically, between economic sanctions and military sanctions.

*As regards the latter, the Members of the League cannot be asked to consider themselves equally bound at all times and on every occasion.* Moreover, a clear distinction was drawn in the Covenant in this respect between the economic sphere and the military sphere. *Hence the necessity for regional pacts laying down in what cases and under what conditions certain Powers propose to have recourse to military sanctions.*

Needless to say, the conclusion and application of these pacts should in no wise affect the general obligation laid down in Article 16 in the economic sphere, but should, on the other hand, increase its effectiveness. This truth, which is of fundamental importance for the League, should be acknowledged once and for all. If the connection between the two kinds of measures had been recognised and defined at the proper time, there is no doubt that States would have been able to apply economic sanctions more easily and would have adhered to them more willingly.

There is no question of asking States to assume any new obligation ; but it might be desirable :

(1) To suggest a reaffirmation of the principles of the Covenant concerning economic sanctions, and also the possibility of resorting to some measure which would facilitate the application of those principles ;

(2) To take up again — this time with the intention of giving effect to them — the recommendations made by previous Assemblies, inviting States bound by close ties or exposed to urgent dangers to conclude between themselves the agreements necessary for the possible application of military sanctions ;

(3) To consider again the various types of regional pacts drawn up, after very exhaustive discussion, by the Committee on Arbitration and Security in 1928, model D of which refers precisely to military, air and naval assistance.

These types, and particularly model D, should, of course, be brought into line with past experience, especially as regards the question of the authority competent to establish the fact of aggression and, consequently, to set in motion the mutual assistance provided for by the regional agreements. This is a matter of serious concern to many of the States which replied to the enquiry on the reform of the Covenant, and the point was expressed very clearly by Norway.<sup>1</sup>

“ It should be stipulated ”, the Norwegian reply states, “ as a *conditio sine qua non* that they (the agreements) actually constitute part of the League's activities — in other

<sup>1</sup> See *Official Journal*, Special Supplement No. 154, page 85.

words, States which bind themselves to mutual assistance in that way must not usurp the right to decide for themselves whether action should be taken under Article 16, and should not take measures against an aggressor State unless authorised to do so by the Council."

The two following conditions must obviously be fulfilled if regional agreements are not to bring us back purely and simply to the old alliances and lead to the formation of rival groups but are, on the other hand, to represent the fuller application of the principles of the Covenant :

A. The first condition is that referred to in the replies to the enquiry mentioned above : the establishment of the fact of aggression and, consequently, the application of economic sanctions, which would be binding on all States, and of the military sanctions which the contracting States have undertaken to impose should rest with the League Council, in accordance with the letter and spirit of the Covenant, which the partial pacts should strengthen and not oppose.

It is impossible, however, to ignore the experience acquired and the suddenness with which a violent conflict may break out. Following the example set by the Locarno Agreement, flagrant aggression should give the States parties to regional pacts the means of defending each other immediately, the Council's rights being reserved.

It is true that, in the Locarno Agreement, the existence of a demilitarised zone made the definition of the aggressor an extremely simple matter. Fortunately, the Treaty relating to the Definition of the Aggressor, concluded between twelve States and signed in London in July 1933, showed that nothing was easier, if such a result was really desired, than to specify the cases in which the act of violence is so obvious as to make it unnecessary to await the Council's decision before taking action, although the parties would agree beforehand to comply with its subsequent decisions.

Moreover, the League of Nations and the Member States who have the right to inspect the treaties registered with the League should exercise that right more effectively and decide whether the treaties to which the League, by the fact of registering them, gives in some sort its guarantee (whether this is desired or not) are drawn up in such a way as to contribute to collective security or not and to ascertain what guarantees have been provided to ensure that the contracting States do not usurp, to use the expression in the Norwegian reply, the right to decide for themselves a matter involving the enforcement of the common obligations of the League.

B. An essential guarantee might also be provided by the fact that those regional pacts are " open " to such States as wish to accede to them. It is in this that they differ completely from the old alliances and escape the reproach which might otherwise be made by neighbouring States that are not parties to them. A country is not encircled by a group pledged to mutual defence when it has the opportunity of joining that group if it so desires.

But it must be allowed that opportunity.

These, then, are the two main guarantees which might be provided to remove the misgivings, revealed by certain replies to the enquiry, about regional agreements of mutual assistance, the necessity of which cannot be disputed after the experience of the last few years.

As for the question whether the right to undertake mutual obligations should be granted only to States situated in a specified area or whether, on the other hand, such a group might be formed on other common grounds, no precise rule should, we think, be laid down. But in any case this possibility should be provided for.

Neither is it necessary to regulate the duration of these engagements ; whether they are concluded for a long or a short period should depend on the desire of the contracting parties.

A more delicate question remains : Is it possible to leave undecided the point whether the mutual guarantee given by the signatories of the pacts should cover an attack by a third Power or should, on the other hand, be confined to the case of one of the signatories being attacked by the co-contracting parties ? The problem has already been discussed at Geneva but no generally acceptable solution has been found, and, in practice, both types of guarantee have been provided, on the one hand by the Locarno Treaty, and on the other by the Little *Entente* Pact and the Balkan Pact.

The League should, however, show its preference for regional pacts *directed against the aggressor whoever he may be*. These are the pacts which fit most accurately into the framework of the institution and conform most closely to its principles.

Lastly, it may be asked how the regional agreements would be connected up with the Covenant and the Geneva Organisation. The general resolution adopted by the Assembly and the part assigned to the Council in the operation of treaties of mutual assistance would appear to be sufficient. The Locarno Treaties were linked up with Geneva only by the general resolutions adopted after the conclusion of the Treaties at the seventeenth Assembly and by the powers conferred on the Council in the Rhine Pact, powers which the Council simply recognised by implication.

Geneva, November 30th, 1938.

**LEAGUE OF NATIONS**

# Questions relating to Article 16 of the Covenant

NOTE BY THE SECRETARY-GENERAL

In accordance with the resolution adopted by the Assembly on September 30th, 1938, the Secretary-General has the honour to communicate to the Members of the League the report submitted by the Sixth Committee to the Assembly concerning the questions relating to Article 16 of the Covenant,<sup>1</sup> to which are annexed the declarations and observations which have been made before the Assembly and the Committee regarding this article.

REPORT SUBMITTED BY THE SIXTH COMMITTEE TO THE ASSEMBLY ON  
SEPTEMBER 30TH, 1938<sup>1</sup>

*Rapporteur* : THE REPRESENTATIVE OF LATVIA

In dealing with this problem, the Sixth Committee has had before it the statements and observations made during the session of the Committee of Twenty-eight, during the general debate in the present Assembly and during the meetings of the Committee itself. These statements and observations are of the greatest importance, both to the League as a whole and to its individual Members; and it would be beyond the scope of the present report to attempt to make a summary or to give a general description of their contents.

No proposal to amend the Covenant was made to the Committee, and the principles of the Covenant remain unaltered. It is clearly the general view that those principles are right and sound. It was emphasised that recourse to war against a Member of the League, whether immediately affecting any other Member of the League or not, is a matter of concern to the whole League and could not be considered as one in regard to which the Members are entitled to adopt an attitude of indifference, and that, should such a situation arise, there would be consultation between them.

The declarations and observations referred to above have set forth the views held by the Governments in whose name they were made as to the application of the principles of the Covenant, and have in many cases taken the form of statements defining the attitude adopted by those Governments in regard to the obligations which, in their view, membership of the League carries with it in existing circumstances, and in the light of the experience gained and of the practice followed in respect of the application of Article 16.

There is general agreement that the military measures contemplated in Article 16 are not compulsory. As regards the economic and financial measures, many Members of the League have stated that they could not in present conditions consider themselves bound automatically to apply such measures in any conflict. Some other Members expressed the contrary view.

In these circumstances, the Committee has decided to annex to the present report all the declarations and observations on the subject which have been made before the Assembly and the Committee, without expressing any opinion on their contents or on a *de facto* situation which, according to certain delegations, is thus created. The Committee decided to propose that the Assembly should communicate the present report, with its annexes, to all the Members of the League for their information.

In conclusion, therefore, the Committee submits to the Assembly the following draft resolution :

“The Assembly decides to communicate the present report, together with its annexes, to all the Members of the League.”

<sup>1</sup> Document A.74.1938.VII.

ANNEX 1

DECLARATIONS AND OBSERVATIONS MADE BEFORE THE ASSEMBLY DURING  
THE GENERAL DISCUSSION (SEPTEMBER 13TH TO 21ST, 1938)

M. SANDLER (Sweden) :

.....

The stern lessons of events led an earlier Assembly to proceed to an examination of the application of the principles of the Covenant. It is as a result of this examination that we have before us the report of the Committee of Twenty-eight,<sup>1</sup> which is on the agenda of the present Assembly. This report deals only with a limited portion of the vast problems of the future functioning of the League. The conditions which are essential for a useful examination of the problem as a whole do not exist to-day, but within its limited scope (with Article 16 as the direct field of application) the report of the Committee of Twenty-eight deals with an essential problem, a problem which can and should be discussed separately in present circumstances. The report invites Members of the League, and notably the present Assembly, to take stock of the position, to consider carefully what is the real character of the League at the present time, what it has become as a result of the evolution which has taken place. Is it in reality a coercive organisation, or a consultative organisation, or an organisation of an intermediate type?

It is not just because we have before us the report of the Committee of Twenty-eight, which is placed on the agenda for consideration, that this question must be subjected to a searching analysis. The present situation as a whole makes this task a necessity. We cannot evade this serious problem, because we cannot escape the present situation. *Hic Rhodus, hic salta.*

The situation which has been created by practical experience in the field of sanctions has led States Members to consider the position individually, to draw therefrom the conclusions involved for themselves, and to map out their consequent line of policy. Thus, the Swedish Government, in the declarations made by M. Undén in the Committee of Twenty-eight, expressed the opinion that, at the present moment, a compulsory character cannot be ascribed to the system of sanctions, and he added that the Swedish Government was adapting the general lines of its policy to this view. This opinion was fully approved by the Swedish Parliament and demonstrated again by the adhesion of my Government to the common declaration of seven countries, which was recently made at Copenhagen, and from which I would cite the following passage :

“ Convinced that their countries ought to continue their co-operation in the work of the League of Nations, the Foreign Ministers wish to state that their Governments are determined for the future to keep to the course which they have drawn up for themselves by their declarations, according to which, under present conditions and the practice followed during the last years, the system of sanctions has acquired a non-obligatory character. They are of the opinion that this non-obligatory character of the sanctions applies not only to a particular group of States, but to all Members of the League. They are convinced that it is in the interests of the League itself that this liberty of decision is expressly acknowledged. In this spirit they prepare for the discussion of the report put before the Assembly by the Committee of Twenty-eight.”

The present Assembly, having before it the report presented by the Committee of Twenty-eight, finds itself confronted with the following question : Would it be useful or inimical to the general functioning of the League to allow the lack of clearness to subsist which is the result of an obvious divergence between doctrine and practice ? Is it useful or harmful, from the point of view of the general interest, which we are here jointly to uphold, that the situation as it really is should be placed on record ?

I should like to emphasise that, in the opinion of the Swedish delegation, a great disservice would be done to the League and to its future if the Assembly decided merely to ignore this serious problem. I would remind you that the Committee of Twenty-eight, after hearing a certain number of statements by its members, decided, for the reason, amongst others, that many members of the League were not represented on it, not to formulate any opinion on the views which had been expressed and upon the position which had been taken up by those concerned.

This task has been left to the individual Governments on the one hand, and, on the other, to the present Assembly, which now has the matter formally brought before it. For many reasons, there can be no question at the present moment of proceeding to what is described as a reform of the Covenant, either generally or more particularly with reference to Article 16.

However desirable it may be to undertake soon this important task, the situation compels us to reserve the future, with its still uncertain possibilities. What we have to do now is to place on record, provisionally, a practice the effect of which cannot be discounted by silence or by objections.

<sup>1</sup> Document A.7.1938.VII (Ser. L.o.N. P. 1938.VII.1) (*Official Journal*, Special Supplement No. 180).

The Swedish delegation is convinced that it is indispensable, from the point of view of the future evolution of the League, to face facts. This does not imply—as has been pointed out on many occasions, and notably in the Committee of Twenty-eight—that there would be two different standards applied to different Members of the League, and that certain of them would be given exceptional treatment. The fact that the application of sanctions has, in practice, become optional confers upon all States Members the right to decide for themselves what policy they should follow. Therefore, a neutral policy which certain countries, including the one I have the honour to represent, reserve the right to pursue, must be considered as in every way consistent with a loyal interpretation of the duties of States Members.

The Swedish delegation believes it would be in the best interests of the League to avoid on all sides affirming the automatic and compulsory character of sanctions. The advantage of this course would, in my opinion, be appreciable; it would give the fullest effect politically possible to the activity of the League and of its organs, in particular, within the wide framework of Article 11 of the Covenant.

However, if it were to appear from the attitude of certain important States Members that, for some reason or other, objections were raised to the efforts that are being made to bring this ambiguity to an end, I should like to point out, without wishing to refer to the risk of further withdrawals from the League, that the inevitable consequence would be subsequently to weaken the authority of the League in the eyes of the public opinion of my country, for which I am speaking here—a development which I should deeply regret.

If it is not made clear in good time that this or that article of the Covenant has become a dead letter, it is to be feared that other principles of the Covenant will also be regarded by public opinion as being merely of relative force. To maintain in present circumstances an obligation which has proved fictitious in fact is tantamount to allowing a tumour which is constantly growing to remain in an organism and to invade parts which are still healthy.

If, at the present moment, we refuse to adopt a *modus vivendi* leaving to the future any final revision of texts, we shall be perpetuating a state of affairs prejudicial to the useful and confident collaboration of the States within the League and its organisations. It is obvious that such collaboration would give more effective results—while averting the risk of being faced with an impasse—if Members of the League were to refrain from expressing an opinion regarding the right of free judgment which might seriously unsettle public opinion in many Member States.

The Swedish delegation is not prepared to assume the responsibility for allowing this obstacle to the free development of collaboration between States Members to subsist. Therefore, it considers that it is in conformity with the true interests of the League that the real facts of the situation should be placed on record and accepted as they are. Although the attitude of the Swedish Government in this matter does not depend upon this acceptance, the Swedish delegation is anxious to state its views clearly to the Assembly, in the hope that Members of the League will be prepared to acknowledge, in whatever form may be considered to be most suitable, the character of the League as it results from the facts themselves.

As regards the present intermediate period, the fact of admitting the intermediate form of our League would give us the best basis for the restoration of international collaboration, in the service of which, as in the interests of each of our countries, we are assembled here.

M. PATIJN (Netherlands) :

At the end of the world war, in the course of which common endeavour and common suffering had drawn closer the bonds between many countries, the idea of international solidarity had developed to a degree hitherto unknown, and, in particular, this conception took shape in Article 16 of the Covenant. It was by virtue of this article that the Members of the League, being anxious to assist countries victims of aggression, undertook to participate in common action against the aggressor State.

From the outset, however, a distinction was made between economic and financial sanctions on the one hand and military sanctions on the other. In the case of an aggression within the meaning of the Covenant, economic and financial sanctions were to be compulsory, but, in regard to military sanctions, Members reserved their freedom of action.

Already, in the first years of the League's existence, since universality could not be achieved by the new institution, it was realised that too strict an interpretation must not be placed upon the rules of Article 16. The interpretative resolutions and amendments adopted by the Assembly in 1921 are evidence of this. These resolutions stipulated that Article 16 should be interpreted to mean that it was for the Members of the League themselves to decide whether a breach of the Covenant had occurred. As soon as any Member recognised that a certain State must be designated as an aggressor, that Member would be obliged to apply economic sanctions in the attenuated form resulting from the said resolutions. As for military sanctions, the situation remained unchanged.

In 1925, the obligations involved in Article 16 were again qualified. At the Locarno Conference, the Belgian, United Kingdom, French, Italian, Polish and Czechoslovak delegations took up once more an idea which the 1924 Assembly had already formulated when drawing up the Geneva Protocol. The above delegations formally declared, in a letter addressed to the German delegation and attached to the Treaties then concluded, that each State Member of the League is bound to co-operate loyally and effectively in support of the Covenant and in resistance to any act of aggression to an extent which is compatible with its military situation and takes its geographical position into account.

For many years, Article 16 was never applied. When, in 1935, the States Members unanimously designated one Member of the League as the aggressor and decided for the first time to apply the system of sanctions, the Netherlands did not hesitate to do their duty and co-operate in the measures proposed. That application was not successful, and had to be discontinued. On July 1st, 1936, in view of this obvious failure, the Netherlands delegation, acting in conjunction with other delegations, drew the inevitable conclusions and communicated to the Press a statement with which you are familiar and which contains the two following paragraphs :<sup>1</sup>

“ The aggravation of the international situation and the cases of resort to force that have occurred during the last few years, in violation of the Covenant of the League, have given rise in our countries to some doubt whether the conditions in which they undertook the obligations contained in the Covenant still exist to any satisfactory extent.

“ We do not think it right that certain articles of the Covenant, especially the article dealing with the reduction of armaments, should remain a dead letter while other articles are enforced.”

During the two years which have elapsed since this event, developments in the international sphere have been such that the effective application of sanctions as contemplated in the Covenant has become an impossibility.

Several Members, including certain great Powers, have ceased to participate in the work at Geneva, and the ideal of universality of the League has become ever more remote.

At the present time, participation in sanctions would appear to be something wholly different in character from what it was intended to be by the authors of the Covenant and the States which acceded to the latter at the outset. Consequently, a number of Governments have felt obliged to reconsider their attitude towards the problem of collective security.

The Netherlands Government has frequently explained its point of view in declarations made to the Netherlands States-General, and quite recently, on the occasion of the Copenhagen Conference in July last, I associated myself, as Minister for Foreign Affairs, with the common declaration made by the Ministers of States there represented. As my Swedish colleague has just reminded you, our respective Governments have decided to adhere to the policy they had previously mapped out for themselves. That is to say, they consider that, in present circumstances and as a result of the practice followed in recent years, the system of sanctions has acquired a non-compulsory character. We explicitly added that this non-compulsory character holds good, not only in the case of a particular group of States, but for all States Members of the League.

The attitude adopted by the above-mentioned States is the logical consequence of the changes that have taken place in international life. The armaments race, in which all countries are taking part and which runs directly counter to the reduction of armaments provided for in Article 8 of the Covenant, coupled with the absence from Geneva of certain great and heavily armed Powers, has increased the dangers which might ensue for a number of small countries from their co-operation in any action undertaken in pursuance of Article 16. These countries are of opinion that they are no longer able to assume the risks which would be entailed for them by a general obligation to participate in common sanctions with those States which are still Members of the League. In actual fact, they would not, in such circumstances, be associating themselves with an action by the international community as a whole against an aggressor State. What they would be required to do would be to take sides, in a world in which the great Powers, armed to the teeth, formed two opposing camps. This would be a very different situation from that contemplated in the Covenant. If, in accordance with the point of view expressed by the Locarno Powers, participation of States in common sanctions is subordinated to the requirements of their own security, the small States are nowadays unquestionably entitled to make the most express reservations regarding their future participation in such common action. Therefore, as was stated last January<sup>2</sup> in the Committee of Twenty-eight by the Netherlands representative, Professor Rutgers, the League of Nations, which had been originally conceived as a compulsorily coercive society, is now nothing more than an optionally coercive society.

As a result of these events, the distinction which formerly existed between obligations concerning military sanctions on the one hand and economic and financial sanctions on the other has now disappeared.

As far as we are concerned, economic and financial sanctions have now the same optional character as military sanctions, and it is obvious that this applies *a fortiori* to the grant of a right of passage, through the territory of a State, to forces of any Member of the League participating in a common action as contemplated in Article 16, paragraph 3, of the Covenant.

This is a form of sanction which can be likened to military sanctions. In the future, the Government of the Netherlands reserves the right to decide in each particular case, taking account of its military situation and geographical position, whether it will or will not allow armed forces belonging to other Members of the League to pass through its territory.

In the event of the aggressor State's being an adjacent country, so that the passage of the common League forces through Netherlands territory would necessarily lead to a clash on that territory between these armed forces and the forces of the aggressor State, the Netherlands territory would cease to be a mere route to the battlefield and would inevitably become a field of battle itself.

<sup>1</sup> See *Official Journal*, Special Supplement No. 154, page 19.

<sup>2</sup> Document A.7.1938.VII (Ser. L.o.N. P. 1938.VII.1) (*Official Journal*, Special Supplement No. 180, page 14).

It is not in conformity with the spirit of the Covenant or with that of the signatories of the Locarno Pact that a State should thus be compelled to risk its very existence.

What I have said in this connection with regard to Article 16 applies equally to any action which might be undertaken under Article 17 of the Covenant.

Earl DE LA WARR (United Kingdom) :

.....

A great number of the States represented here to-day hesitate before continuing to accept obligations that may involve them in disputes in which what they conceive to be their own immediate interests are not at stake. They have made it clear that, in the present situation of the world and of the League, they regard the system of sanctions as being in fact suspended. Others have, tacitly or openly, recognised the attenuation of the obligations laid on Member States by the Covenant in respect of collective action. Faced with this situation, it is for the Assembly to decide what it should do.

It seems clear to the Government which I have the honour to represent that an honest avowal of the limitations of the League and the re-examination of the original intention of its founders would have the effect of putting it on a sounder basis and of actually increasing its authority and usefulness as an instrument of peace. It was no doubt in this spirit that a number of our fellow members who recently met at Copenhagen issued their joint *communiqué* on July 24th, 1938. The deliberations of those Powers have been followed with the greatest interest by all Members of the League, not only for their intrinsic importance in connection with this particular question, but also because those Powers have never wavered in their support of the League as the practical embodiment of the ideal of international co-operation.

Let me now, in the same spirit, explain as briefly as I can the suggestions of His Majesty's Government in the United Kingdom for dealing with the main aspects of the problem that is before us. I might preface my remarks by saying first that there are certain principles on which this League was founded, set out in the Preamble to the Covenant, on which it is impossible for us to compromise. To these principles we stand pledged, and we are bound at all times to do everything in our power that they may win acceptance. Secondly, I wish to express the firm conviction that the situation in which the League of Nations now finds itself, though one of extreme difficulty, is not permanent, and there is no question, therefore, of our considering any modification of the juridical basis of this institution.

If there is one thing on which I would expect complete unanimity in the Assembly it is that there is nothing essentially wrong with the Covenant. It enshrines ideals which we all hold, and we would gladly see the day approach on which they might be realised. In the meantime, however, the Assembly should recognise frankly the actual situation as regards the so-called coercive clauses of the Covenant. The manner in which this recognition should be accorded by the Assembly will be a matter for discussion in the appropriate Committee, where His Majesty's Government in the United Kingdom will be ready to make clear its attitude. His Majesty's Government ventures to hope that as many other States Members as possible will also be prepared to declare their views.

The view of the United Kingdom Government is that the circumstances in which occasion for international action will arise, and the possibility and nature of the action to be taken, cannot be determined in advance, and that each case must be considered on its merits. Thus, even in a case where a breach of the Covenant has been established in accordance with the usual procedure, there would, in the view of His Majesty's Government in the United Kingdom, be no automatic obligation to apply either economic or military sanctions. There would, however, be a general obligation to consider, in consultation with the other Members, whether, and if so how far, they were able to apply the measures provided in Article 16, and what steps, if any, they could take in common to render aid to the victim of such a breach of the Covenant. In the course of such consultation, each State would be the judge of the extent to which its own position would allow it to participate in any measure that might be proposed and, in doing so, it would no doubt be influenced by the extent to which other States were prepared to act.

I should add, however, that, in reaching this conclusion, His Majesty's Government wishes to make it clear that it regards it as of essential importance for the future of the League to preserve intact the principle that aggression against a Member of the League is a matter of concern to all Members, and not one as to which they are entitled to adopt an attitude of indifference.

M. KOHT (Norway) :

.....

When I made a statement on foreign affairs in the Norwegian Storting on June 24th, 1937, I included therein a clear statement as to the strictly peaceful policy of my country and our attitude regarding Article 16 of the Covenant. I used the following words :

“ Norway does not regard herself as being under the obligation to participate in military sanctions or in warlike measures against a disturber of the peace. Article 16 leaves each State free to decide for itself whether it wishes to participate in such measures,



and Norway is determined to remain the mistress of her own decisions in this matter. I doubt whether the Norwegian people would ever wish to enter a war if they could remain outside it.

“ As regards the obligation which all State Members of the League have assumed under Article 16, to allow passage through their territory to armed forces intended to oppose an aggressor, it must be made clear that such passage could never take place without a special authorisation by the Norwegian Government. The Government would have to take into consideration whether the conditions prescribed for such a passage did, in fact, exist.

“ The consent of the constitutional organs of Norway is also necessary for the application of economic sanctions. The Storting will remember that, in 1935, when sanctions against Italy were under consideration, special decrees had to be promulgated, and each State has the duty and the right to decide for itself whether such sanctions shall be applied.

“ Norway will certainly always be prepared to carry out her obligations under the Covenant, but she has the right to decide for herself whether such obligations arise at any given moment.”

This statement was made at a time when last year's Storting was about to rise. When the Storting met again at the beginning of this year, it was proposed that the policy thus laid down should be confirmed by a formal vote in the Storting itself, and on May 31st, 1938, after a lengthy debate, the latter voted the following declaration :

“ In associating itself with the expression used in the speech from the throne, according to which ‘ the aim of Norwegian policy must always be to keep the country out of armed complications ’, the Storting maintains the right of this country to observe a complete and absolute neutrality in any war which it does not itself recognise as constituting an action undertaken by the League of Nations.”

There you have a clear definition of Norwegian policy on this matter. That policy is in accordance with all the traditions of my country ; it corresponds perfectly to the idea which had been expressed in many other States ; it was reaffirmed in the Copenhagen declaration of July 24th last, adopted by the representatives of seven Governments ; and it was our wish to state it clearly at this Assembly, so that there should be no doubt as to our attitude.

M. KOMARNICKI (Poland) :

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Since the League of Nations has moved farther and farther away from the ideal of universality, and since, for a period the length of which we cannot at present foresee, it has ceased to be an organisation of States which can hope to take decisions having a general application, greater flexibility has in fact been imparted to the Covenant by the practice followed by the League of Nations when confronted with major international disputes.

In the particular case of Article 16 of the Covenant, the attitude of the Polish Government has already been clearly defined before the Committee of Twenty-eight, where, on January 31st this year, I had the honour to make the following statement :<sup>1</sup>

“ Bearing in mind the lessons of recent experience, we must acknowledge that certain provisions of the Covenant cannot be automatically put into force, and that, in these circumstances, it must be left to the judgment of the Members of the League in each particular case whether, and to what extent, they can apply those provisions in a manner which is effective and useful to the cause of peace.”

My Government's point of view coincides with that of several Powers which have defined their views in the joint declaration recently made at Copenhagen. My Government agrees with those Powers that it has the sovereign right to determine the attitude which it must adopt, in each international situation, regarding the application of Article 16 of the Covenant.

M. Wellington Koo (China) :

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The failure of the League to apply consistently the provisions of Article 16 in all cases of aggression has certainly impaired faith and confidence in the Covenant. But, however deplorable, this fact does not constitute a good reason for wishing to abandon its express obligations under Article 16 or for doing away with the article altogether. One does not amputate one's hand merely because it is not always used when needed.

M. MUNCH (Denmark) :

I wish to associate myself with the declarations of the other Ministers for Foreign Affairs who attended the Copenhagen meeting in regard to the obligations of States Members under

<sup>1</sup> Document A.7.1938.VII (Ser. L.o.N. P. 1938.VII.1) (*Official Journal*, Special Supplement No. 180, page 15).

Article 16 of the Covenant. In the case of Denmark, I would remind you that, from the earliest years of the League of Nations, we laid stress on the fact that the effective application of Article 16 depended on two main conditions—namely, the universal character of the international organisation, and the reduction of armaments to the level provided for in the Covenant. It was on that basis that we associated ourselves with the initiative in consequence of which guiding principles were laid down in 1921. In a similar spirit, we stated our views during the 1924 discussions which resulted in the Geneva Protocol containing the formula on sanctions later reproduced at Locarno. This formula was quoted a few days ago from this platform by the Netherlands representative. Later, after the experiences of recent years, seven States, including Denmark, expressed, in July 1936,<sup>1</sup> in a joint *communiqué*, their view as to the application of Article 16 in present circumstances.

It is an undeniable fact that neither of the two conditions just referred to exists at the present time. That is why the full system of sanctions contemplated in Article 16 has in practice acquired, as the Copenhagen *communiqué* puts it, a non-obligatory character. In saying so, we are merely stating a fact which has already been demonstrated by a series of events extending throughout almost the whole existence of the League of Nations. Whenever the question of applying Article 16 has arisen, States Members have taken into account geographical conditions, political consequences and the participation in the action which could be expected from other Powers. It is this very right of free judgment possessed by each State Member that we emphasised at Copenhagen.

I am glad to observe that our views regarding the Covenant and its application are in complete harmony with those expressed this morning by the representative of the United Kingdom.

Count CARTON DE WIART (Belgium) :

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There is one thing which we have come to realise more and more clearly during the last few years : in present conditions, the League is not in a position entirely to fulfil the duties with which the authors of the Covenant thought they could entrust it. This is quite clearly shown in the conclusions reached during the discussions of the Permanent Council of the *Petite Entente* on August 22nd last, and was some months previously expressed in more definite terms by the Prime Minister of Great Britain when speaking of the system of collective security.

Who, moreover, could shut his eyes to such obvious facts ? Events have led Members of the League to adopt a course which is in opposition to that laid down by the article of the Covenant providing for the limitation and reduction of armaments. Two years ago, a group of States considered that the non-application of Article 8 seriously affected the machinery provided for in Article 16, and made express reservations in regard to their participation in the application of that article.

Further, is it necessary for me to mention the weakening of the League resulting from the gaps in its ranks, which militate against common action as understood by those who framed the Covenant ?

Belgium is one of the countries which met at Copenhagen last July and decided to maintain the line of conduct which they had laid down for themselves, their attitude being that the whole system provided for in Article 16 of the Covenant, both as regards economic sanctions and facilities for the passage of troops, had, in the light of present conditions and the practice followed during the last few years, acquired a non-compulsory character.

Is this a new and arbitrary interpretation ; is it an attempt to discard collective obligations for unilateral declarations ? Not at all. As regards the scope of Article 16, there has never, in fact, been any divergence of views among the majority of the Members of the League. Speaking at the Committee of Twenty-eight, the French representative urged the importance attaching in this matter to the practice actually established. The Members of the League, including those who profess the most real attachment to the doctrine of collective security, have in practice conferred an optional character upon Article 16. The response met with by the appeals of States which, as victims of aggression, have called for the application of the League's coercive powers, is proof of this.

The interpretation given to Article 16 by Belgium and several other countries is thus far from arbitrary : it is the interpretation to which the Members of the League have always in practice adapted their attitude. The Belgian Government considers that, like other Members of the League, it has a perfect right to judge whether circumstances warrant, so far as it is concerned, the possible application of Article 16 of the Covenant.

The exact significance which Belgium attributes to the provisions of Article 16 does not in any way depend on the approval of other Members of the League.

In certain countries, an ill-informed section of public opinion is taking alarm at the character which it erroneously attributed to the provisions of Article 16. It is in the interests of the League to bring home to those who share these apprehensions that they are entirely without foundation. That is the justification for the statements with which the Belgian delegation desires to associate itself.

There is another reason. Like other human institutions, the League of Nations cannot live on illusions. While remaining attached to its ideal of peace and international collaboration,

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<sup>1</sup> See *Official Journal*, Special Supplement No. 154, page 19.

it must adjust itself to the facts and be guided by the lessons of experience. Thus, it will have to be content for a time to confine within the limits of present possibilities the hopes it cherishes in regard to those two noble tasks which it has set itself—the reduction of armaments and the organisation of collective security.

M. HOLSTI (Finland) :

A few speakers have already, on behalf of their respective countries, drawn the Assembly's attention to the conditions of application of Article 16 of the Covenant in the light of the experience acquired during the last few years. Finland belongs to the group of countries which made a joint declaration on July 1st, 1936, concerning the interpretation of that article. While maintaining the view expressed at that time, Finland, together with the Scandinavian and certain other countries, desired to define it still more accurately and to acquaint the Assembly with that definition.

On May 20th, 1938, the President of the Finnish Republic confirmed the following text on the recommendation of the Government :

“ Being desirous, in conformity with the attitude unanimously adopted by Parliament, of strengthening the political tendency of the northern group of countries, and of rendering closer the collaboration established between the northern countries with a view to increasing their security, Finland, adhering to the terms of the Declaration made on July 1st, 1936, by the seven States known as the ‘ Neutral States ’ and signed by Finland as one such State, and having regard to the existing world situation, reserves for the time being the right to take a decision in complete liberty in respect of each particular case, and to decide in what cases she would be prepared to apply the provisions of Article 16 of the Covenant.”

As the present attitude of the Finnish Government in regard to the interpretation of the “ Sanctions Article ” is made perfectly clear by the declaration which I have just read, I do not consider it necessary, at the present stage of the question, to dwell on it at greater length.

M. CANO (Colombia) :

It is not easy to foresee how much longer the peoples will be able and willing to tolerate a state of permanent and ruinous watchfulness carrying with it the resigned acceptance, with no hope of a remedy, of worldwide destitution through the methodical destruction of all sources of wealth and the systematic disregard of all principles of human brotherhood. Unhappily, nothing justifies the hope of an immediate cessation of that tragic uncertainty. It is nevertheless reasonable to suppose that a situation so essentially absurd will not prevail indefinitely, or even throughout a long period of years. Should this prove true, we, who still believe that faithful and loyal adherence to the Covenant will be the ultimate and sole means of saving civilisation from impending catastrophe, shall find that not only those countries which have forsaken the League, but also those which have steadily refused to take part in it, and those which look upon it solely as a venerable but futile home of bureaucracy, will turn once again towards this ideal.

Straightforward reasoning, devoid of sentimental dramatisation and of ideological subtleties likely to distort a healthy understanding of international realities, leads us naturally to conclude that, despite its undoubted initial failure and despite the numerous and formidable difficulties which oppose its organisation and functioning, collective security continues to be the single realistic solution which it is possible to apply to the problem of peace.

M. AALAM (Iran) :

Our attachment to the League of Nations and to its ideals of peace and understanding between nations compels me to state once again before the Assembly the view expressed throughout recent years by the Iranian delegation, in particular before the Committee of Twenty-eight, regarding the prospect of a reform of the Covenant, either in general, or with special reference to Article 16.

The Iranian delegation, although recognising that the Covenant, like any other human effort, is not devoid of flaws, and that the course of international events demands certain modifications and adaptations of the rules by which we are guided, believes that this is not a propitious moment to undertake such a task. This is not only the opinion of the Government I have the honour to represent, but also that of the other States signatory to the Pact of Saadabad.

Reform of the Covenant, carried out at a time when the uncertainties are so great that it is practically impossible to forecast the morrow, would fail both to remove existing difficulties and to dispel the apprehensions which surround us.

M. ALVAREZ DEL VAYO (Spain) :

It cannot be denied that the system of collective security set up under Article 16 of the Covenant has failed in the Near East, in Ethiopia, in Austria, in Spain. But recognition of

these failures and their gravity does not mean that the system itself should be abolished. In spite of all, the Spanish Government maintains its faith in the juridical organisation of peace through collective security.

In a word, as against reform, the effect of which would, by eliminating sanctions, be to abolish from Article 16 the essentials it contains for the system of collective security, the Spanish Government urges persistence—persistence in the application of the system, while endeavouring to improve it, to adapt it to circumstances and to make it more vigorous and effective. The historical importance of such endeavours cannot be over-estimated, and Spain cannot accept the responsibility of abandoning them until all efforts to ensure the enforcement of the system have been exhausted.

Now, when the peace of the world is being threatened by events the seriousness and consequences of which are weighing on the minds of the delegations here present, is not the time to indulge in improvisations, the result of which would be to destroy the system of collective security contained in the Covenant.

It is true that the vacillations of the great Western democracies have seriously weakened the system of collective security. This is, however, no argument for destroying an instrument which, if employed with greater firmness of purpose and energy, might yet bring together for the defence of peace all those who are not prepared to allow Europe and the world to sink into the chaos of international terrorism.

Sayid Tawfik AL SUWAIDY (Iraq) :

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As an unwavering supporter of the system of collective security, Iraq can have no illusions as to the realities of the position, for we must take account of the changes which have occurred in international life during the last few years. We shall continue to follow with interest the work of the Special Committee whose excellent survey is on our agenda, without, however, abandoning the hope that in due course it will be possible to return by way of Article 8—as indeed logic requires—to the full application of the system set up by the Covenant.

M. SELTER (Estonia) :

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We are all aware that, as far back as the summer of 1936,<sup>1</sup> seven Members of the League of Nations stated that, so long as certain conditions required for the effective operation of the Covenant had not been satisfied, they would consider themselves compelled to take account of this fact in the event of any application of sanctions.

A certain number of declarations, stating that, in present circumstances, the sanctions arising out of Article 16 of the Covenant cannot be regarded as compulsory, have been made since then either in the Parliaments of the countries concerned or in the Committee of Twenty-eight, or more recently from this platform.

The Estonian Government, agreeing to a large extent with the arguments put forward by the countries of the Oslo Group and by the delegations of the United Kingdom and Poland, finds itself compelled to state that it considers the whole system provided for in Article 16 of the Covenant as having, in present circumstances, acquired a non-compulsory character. The Estonian Government reserves for the time being the right to decide freely in each individual case whether, and if so to what extent, it would be prepared to apply the provisions of Article 16 of the Covenant.

The Estonian Government regrets that the lofty principles of the Covenant should, for the time being, have lost some of their practical value.

M. MUNTERS (Latvia) :

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The experience derived from the one case in which economic and financial sanctions were applied, the non-application of sanctions in several other cases, the discussions in the Committee of Twenty-eight, and the statements by a number of delegates before this Assembly, lead to the conclusion that the system of sanctions must be considered as having in the present conditions acquired a non-automatic character. Consequently, the Latvian Government must reserve to itself the right to determine in each case whether, and if so how far, it is able to apply the measure provided for in Article 16.

The developments which have led to the present position in respect of the applicability of Article 16 may be a matter of regret to those who held an idealistic conception of the doctrine of collective security, but I am in agreement with the representative of the United Kingdom that the Assembly should recognise frankly the actual situation. On the other hand, I find myself in agreement with the principle that aggression against a Member of the League continues to be a matter of concern to all Members.

If it is not with a feeling of ease that we register the present stage of development of the doctrine of security, we do sincerely hope that it is only a period of transition. Meanwhile, it is of vital importance not only to abstain from destructive criticism of the League, not

<sup>1</sup> See *Official Journal*, Special Supplement No. 154, page 19.

only to refrain in word and deed from compromising the great ideas which have inspired the creation of our institution, but also to preserve intact and to strengthen this only imaginable stronghold of peaceful intercourse between nations, the breakdown of which would be an ominous confirmation of what has been called from this platform the crisis of civilisation.

M. QUEVEDO (Ecuador) :

.....

I understand and I fully appreciate—in all their logic and moral lucidity—the force of the arguments and the attitude of certain States which in present circumstances might be placed in imminent danger should the terms of the Covenant be applied integrally at this moment to conflicts which might break out in certain geographical areas.

But if the application of certain provisions of the Covenant were demanded and if that application involved the carrying-out of certain social obligations or the adoption of coercive measures, the carrying-out of those obligations and of those measures would presuppose—more than ever in existing circumstances and in view of past events—the frank and full examination of the intermediate and immediate causes of the conflict and of the critical situation that had arisen. This examination would be made in the light of the various articles of the Covenant, articles which are complementary and may serve to show us where justice begins and ends.

It seems to me, therefore, that it would be very difficult to clarify the obligations of Members towards each other and towards the League of Nations at this moment of anxiety and of general confusion. I fear that that very clarification might lead to a serious split which might weaken still further, or even kill, the League.

In expressing that opinion, I do not mean to say that my Government does not think the Covenant needs reforming. We feel, on the contrary, that some modifications are essential ; I mentioned two in the Assembly of September 1937.<sup>1</sup>

On the other hand, I want to emphasise that neither am I expressing an opinion in favour of a regime of uncertainty under which obligations and coercive measures would be carried out only in certain cases, considered *a posteriori* and on their individual merits. Such a practice might lead to a situation of inequality, unfavourable to States with limited interests and having no great influence on the Members of the League. Indeed, if a general regime of this character were instituted, the Covenant might be applied integrally in some disputes, while in others—though the justice and moral aspect of the problem were equally clear—which did not affect the major interests of a great many States, the Covenant would only be applied partially or not at all.

My intention is just to stress, first of all, a danger—that of reforming or placing a compulsory interpretation on the Covenant at this period of our international life. And, secondly, if the League of Nations had a dispute brought to its notice and were asked to apply coercive measures, all States would have an opportunity of examining the situation and expressing their opinion on it.

M. LITVINOFF (Union of Soviet Socialist Republics) :

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There are inside and outside the League two tendencies, two conceptions of how best to preserve peace. There exists an opinion that when some State announces a foreign policy based on aggression, on the violation of other people's frontiers, on the violent annexation of other people's possessions, on the enslavement of other nations, on domination over entire continents; the League of Nations has not only the right, but also the duty of declaring, loudly and clearly, that it has been set up to preserve universal peace ; that it will not permit the realisation of such a programme ; and that it will fight that programme by every means at its disposal. Within the framework of such declarations, individual Members of the League can and must constitute special groups for the joint defence of individual sectors of the threatened peace front.

It is presumed that States which openly denounce the principles underlying the League Covenant and the Briand-Kellogg Pact, which extol aggression and ridicule international obligations, are inaccessible to persuasion or argument—save the argument of force—and that there is no room for bargaining or compromise with them. They can be restrained from carrying their evil designs into effect only by a demonstration of the force which they will encounter, should they make the attempt.

Naturally, at the least attempt to carry out aggression in practice, there should be brought into play in appropriate measure, and according to the capacities of each Member of the League, the collective action provided by Article 16 of the Covenant. In other words, the aggressor should be met with the programme laid down by the League Covenant, resolutely, consistently and without hesitation. Then the aggressor himself will not be led into temptation, and peace will be preserved by peaceful means.

There is, however, another conception, which recommends as the height of human wisdom under cover of imaginary pacifism that the aggressor be treated with consideration, and his vanity be not wounded. It recommends that conversations and negotiations be carried on with him, that he be assured that no collective action will be undertaken against him, and no groups or *blocs* formed against him—even though he himself enters into aggressive *blocs* with other aggressors—that compromise agreements be concluded with him, and breaches of

<sup>1</sup> See *Official Journal*, Special Supplement No. 169, page 96.

those very agreements overlooked; that his demands, even the most illegal, be fulfilled; that journeys be undertaken, if necessary, to receive his dictates and ultimatums; that the vital interests of one State or another be sacrificed to him; and that, if possible, no question of his activity be raised at the League of Nations—because the aggressor does not like that, takes offence, sulks. Unfortunately, this is just the policy that so far has been pursued towards the aggressors; and it has had as its consequence three wars, and threatens to bring down on us a fourth. Four nations have already been sacrificed, and a fifth is next on the list.

In view of such lamentable results of this policy, we had the right to expect that there would be recognition of its mistaken character, and of the necessity of replacing it by some other policy. Instead we have heard proposals here to make the old policy permanent. Hitherto the aggressor reckoned with the possible reaction of the League of Nations, and showed a certain hesitation in preparing his aggression, carrying it out gradually and in proportion to his growing certainty that there would be no reaction at all. But now we are asked to reassure him beforehand that he need fear nothing at the hands of the League, and that the League henceforward will not apply to him either military or even economic and financial sanctions. At the very worst, he is threatened with moral condemnation, and that, in all probability, clothed in appropriately courteous diplomatic forms.

I have already had the occasion to point out in another place that Articles 10 and 16, with the latent threat of international sanctions contained in the latter, constitute a powerful potential of peace. It is now suggested that we destroy that potential. Hitherto, in spite of the paralysis of the League, in spite of its non-fulfilment of its obligations in many cases, the aggressor still might fear that a moment would come when the League would nevertheless do its duty and rap him over the knuckles. He therefore carried on a tireless campaign against Article 16 through his friends, inside and outside the League. But henceforth he need not worry: he need fear no obstacles, at all events so far as Geneva is concerned.

If anyone should wish to realise the importance for the aggressive countries of the proposed nullification of Article 16, let him study the comments of the Press of those countries on the speeches made at the Assembly on the subject, and the praise lavished on the speakers. Furthermore, we know that certain small countries have been subjected to direct pressure by one aggressive State, which by threats and promises was endeavouring to persuade them to join the movement for the abolition of Article 16.

I shall probably hear the reply that no one has any designs on Article 16, or even on sanctions, and that all that is proposed is to eliminate their obligatory and automatic character. I hope my colleagues will forgive me if I tell them that such a reply can be intended only for very naive people.

Is it not obvious that the whole value of Article 16 lies in its obligatory character, that is, in the objective character of sanctions, which enables every Member of the League to rely on universal aid if it is attacked? But if such aid is to depend on a separate decision in each individual case, if assistance is to be granted to some States and not to others, there can be no question of a feeling of security. And who will agree to make sacrifices and to grant altruistic aid to another State, if the latter declares beforehand that it is under no obligation of reciprocity? Will anyone pay premiums to an insurance company if he is not guaranteed the automatic payment of benefit in cases provided beforehand, and if that payment depends on the quite arbitrary decision of the management of the company?

Abdel Fattah YÉHIA Pasha (Egypt) :

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The League of Nations has been such a great acquisition of the human mind and such a fine and hard-won result of international solidarity that no efforts should be spared to ensure its strength and its permanence.

It cannot but be admitted, however, that the failure of certain parts of this mechanism to work, this mechanism which was so well conceived and so well equipped, has hampered the action of the other parts.

If the free judgment of Members in the application of Article 16, while opening the path to a greater universality of the League, could make its action more certain, nothing could be more desirable. But, in any case, the optionally coercive character of the League's action must strengthen and reaffirm the idea of a collective obligation, of authority in one form or another. Methods must therefore be sought to give a definite shape to this solution and to reconcile it with the necessity of maintaining a collective conscience and a collective obligation.

Tribute should be paid to the moderate and far-seeing spirit which has been shown by the speakers who have come to this platform to defend this solution. So as not to prejudice possibilities for the future, they have not submitted it as a formal amendment, nor even as an interpretative resolution, but simply as a provisional statement of fact, a *modus vivendi*, relieving the Member States of responsibility and which might disappear when political conditions improve.

M. VILLA MICHEL (Mexico) :

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The Covenant as a whole, imperfect as it is, as has frequently been pointed out, nevertheless represents as it stands, and as we have accepted it, the most serious attempt that has ever been

made to establish between States a legal order based on morality, on the observance of treaties—which, however, can be improved and revised—and on international law, which is constantly enriched by new principles evolved in the field of morals or of politics.

The Covenant provides means whereby Governments can freely express their views, and it also provides adequate sanctions to be applied by a tribunal comprising all the Members of the League. In this new legal order, omnipotent, arbitrary sovereignty no longer reigns supreme. The incompatibility of any act of aggression with the covenants entered into is clearly laid down; the sanctions provided correspond to the nature of the offence and cannot be regarded as an unfriendly attack or as an affront to national dignity in the true sense of the term.

We therefore believe it impossible to strip the Covenant of its coercive clauses without jeopardising the vitality of the League. We believe in the imperative moral obligation to preserve the essential principles of its structure, to apply them with the wisdom and impartiality of an honest judge whenever, in the carefully considered opinion of all the Members of the League, the moral and legal order of the world is threatened. The sacrifice of those very fundamentals which make the League a legally organised society would be tantamount to transforming it into a costly conference of States, in which the very basic principles would be ignored.

While my country recognises that it is not in its power alone to rescue the League, it does not desire to be a party to weakening an ideal which has become deeply rooted in the conscience of the vast majority of men and of Governments.

M. LOZORAITIS (Lithuania) :

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Since the institution of the League of Nations inaugurated a policy completely different from that which had been pursued for many centuries, the application of its principles plainly pre-supposed, not only an effort on the part of all States Members, but also the co-operation of forces sufficient to carry those principles into effect.

Furthermore, the ideas on which the Covenant is based had to strike root more deeply and be spread more widely in our present world. Even when the ground had been fully prepared, some experience had still to be gained before the new machinery could stand the test.

That is why the Lithuanian Government has refrained from putting forward any proposal for the reform of the Covenant or the modification of its methods of procedure, particularly since, in its view, the organs of the League can always adapt those methods to meet the circumstances in each particular case.

The Lithuanian delegation therefore maintains its conservative attitude in regard to the League and its ideals. It shares the views expressed the other day from this platform by the delegate of the United Kingdom.<sup>1</sup> It believes, in particular, that the present position of the League, although extremely difficult, is only transient, and that the Covenant reflects the ideal which should inspire us all to work for its realisation while constantly endeavouring to find the most efficient methods to that end.

In view of the statements made by several delegations to the Assembly, the Lithuanian Government considers that, in the present circumstances, the League should not interpret the provisions of Article 16 to mean that it involves an automatic obligation to apply economic and military sanctions—that is to say, an obligation which Members would not be free to examine in each particular case, in consultation with other Member States.

M. COSTA DU REIS (Bolivia) :

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The formidable Article 16 is gradually losing its automatic and coercive character through the fact that powerful States have grouped themselves together outside Geneva, and that very few States are prepared to let themselves be drawn into a conflict in which their territorial integrity and vital interests are not at stake. This has been borne out by the statements made from this platform.

I wonder, then, whether, within these continental and geographical nuclei or regional agreements, the means could not be found to modify the scope of this article. The application of sanctions, which certain States now think should be a matter for their own judgment and individual consideration, might, if necessary, be a matter for these groups. May I recall, in this connection, the words of a European delegate on the Chaco Committee when addressing the American delegates. "Gentlemen", he said, "our wishes will be your wishes. What you will do, we shall do." This statement, which at the time might have appeared a little odd and to be the expression of a certain weariness and indifference, did in fact contain the germ of a truth—namely, that the League can only intervene in disputes through those States which are most closely concerned and directly affected by the conflict.

This aspect of the question which I ask you to consider is, in fact, the result of experience. I will draw no conclusions : I will merely place it on record and bring it to your notice.

<sup>1</sup> See page 5.

ANNEX 2

EXTRACTS FROM THE MINUTES OF THE SIXTH COMMITTEE

FOURTH MEETING

*Held on Thursday, September 22nd, 1938, at 4 p.m.*

*Chairman : M. OLIVERA (Argentine Republic).*

**12.. Application of the Principles of the Covenant of the League of Nations : Report of the Special Committee :<sup>1</sup> General Discussion.**

M. DE VELICS (Hungary) :

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The discussion of this point by the Committee of Twenty-eight at its third session, which had been reflected in numerous speeches during the present Assembly, left no doubt that a very considerable number of Members of the League regarded Article 16 as having lost its obligatory character. Along with the non-member States and Switzerland, these States represented the majority of European States. They had now resolved to seek their security, not in the system of collective sanctions, but in a prudent policy of independence designed to keep them out of any armed conflict that might break out on the continent. It had therefore to be recognised that in Europe, at any rate, no reliance could now be placed on a coalition of all States against a possible aggressor, and the ideal of the defenders of the collective security system was farther removed than ever from reality. Hungary was bound to side with those who considered it impossible to ascribe a compulsory character to Article 16. She would therefore reserve her full and complete freedom of judgment and action on the possible application of that article.

M. Ruíz GUIÑAZÚ (Argentine Republic) recalled that several delegations had made important statements before the Assembly on the application of the principles of the Covenant. Among the speeches in which reference had been made to Article 16, he had been particularly struck by that of Lord De La Warr, who had stated that the circumstances in which international action might be contemplated could not be determined in advance and that each case must be considered on its merits. The first delegate of the United Kingdom had spoken as follows :<sup>2</sup>

“ There would, however, be a general obligation to consider, in consultation with the other Members, whether, and if so how far, they were able to apply the measures provided in Article 16, and what steps, if any, they could take in common to render aid to the victim of such a breach of the Covenant. In the course of such consultation, each State would be the judge of the extent to which its own position would allow it to participate in any measure that might be proposed and, in doing so, it would no doubt be influenced by the extent to which other States were prepared to act.”

At the second meeting of the third session of the Special Committee, on January 31st, 1938,<sup>3</sup> the Argentine delegate, M. Cantilo, had explained the views of his Government and stressed the principles consistently adhered to by the Argentine Republic at League meetings. The Argentine Republic had throughout been guided by the sole aim of making the League the universal organ of collective security.

As M. Ruíz Guiñazú had observed during the discussions of the Advisory Committee set up in 1935, the Government of the Argentine Republic had always considered that the difficulties of applying Article 16 of the Covenant were primarily of an economic and political nature. At that time, the Argentine Government had considered—and had expressed the same opinion in January last—that it was important not only to maintain, but also to reaffirm and approve, by the agreement of all the Members of the League, the resolutions adopted by the Assembly in October 1921, when it had had before it a series of amendments to Article 16. Those amendments had not been adopted, but the Assembly had endeavoured to facilitate the application of that article.

<sup>1</sup> Document A.7.1938.VII (Ser. L.o.N. P. 1938.VII.1).

<sup>2</sup> See records page 5.

<sup>3</sup> See document A.7.1938.VII (Ser. L.o.N. P. 1938.VII.1), page 16.



The resolutions adopted in 1921 created no obligations for Member States. They had, nevertheless, been invoked, accepted and recommended by several States, including the Argentine Republic, which regarded them as guiding principles that should be followed by all.

There was another point to which attention should be drawn—namely, the bringing into harmony of pacts approved by the Assembly on October 4th, 1937. If that was to have any real significance, account should be taken of the guiding principles formulated in 1921. It should be laid down that Members of the League would not merely consult each other in order to determine in each case the measures to be adopted for the maintenance of peace, but would extend the consultation and enquiries to the countries referred to in the above-mentioned resolution which were not members of the League. In that way, the measures adopted would not be based solely on the text of Article 16, but on the concerted will of sovereign States.

If that procedure were adopted, the desire for universality and justice in the mutual relations of organised nations might then become a reality.

M. COMNÈNE (Roumania) said that the problem with which the Committee was faced was so complex and might have so many and such unforeseen consequences for Members of the League, that he was obliged to make a frank statement of the Roumanian delegation's views.

If certain of the statements made before the Assembly and before the Committee had not far exceeded in scope the question of the interpretation and application of Article 16 of the Covenant, the Roumanian delegation would have thought it better not to take part in a discussion which, at a time of unrest and anxiety when international events were moving so rapidly, might conceivably lead the Committee to contemplate the *de facto* if not the *de jure* amendment of the League Covenant.

None could deny that, in present circumstances, certain of the conditions required for normal negotiations were lacking. The atmosphere was not calm enough to enable the Committee to distinguish with an impartial mind between passing phenomena and the permanent factors of international life, which alone should be taken into consideration in any attempt to modify the constitutional charter of the League of Nations.

Moreover, even if it were possible to leave present circumstances out of account, the subjective and objective crisis through which the League had been passing during the last few years could not be ignored. A further attack on the principles underlying the Covenant might aggravate that crisis, and hence deal the League its death blow.

Again, the Roumanian delegation had always considered that the existing provisions of the Covenant were sufficiently elastic to enable the League to adapt itself to the most complex and varied circumstances of international life. It was not by an interpretation of certain provisions of the Covenant that the subjective crisis to which he had referred was going to be avoided. No organisation, no machinery had the power to ensure peace and justice by virtue of its mere existence. Organisations decayed, institutions crumbled, when the breath of life was withdrawn, when they were abandoned, and when the vivifying power of thought and the creative vigilance of action were succeeded by misunderstanding, indifference and incredulity.

In that connection, M. Comnène could, he thought, assert, without fear of contradiction, that the present crisis had been caused, not by the provisions of the Covenant, but rather by the frequent tendency to weaken those provisions by subtle interpretations. The idea of solidarity, which had been one of the mainsprings of the League, had thus crumbled to ashes.

Realising as it did the need for reconciling the legal concepts with the realities of the situation, the Roumanian delegation had reached the following conclusion: in international legal order, there could be no perfect system for the compulsory participation in the application of sanctions so long as the League was not strong enough to remove the fears of certain States that they might be involved in coercive action which, in the case of conflicts in which their interests were not directly affected, might possibly imperil their own security.

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### 13. Application of the Principles of the Covenant of the League of Nations: Questions relating to Article 16 of the Covenant: General Discussion.

Mr. BUTLER (United Kingdom) said that Article 16 was, without doubt, the most important matter with which the Committee had to deal. It was at the same time one of the most difficult. Those who had studied the report on universality<sup>1</sup> submitted by his predecessor, Lord Cranborne, to the Committee of Twenty-eight would realise the immense difficulties which must arise if any attempt were made to alter the so-called coercive clauses of the Covenant in the direction either of strengthening or of diminishing them. It appeared certain, moreover, both from the statements made in the Committee of Twenty-eight itself and from declarations made outside it, that no agreed resolution on the subject would be possible. As the United Kingdom delegate, Lord De La Warr, had said in the Assembly,<sup>2</sup> the only point on which all would agree was that there was nothing inherently wrong with the

<sup>1</sup> See document A.7.1938.VII (Ser. L.o.N. P. 1938.VII.1), page 41.

<sup>2</sup> See page 5.

provisions of the Covenant in themselves, whatever adjustments might be desirable to meet temporary conditions.

At the same time, it was evident from other statements—in particular, speeches made at the plenary meetings of the present Assembly—that certain Governments, among them that of the United Kingdom, felt it essential in present circumstances to define their own position in regard to Article 16.

The question arose, therefore, of the procedure to be adopted for giving recognition to the actual situation regarding Article 16, and the position taken up on that matter by a number of Governments. Mr. Butler suggested that they should proceed in the following manner. It should be recognised that the principles of the Covenant remained unaltered. But those Governments which felt it necessary in present circumstances to define the manner in which they would interpret their obligations under Article 16 would do so in declarations which would be formally recorded in the proceedings of the Sixth Committee. The Committee would then, while expressing no opinion as to the contents of those declarations, take note of the situation of fact created by them and would report accordingly to the Assembly.

Before reading the declaration which the Government of the United Kingdom felt bound to make regarding Article 16, Mr. Butler wished to draw attention to the fact that it had purposely been framed in general terms—that was to say, not merely as a statement of the attitude which the United Kingdom Government would itself adopt, but in the form of certain general propositions which were believed to be applicable to the present situation and which might perhaps commend themselves to other Governments whose points of view were the same.

The declaration of the Government of the United Kingdom concerning Article 16 was as follows :

“ The text, structure and juridical effect of the Covenant remain unaltered. In view, however, of the special circumstances existing at the present time, His Majesty’s Government in the United Kingdom will interpret its obligations under Article 16 of the Covenant in accordance with the following propositions, which apply equally to the case where Article 16 becomes applicable by virtue of paragraph 3 of Article 17 :

“ (1) The circumstances in which occasion for international action under Article 16 may arise, the possibility of taking such action and the nature of the action to be taken cannot be determined in advance : each case must be considered on its merits. In consequence, while the right of any Member of the League to take any measures of the kind contemplated by Article 16 remains intact, no unconditional obligation exists to take such measures.

“ (2) There is, however, a general obligation to consider, in consultation with other Members of the League, whether, and if so how far, it is possible in any given case to apply the measures contemplated by Article 16 and what steps, if any, can be taken in common to fulfil the objects of that article.

“ (3) In the course of such consultation, each Member of the League would be the judge of the extent to which its own position would allow it to participate in any measures which might be proposed, and, in doing so, it would no doubt be influenced by the extent to which other Members were prepared to take action.

“ (4) The foregoing propositions do not in any way derogate from the principle, which remains intact, that a resort to war, whether immediately affecting any of the Members of the League or not, is a matter of concern to the whole League and is not one regarding which Members are entitled to adopt an attitude of indifference.”

*The continuation of the discussion was adjourned to the next meeting.*

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FIFTH MEETING

*Held on Friday, September 23rd, 1938, at 3 p.m.*

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*Chairman : M. OLIVERA (Argentine Republic).*

21. **Application of the Principles of the Covenant of the League of Nations : Questions relating to Article 16 of the Covenant : General Discussion (continuation).**

The CHAIRMAN read the following letter, dated September 23rd, 1938, from the delegate of Luxemburg :

[*Translation*].

“ Acting on instructions from my Government, I have the honour to make the following declaration, and to request you to bring it to the notice of the Sixth Committee :

“ The Government of Luxemburg has always maintained that the geographical situation of the country and the complete absence of adequate means of defence compel it,

as a Member of the League of Nations, to maintain its traditional policy of neutrality, believing as it does, moreover, that this policy is now, as in the past, in the general interests of peace in this part of Europe.

"In so doing, the Luxemburg Government is keeping to the general principle so often laid down by the Assembly and the Council that co-operation in the work of the League necessarily varies for each country, according to its geographical situation, and the circumstances prevailing in regard to its armaments.

"It was in this spirit also that it acceded to the declaration of the countries which attended the Conference of Copenhagen in July last.

(Signed) Albert WEHRER,  
Delegate of Luxemburg."

The CHAIRMAN then read the following declaration which he had received from the delegations concerned :

"With reference to the proposal submitted by the United Kingdom delegation on September 22nd, 1938,<sup>1</sup> concerning the procedure to be followed for dealing with Article 16—and possibly Article 17—of the Covenant, the delegations of Belgium,<sup>2</sup> Denmark,<sup>3</sup> Finland,<sup>4</sup> Luxemburg,<sup>1</sup> the Netherlands,<sup>6</sup> Norway<sup>5</sup> and Sweden<sup>7</sup> desire to refer to the statements made by them severally in regard to Article 16 at the present session of the Assembly and request that the Sixth Committee take note of this fact."

M. KOMARNICKI (Poland) endorsed the reasons underlying the declarations just read, and requested the Committee to take note of the Polish delegation's declaration on the subject in the Assembly.<sup>8</sup>

M. MUNTERS (Latvia) made an identical statement on behalf of his country.<sup>8</sup>

M. VILLA MICHEL (Mexico) recalled that the Mexican Government had stated, in the Special Committee<sup>9</sup> and in the Assembly,<sup>10</sup> that it did not wish any interpretation of the Covenant to be adopted which was at variance with the compulsory and general character of the coercive provisions of that instrument.

Mexico did not wish the League to be deprived of the power necessary for it to achieve its essential objects. Such an interpretation, even if it were only provisional, would involve a radical change in the League, which would thus become a very different institution from what it now was and from the conception underlying its constitution.

The Mexican Government had always held that, as soon as the Members of the League had established the fact of aggression, they were all under an obligation to impose economic and financial sanctions.

In other words, the Mexican Government considered that the general and compulsory imposition, by all Member States, of economic and financial sanctions followed immediately, under the terms of the Covenant, from the establishment of aggression by the competent organ of the League, as soon as a State had had recourse to war in violation of its undertakings under Articles 12, 13 or 15.

M. Villa Michel referred the Committee to the statement made on February 1st, 1938, in the Special Committee for the application of the principles of the Covenant and to his own statement in the Assembly on September 21st, 1938.

M. KAASIK (Estonia) said that the Estonian delegation desired to refer to its statement in the Assembly on September 19th, 1938,<sup>8</sup> and to direct the Committee's attention to that statement.

The Right Hon. Ernest LAPOINTE (Canada) said that the Committee of Twenty-eight, of which Canada had been a member, had been unable, after eighteen months of careful study and examination, to reach any conclusion or submit any agreed proposals regarding the general question of the application of the principles of the Covenant. A number of countries had, however, decided to carry the discussion further and, in particular, to define their attitude with regard to the question of the applicability of Article 16 in the light of existing conditions. He desired to state his Government's views.

In the discussions in the Assembly on the question of the applicability, in the conditions in which the League found itself, of the sanctions provisions set forth in Article 16 of the Covenant, various speakers had developed the view that the League had now become, by force of circumstances, an organisation intermediate between a coercive and a purely consultative body and that the system of sanctions, as a result of present circumstances and the practice followed in recent years, had acquired a non-obligatory character. The Canadian Government did not dissent from that view. It had already taken up a very similar position both in Geneva and in Canada.

The Prime Minister of Canada, at the seventeenth Assembly<sup>11</sup> had expressed the view long held in Canada, as in many other Member States, that automatic commitments to the

<sup>1</sup> See page 15.

<sup>2</sup> See page 7.

<sup>3</sup> See page 6.

<sup>4</sup> See page 8.

<sup>5</sup> See page 5.

<sup>6</sup> See page 3.

<sup>7</sup> See page 2.

<sup>8</sup> See page 9.

<sup>9</sup> See document A.7.1938.VII (Ser. L.o.N. P. 1938.VII.1), page 29.

<sup>10</sup> See page 11.

<sup>11</sup> See *Official Journal*, Special Supplement No. 155, page 68.

application of force was not a practical policy, and had stated that any decision on the part of Canada to participate in war would have to be taken by the Parliament or people of Canada in the light of all existing circumstances. That view had been re-affirmed by the Canadian representative in the Committee of Twenty-eight and by the Prime Minister on May 24th, 1938, in the Parliament of Canada when reviewing the whole position of Canada in its relations with the League in the light of existing circumstances.

The Canadian Government never had, and did not now, claim a special position for itself. It had set forth a position which in its view would be applicable to any Member of the League. Any other view would be difficult to adopt, without completely disregarding the developments which had taken place since the League was founded and the realities of the existing situation. The substantial universality contemplated in the Covenant and essential for the effective working of the League had never been attained, and the situation was now less promising than at any time since the League was first established. Article 8, respecting disarmament, had never been implemented. Article 19, providing for peaceful change through the revision of treaties that had become inapplicable and the removal of conditions that constituted a threat to the maintenance of peace, had never been used. Clearly, it would be inadmissible that Article 16 should remain operative while those important provisions of the Covenant, on which the satisfactory functioning of the League was based, were never implemented. Moreover, the provisions of Article 16 had never been applied in their entirety. They had been partially and temporarily employed in the conflict between Italy and Ethiopia and had never been employed at all against the aggressor in the case of conflicts in America and Asia. By practice and consent, the system of sanctions under the Covenant had ceased to have effect. Sanctions had become non-automatic and non-obligatory, and the interpretation developed as regards one region could not be limited to that region alone.

At the present stage in the evolution of the League, emphasis should be placed rather on conciliation than upon coercion. The best basis of League activity under existing conditions would be to concentrate on conciliation and on co-operation, on shaping and focussing world opinion and organising and strengthening the forces of goodwill in the world for effecting the adjustment of conflicting national aims. The League was passing through a period of difficulty and disappointment, but if the undeclared wars now raging could be prevented from spreading further, and the tension existing in other regions could be assuaged without recourse to violence, a time might come again when the League could become an effective agency for the preservation of peace and genuine international collaboration.

Mr. CAMPBELL (New Zealand) said that the New Zealand delegation held that, in present circumstances, discussion on the Covenant could serve no useful purpose. Since, however, the matter was being discussed and was the subject of formal statements on behalf of Governments, he desired to state, on behalf of New Zealand: first, that New Zealand retained her faith in the League and in the Covenant, as they were, and in the policy set out in the letter addressed to the Secretary-General by the Prime Minister of New Zealand on July 16th, 1936;<sup>1</sup> secondly, that holding those views, New Zealand could not support any resolution, interpretation or declaration the effect of which would be to weaken the principles of the Covenant; thirdly, that New Zealand would willingly take her part with others in maintaining those principles; and, lastly, that New Zealand was in complete accord with the views expressed by the representatives of the United Kingdom and of other countries, regarding Article 11 of the Covenant and the separation of the Covenant from the Treaties of Peace.

M. PAUL-BONCOUR (France) noted that the declaration made by the New Zealand delegate corresponded with that made the previous day by the Roumanian Minister for Foreign Affairs.<sup>2</sup>

Were it not that he had a very deep professional respect for procedure—which was never to be despised, as it was the bulwark of freedom of discussion—he would immediately have supported the view expressed by the delegate of Roumania and endorsed by the delegate of New Zealand—namely, that the present discussion and re-examination of the principles of the Covenant, was, in the circumstances, somewhat untimely and even, from some points of view, painful. It was no one's fault, however, that the report of the Committee of Twenty-eight had been laid before the Assembly and referred to the Sixth Committee.

The French delegation felt that it would be discourteous to the other delegates, in particular to the United Kingdom delegate, not to join in the debate. It was grateful to the United Kingdom delegate for having suggested a method which, in the present difficulty, placed delegations most at their ease.

Like the Roumanian Minister for Foreign Affairs, M. Paul-Boncour could not support any motion, in any form, which would modify either the letter or the spirit of the Covenant. He had no difficulty, however, in agreeing to the method proposed by the delegate of the United Kingdom under which various delegates, duly provided with instructions from their Governments, made declarations and drew attention to the difficulty which, in given circumstances, they might experience in fulfilling certain obligations. The frank way in which they had stated their difficulties bore witness to their loyal desire to continue to meet those obligations.

<sup>1</sup> See *Official Journal*, Special Supplement No. 154, page 6.

<sup>2</sup> See page 14.

The Committee had heard a certain number of those declarations ; and the shortest of them were not necessarily the least weighty. Under the terms of the arrangement proposed by the United Kingdom delegate, the text, structure and juridical effects of the Covenant were to remain unaltered ; the Committee, without expressing an opinion on the tenor of the declarations, was to take note of the *de facto* situation thereby created and report to the Assembly accordingly. That, moreover, was the procedure finally adopted as a result of the long and very conscientious work done by the Committee of Twenty-eight.

After all, perhaps it was not a bad idea to take a clear view and to see exactly what, in present circumstances, were the possibilities and limits of collective security, the burdens and benefits of which (as the words themselves indicated) were not confined to a few States but extended to the whole international community as represented by the League of Nations. If, in such circumstances, certain States were reluctant to assume sole responsibility for such collective security, that was perhaps due to the fact that it now seemed to them no longer to command the backing of economic sanctions, the paramount need for which the so-called " ideological " Covenant—with keen appreciation of existing realities—so fully appreciated, at a time when, whether voluntarily or not, illusions or hypocrisies were paving the way for barbarous attacks. War was not a local but a general phenomenon, and, as the cases of Spain and China proved, it was not short but protracted when the nations concerned were able to defend themselves. This combination of economic conditions—of economic sanctions, to give them their proper name—together with the military power wielded by only a few great Powers, was the only way of discouraging an aggressor.

In spite therefore of circumstances—or even because of them—M. Paul-Boncour reminded the Committee of his declaration to the Committee of Twenty-eight and of the cry of alarm or warning he had then uttered.<sup>1</sup> He did not think that he had been contradicted by events. He paid a tribute to the frank way in which delegates had described their anxieties, doubts and difficulties regarding the discharge of certain obligations ; and he would recall also the sympathetic and even friendly way in which he had tried to realise those anxieties, so much so that the delegates in question had then gathered from his observations some of the assurances which they desired. Disregarding formalities, and with apologies for referring to the fifteen years during which he had placed his whole faith in the League of Nations and devoted his whole existence to working for it, M. Paul-Boncour warned all his colleagues that it was not the time for weakening the Covenant still further. It was no one's fault that the gravest events and the most dramatic negotiations conducted since the end of the last war were taking place outside the League of Nations ; but they were all responsible for guarding the temple and not allowing anything in it to be touched, if possible. A time might come when one would be glad enough to take refuge there, should the world one day tire of yielding to the demands of force. In that belief, and with the desire to reconcile deserving points of view, while putting Article 16 in its right place, a prominent though by no means an exclusive place, and realising that there were many ways of avoiding its actual enforcement, M. Paul-Boncour made the following declaration :

" The Government of the French Republic considers that the provisions of Article 16 should not cause the other provisions of the Covenant to be overlooked. It holds, in particular, that if the League had been bolder in settling disputes between its Members, the hesitations about Article 16, which is essential for preserving the balance of the Covenant and for maintaining peace, would not have assumed their present gravity.

" The Government of the Republic does not propose to discuss in this Committee the various interpretations which have been, or may be, offered regarding the obligations arising out of Article 16. It pays a tribute to the loyalty of the States which have put forward those interpretations : but it cannot shut its eyes to the dangers which some of those interpretations might constitute to international order.

" It recognises that, in order to understand the position of particular States in this connection, it may be necessary, as the 1921 Assembly realised, to make equitable allowance in conformity with the legal doctrine applied on October 7th, 1935, for their geographical situation, their economic circumstances or even the attitude of other States.

" Subject to that reservation, the Government of the French Republic considers that the obligations arising out of Article 16 in the case of Members of the League must be construed in the sense that each State Member is bound to collaborate loyally and effectively in securing respect for the Covenant and in opposing aggression.

" It is the duty of each State to decide its own action in accordance with the loyalty due to the obligations of the Covenant and to treaties.

" Article 16 remaining in its present form, the principles which it embodies, though their value may momentarily be diminished, will regain that value in more favourable circumstances.

" Whatever flexibility *de facto* may be imparted to the obligations arising out of Article 16 it is imperative that, whenever the question of their enforcement arises, the situation should be reviewed by the Members of the League of Nations in concert ; and the latter are not free to assume an attitude of indifference regarding resort to war, whether it directly affects a Member of the League or not."

M. UMAÑA-BERNAL (Colombia) said that, as it had already stated during the general discussion in the Assembly,<sup>2</sup> the Colombian delegation still hoped that the League of Nations

<sup>1</sup> Document A.7.1938.VII (Ser. L.o.N. P. 1938.VII.1), pages 31 to 34.

<sup>2</sup> See page 8.

would make a new and more successful effort to achieve the objects for which it was created, before admitting the uselessness of the instruments at its disposal to guarantee the security and independence of States.

Article 16 was one of those instruments and until experience showed the necessity or expediency of abrogating or amending it, it should be kept in its original form as an expression of the common desire to defend jointly the right of all nations to live in peace.

The Colombian delegation recognised and shared the desire of the United Kingdom to find a compromise formula between the two conflicting views expressed in the Committee, and would like to contribute in the same spirit to promoting the agreement which the Committee was seeking. Unfortunately, the solution proposed would not remove any difficulty and might, on the contrary, create many others. It did not satisfy the aspirations of delegations which, for reasons deserving of the greatest respect no doubt, wished to see Article 16 abolished *de facto*, since it was clearly realised that one or more unilateral declarations to that effect would have no juridical consequence. Everyone knew that an Assembly resolution adopted by a majority vote was not obligatory. The mere fact, however, of the Assembly deciding to take note of such declarations introduced a new element of disorder into the already rather chaotic interpretation of the Covenant.

It was urged that, in present circumstances, it would be senseless to insist on the League of Nations putting its conciliation machinery, and, *a fortiori*, its defensive machinery, into operation to conjure the dangers of a new war in which there would be no neutrals. The Colombian delegation respected that opinion, but agreed also that now was not the time to make public and solemn profession of pessimism, of lack of confidence and of hesitations. If, from an elementary duty of discretion, it was taking good care not to disturb in any way the efforts that were being genuinely and willingly made outside the League to render war more difficult, it was equally natural that it should endeavour to maintain the remnant still left of that institution, which could be and would surely be the second line of defence of the armies of peace. It would also be prepared to consider, under more favourable circumstances and in a clearer atmosphere, any reasonable amendments which needed to be made in the Covenant through the normal channels, with a view to making it more effective and more generally accepted.

Finally, in case the Committee adopted the procedure suggested by the United Kingdom delegation, the Colombian delegation forthwith entered a formal reservation to the effect that such declarations, even if noted by the Assembly, in no way affected the obligations and rights which the League Covenant imposed on or granted to States in application of the principle of collective security. It asked for that declaration to be inserted in the report and duly noted by the Assembly.

M. Wellington Koo (China) said that, in the Chinese delegation's view, the declaration of the United Kingdom<sup>1</sup> was so broad in its scope and would be so far-reaching in its effect that it called for the utmost candour in any comments upon its terms. Before dealing with the four points of that declaration, he wished to consider its probable effect upon certain general principles advocated by all peace-loving nations, including notably the United Kingdom.

The method of weakening or abandoning treaty obligations by unilateral declaration, if generally resorted to, would serve only to undermine further the established basis of international order and stability and to render the organisation of peace even more difficult. The idea of subordinating the general question of peace and security of all Member States to considerations of individual national policy, irrespective of solemn undertakings under the Covenant, would be interpreted by the peoples of the world as a step backward in the common effort to build up a durable peace in the future. It might even add to the existing confusion of outlook. If, as was proposed, individual choice was to take the place of collective action in defending peace and resisting aggression, the sacrifice of the principle of collective security would be complete.

M. Wellington Koo desired now to comment on the four points of the United Kingdom declaration.

Point 1 declared that the circumstances under which international action under Article 16 might be contemplated and the nature of that action could not be determined in advance. That, he submitted, was in direct opposition to the letter and spirit of Article 16, since, according to its existing terms, the circumstances in which international action under that article was contemplated were clearly defined. They consisted in a resort to war in disregard of covenants under Articles 12, 13 or 15 (as stated in Article 16) and a refusal to accept an invitation of the League and resort to war against a Member of the League (as provided in Article 17, paragraph 3). The suggestion that each case must be considered on its merits would make that definition almost meaningless.

To say that there was no unconditional obligation on States Members to take the measures provided for in Article 16 was to deny the force and significance of the phrase "hereby undertake immediately" in the first paragraph. Both in the letter and in the spirit, the language of that paragraph, as regards the automatic character of the obligations, was clear beyond all doubt.

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<sup>1</sup> See page 15.

As regards the consultation referred to in point 2 of the United Kingdom declaration—was it intended to take place within the framework of the League of Nations? To say that only a general obligation existed to determine when and to what extent it was possible, in a specific case, to apply the measures provided for in Article 16 was really to regard the word “all”, repeated three times in paragraph 1 of Article 16, as devoid of meaning and to claim the right of interpreting the existing obligations under Article 16 in any way that individual Member States might desire and, if necessary, to interpret them out of existence altogether.

Point 3 of the United Kingdom declaration carried with it the same implication, since it regarded the clear obligations under Article 16 not in the light of their automatic character, but merely as a matter for individual appraisal and judgment.

Point 4 of the United Kingdom declaration noted that recourse to war was the concern of the League as a whole. The reason for recalling that fact was not clear, especially in view of Article 11, paragraph 1, which said the same thing, unless that restatement was intended in fact to replace the first few lines of Article 16, declaring :

“ Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League . . . .”

In the view of the Chinese delegation, the proposed interpretations, if agreed to by the Assembly, would really amount to a fundamental revision of the Covenant, without using the word “revision”. The provisions of Article 16 constituted the main pillar in the edifice of peace embodied in the Covenant. The effect of those interpretations, if adopted, would seriously undermine the very foundation upon which the hope of building up a permanent peace rested. For it would mean that, while the form of Article 16 was preserved, its soul had been removed. The terms in which it was proposed to interpret Article 16 were so radical and far-reaching that a frank and open revision of that article could not result in more fundamental changes in effect; if those interpretations were accepted, they would in fact have the force and effect of amendments to the Covenant. If amendments were intended, recourse should be had to the procedure provided for in Article 26 of the Covenant itself. The Committee would be entitled, in studying those unilateral interpretations, to consider them as amendments to the Covenant and to take note of their bearing and effect, not only upon the fundamental principles of collective peace, but also upon the future of the League as an institution to defend the cause of peace.

The Chinese delegation's views in regard to Article 16 of the Covenant had been stated before the League on several occasions, more particularly in the Committee of Twenty-eight; it was not necessary to reiterate them. The Chinese delegation believed in preserving intact both the form and the substance of Article 16. It felt convinced now as ever, that the cause of peace and the future of the League would be well served by so doing and by the loyal discharge of the obligations of membership under the Covenant, particularly those obligations under Article 16, when the occasion for their fulfilment arose.

The Chinese delegation found itself unable to reconcile its opinion with the United Kingdom delegation's interpretation.

M. ALVAREZ DEL VAYO (Spain) desired to reiterate the view of the Spanish Government. In the latter's opinion the alternative was: either the terms of Article 16 were clear and definite and in such case unilateral interpretations were superfluous and therefore dangerous, or they were not clear, and in such case the logical attitude would be to consider amending them forthwith.

The Spanish Government believed that the terms of Article 16 were perfectly clear and definite and saw no need for making special declarations regarding them. It feared also that unilateral interpretative declarations might have the effect of decreasing the value of the system of collective security contained in Article 16.

The Spanish Government reaffirmed its faith in the system of collective security, notwithstanding the temporary malady through which it was passing. In any case, no salvation would be found by making concessions or displaying weakness.

The Spanish Government was increasingly convinced that with energy, firmness and tenacity the existing difficulties could be overcome. In no case could it approve of anything which would directly or indirectly help to weaken the provisions contained in Article 16.

M. LITVINOFF (Union of Soviet Socialist Republics) said that he had little to add to what he said in the Assembly<sup>1</sup> on the political and practical significance of the limitations proposed in the application of Article 16. The statements made in the Sixth Committee called, however, for some remarks.

One of those statements was to the effect that the text, structure and juridical effect of the Covenant must remain unaltered. Until now it had been considered that, in the event of aggression, the sanctions provided under Article 16, save for military sanctions, were binding on all League Members. Otherwise, that is, if there were no general obligations, and if every Member had the right arbitrarily to determine the measure of its application of sanctions,

<sup>1</sup> See page. 10.

there would be no point in the movement to alter the existing situation or in the declarations which had been made. In confirming that the juridical status of the Covenant remained unaltered, the authors of those declarations evidently wished to convey that they reserved the right, in certain cases, to infringe the legal obligations incumbent upon them under the Covenant. Representatives of States Members of the League could not be prevented from making statements about their policy and their attitude towards their obligations, nor was it possible to prevent those statements from being reproduced in the records of the League, but such unilateral statements had no juridical meaning whatsoever and were relevant rather to the sphere of international morality and loyalty to obligations undertaken.

A declaration made beforehand concerning the eventual non-fulfilment of obligations did not in any way reduce the political and moral significance of such non-fulfilment. M. Litvinoff felt it his duty to draw attention to the conclusions which must follow from such declarations.

(1) Breaches of international obligations, hitherto thought to be the privilege of a certain type of aggressor State—confessing only the faith that might is right, ridiculing all principles of international law and morality, and borrowing those principles, even when stamped as democratic, only when it suited their purposes—from now onwards became the prerogative also of other States, which continued to proclaim their fidelity to the ideals of the League of Nations. That situation had received confirmation, during the last few days, at the hands of some States outside the League. The principle of the sanctity and inviolability of international obligations was apparently to become a thing of the past.

(2) Now that some States reserved the right themselves to determine their attitude towards sanctions, the door was opened wide for every kind of secret negotiations between the aggressors and League Members, the application of sanctions thus becoming an object of barter.

(3) Even before, certain smaller States had feared the anger of international highwaymen to whom sanctions might be applied. They had at least had some excuse in the compulsory nature of sanctions, and could plead that they were bound to do their duty before the League. They must now lose that excuse, since it was to be a matter of voluntary decision, which meant that they would be subjected to even greater pressure and terrorisation at the hands of the aggressor.

(4) Article 16 ceased to be a restraining factor or a reason for hesitation on the part of the aggressor: Being able now to come to an understanding with some Members of the League and to terrorise others, the aggressor was enabled beforehand to avert any possibility of sanctions being applied to him.

(5) The enunciation of the principle that every Member of the League could give its own arbitrary interpretation of Article 16—contrary perhaps to the sense and recognised formal significance of that article—opened up the possibility of acting in the same way with other articles of the Covenant. What then was the value of the proposed strengthening of those articles? What then was the value of a decision that Article 11 did not require unanimity if every Member of the League could interpret that article as it pleased?

It was important that everyone should realise the full meaning and significance of the discussion now taking place.

In connection with the first of his observations, the Soviet delegate would, he said, venture on a digression, which, nevertheless had some bearing on the subject. After his statement in the Assembly on the Soviet attitude towards the Czechoslovak problem, M. Litvinoff had heard it said that, seeing that the Soviet Government made its help to Czechoslovakia conditional upon similar help by France, it would appear to be equally culpable of breaking its Pact of mutual assistance with Czechoslovakia. People who said that were obviously unaware, or pretended to be unaware, that the Franco-Soviet and Soviet-Czechoslovak Pacts of mutual assistance were the result of action undertaken for the creation of a regional Pact of mutual assistance, with the participation of Germany and Poland, based on the principle of collective assistance. In consequence of the refusal of those two countries, France and Czechoslovakia had preferred, instead of a single Soviet-Franco-Czechoslovak Pact, the conclusion of two bilateral Pacts. Moreover, it was the Czechoslovak Government that had at the time insisted that Soviet-Czechoslovak mutual assistance should be conditional upon assistance by France: that was reflected in the treaty in question.

Thus, the Soviet Government had no obligations to Czechoslovakia in the event of French indifference to an attack on her. In that event, the Soviet Government might come to the aid of Czechoslovakia only in virtue of a voluntary decision on its part, or in virtue of a decision by the League of Nations. But no one could insist on that help as a duty, and in fact the Czechoslovak Government—not only out of formal, but also out of practical considerations—had not raised the question of Soviet assistance independently of assistance by France. Czechoslovakia, after she had already accepted the German-British-French ultimatum, had asked the Soviet Government what its attitude would be; in other words, would it still consider itself bound by the Soviet-Czechoslovak pact if Germany presented new demands, if the



Anglo-German negotiations were unsuccessful and Czechoslovakia decided to defend her frontiers with arms? That second enquiry was quite comprehensible since, after Czechoslovakia had accepted an ultimatum which included the eventual denunciation of the Soviet-Czechoslovak Pact, the Soviet Government had undoubtedly also had the moral right to renounce that Pact. Nevertheless, the Soviet Government, which, for its part, did not seek pretexts for evading the fulfilment of its obligations, had replied to Prague that, in the event of France granting assistance under the conditions mentioned in the Czechoslovak enquiry, the Soviet-Czechoslovak Pact would again enter into force.

M. Litvinoff had permitted himself that digression because only the representative of a Government with a clear conscience and clean hands in the sphere of the fulfilment of international obligations could speak as he did. He must, therefore, repudiate any unjust reproaches addressed to his Government through ignorance or malice, before declaring that the Soviet delegation would be unable to accept a report by the Sixth Committee proposing that the Assembly should take note of a situation created by the unilateral declarations made in that Committee. In that case also, he was convinced that the Soviet delegation was acting in the interests of the League, in the interests of all peoples and in the interests of peace.

M. DE VELICS (Hungary) recalled that, in a speech at the Committee's previous meeting,<sup>1</sup> he had defined his Government's attitude to Article 16 and its possible application in the future. He had nothing to add to that declaration. In recalling it, he was merely following the other members of the Committee who had severally defined their attitude to Article 16, and in order to prevent any misunderstanding.

Mr. HEARNE (Ireland) said that he desired to state as briefly as possible the views and policy of the Irish Government on the question before the Committee—namely, the status of Article 16 of the Covenant in the relations between the Members of the League.

The Government of Ireland desired to place on record its considered opinion that the provisions of that article now imposed no legal or moral obligation upon any Member of the League to apply the system of sanctions therein referred to in any circumstances. It was satisfied that, in the interest of the maintenance of the Covenant itself, the preservation of the League, and the acceptance of League principles by an increasing number of States in the future, the right of each of the Member States to decide for itself whether sanctions should or should not be applied by it ought to be placed beyond doubt. The policy of the Government of Ireland in the matter of its relations with all other States, Members of the League as well as non-members, would be based upon the existence and recognition of that right.

The Committee would appreciate the fact, in the circumstances, the Government of Ireland was unable to accept the view that the juridical effect of the Covenant in this regard remained unaltered. It would have preferred to see the whole question of military, economic and other sanctions reconsidered at the present juncture with a view to the conclusion of an agreement on the matter appropriate to the actual situation now existing. A number of other delegations also would, he was sure, have considered such a course more satisfactory. The method of approach to the problem which the Committee had adopted was perhaps unavoidable, but the result might give rise to misunderstanding hereafter. In any event, the Irish delegation desired that the position of Ireland in the matter should be placed beyond doubt. The effect of its present declaration would be that so far as that country was concerned, the obligatory character of the provisions of Article 16 was removed.

There was another and equally important aspect of the question on which the Irish delegation desired to make a further declaration.

A number of definitions of aggression and of the aggressor had been formulated from time to time in certain instruments and in various memoranda and resolutions prepared and considered during the last eighteen years. The definition, however, which was relevant in the present connection was that contemplated by the terms of Article 16 itself. The legal notion of aggression for the purpose of Article 16 consisted in a resort to war by a Member of the League in disregard of its covenants under Articles 12, 13 or 15. The Irish delegation did not feel called upon to enter into any discussion in the Sixth Committee on the relations between those various articles and Article 16 itself or of the procedure heretofore followed or hereafter to be adopted for the determination of the aggressor.

Nevertheless, the Government of Ireland desired to place on record its view that, whatever the procedure, the determination of the aggressor by the appropriate organ of the League would not affect the exclusive right of the Government of Ireland to determine that question for itself and would accordingly not involve that Government in any commitment or obligation either to consult or to take common action with the other Members of the League on the basis only of the League's decision. That, of course, it regarded as a principle which any other Member of the League might apply in its own regard. Mr. Hearne must, however, add that, while that principle would form an essential part of Irish national policy in that connection until a general system of collective security satisfactory to it was established, the Government of Ireland would not fail, should occasion arise, to consider its attitude to any State which

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<sup>1</sup> See page 13.

it had determined to be an aggressor, in the light of its conception of the duty, in all the circumstances of the case, of an honourable member of international society.

The Irish delegation desired to have its statement placed on record, with the other declarations made in the Committee, and forwarded to the Assembly.

Sayid Tawfik AL SUWAIDY (Iraq) announced that, in amplification of the declaration already made on this subject jointly with the States signatory to the Saadabad Agreement, his Government wished to state its full agreement with the spirit and the letter of the declaration made by the United Kingdom delegation regarding the application of Article 16. He asked the Committee to take cognisance thereof.

M. AÂLAM (Iran) had already informed both the Assembly<sup>1</sup> and the Sixth Committee<sup>2</sup> that the Imperial Iranian Government did not consider it opportune to discuss this question at the present moment. He was obliged, however, much to his regret, to conclude from certain declarations that some States proposed to release themselves from the obligations of Article 16 by unilateral declarations. In view of this attitude, which practically destroyed the reciprocal nature of such obligations, M. Aalam declared that his Government reserved its full freedom regarding the automatic character of the provisions of Article 16 and claimed full liberty and latitude to judge each particular case that arose in practice.

M. Aalam asked the Committee to note that declaration.

Ali MOHAMMED Khan (Afghanistan) said that as regards the reform of the League Covenant, the Minister for Foreign Affairs of Iran, both in the Assembly and in the Sixth Committee, had already made clear the views of the Powers signatories to the Saadabad Pact. Since from the speeches that had been made, it appeared that the obligatory and automatic character of Article 16 had lost its practical significance, he wished to declare, in the name of his Government, that the latter reserved its freedom in the matter of the application of that article, and its complete liberty of judgment as to the attitude it should adopt in each case as it arose.

M. RÛSTÛ ARAS (Turkey) said that his Government's views regarding the reform of the Covenant had been frequently expressed by its representatives on the Committee of Twenty-eight and by the representatives of the Balkan *Entente*, but, in deference to the United Kingdom's invitation, he thought it only courteous to confirm it in the Sixth Committee, seeing that other delegations had also made declarations.

The Government of the Turkish Republic held that the principles contained in the Covenant, as a whole, should be kept intact. The application of Article 16 seemed to it very simple, in view of the legal practice of the League of Nations. The Turkish Government regarded itself as bound by the provisions of that article in each case affecting a Member of the League of Nations, but subject to complete reciprocity.

M. POLYCHRONIADIS (Greece) referred the Committee to the explanations already given to the Committee of Twenty-eight regarding the Greek Government's views on the reform of the Covenant, and, in particular, on Article 16, but, as requested by the United Kingdom delegation, he would confirm those views as follows :

- (1) In the opinion of the Greek Government, the principles of the Covenant should remain unchanged and no amendment should be made either directly or by interpretation ;
- (2) In accordance with the legal practice of the League of Nations, the applicability of the clauses of Article 16 was particularly elastic, as M. Paul-Boncour had explained to the Committee of Twenty-eight and to the Sixth Committee at its present meeting.<sup>3</sup>

The Greek Government reserved the right to consider each case in future on its merits and to decide its attitude in the light of circumstances and, more particularly, of the line of conduct taken by neighbouring countries, friends of Greece.

*(The continuation of the discussion was adjourned to the next meeting.)*

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<sup>1</sup> See page 8.

<sup>2</sup> See Minutes of the fourth meeting of the Committee.

<sup>3</sup> See page 18.

## SIXTH MEETING

*Held on Saturday, September 24th, 1938, at 3 p.m.*

*Chairman : M. OLIVERA (Argentine Republic).*

### 22. Application of the Principles of the Covenant of the League of Nations : Questions relating to Article 16 of the Covenant : General Discussion (continuation).

Mr. ANDREWS (Union of South Africa) said when the Assembly had decided, two years before to embark upon the question of the reform of the League, the South African Government had felt no enthusiasm for the proposal, nor had it had any conviction as to successful results accruing from that task.

It had seemed to his Government that the imperfections of the League which had then been laid bare were attributable, not so much to any vital defect in the Covenant, but rather to shortcomings of League Members themselves, to the spirit and manner in which they had up to then discharged their obligations under the Covenant.

On that account, the South African Government had refrained from submitting proposals for amending the Covenant, for the remedy, in its view, did not lie in changing this or that specific article of the Covenant ; no textual alteration of that instrument would necessarily cure the shortcomings of Members.

The South African Government adhered to the view that there was nothing basically wrong with the principles of the Covenant itself, in its fundamental aspects, as an instrument aiming at the ultimate achievement of a co-operative peaceful human society. Nevertheless, recognising the limitations which had prevented the League from carrying out the task for which it was intended and the difficulties created on that account for States Members of the League, the South African Government was in general agreement with the principles enunciated by the delegate of the United Kingdom Government in the Assembly<sup>1</sup> in interpreting the League Covenant in the light of present circumstances ; it was also in agreement with the more specific declaration made by the United Kingdom delegation in relation to the interpretation of Article 16.<sup>2</sup>

As the Union Government understood the proposal, the provisions of Article 16 would remain unaltered, but should circumstances arise under the Covenant calling for international action, membership of the League would, for the present, not entail automatic obligations to apply either economic or military sanctions, but only a general obligation to consider, in consultation with other Members, whether and to what extent Article 16 of the Covenant could be applied. Each Member State would be judge of the extent to which its own position and circumstances warranted participation in any measure adopted ; but, nevertheless it remained essential for the future of the League that Members should continue under the obligation not to adopt an attitude of indifference to events which ordinarily would call Article 16 into operation.

On that basis, the South African Government associated itself with the declaration of the United Kingdom Government.

M. QUEVEDO (Ecuador) made a statement to the following effect :

(1) In the Assembly, on September 21st, 1938,<sup>3</sup> the delegate of Ecuador had expressed his Government's considered opinion on several aspects of the application of the principles of the Covenant :

(a) On the dangers of reforming it or interpreting it at the present juncture ; not that it might not be desirable later to introduce certain reforms in accordance with the constitutional procedure ;

(b) On the fact that, in any dispute, a frank examination of the situation by all Members of the League in the light of the different articles of the Covenant—which formed a harmonious and indivisible whole—might help to determine where justice lay and what its limitations were ;

(c) On the dangers of an elastic and uncertain system which did not fix in advance the cases in which certain measures provided for in the Covenant would be applied and the rules governing their application ;

(d) On his Government's opinion that it was desirable not to weaken the Covenant.

M. Quevedo desired to refer the Committee to the speech in its entirety and to ask it to take note of it.

(2) No multilateral convention could be revised by unilateral declarations ; nor could the wish of one party in any way affect the value of an international undertaking. He submitted an express reservation as to the legal value of such declarations.

<sup>1</sup> See page 5.

<sup>2</sup> See page 15.

<sup>3</sup> See page 10.

(3) The juridical situation remained unchanged, but a new situation of fact, having political implications, had ensued from the various declarations of which the Committee had taken note. It was his intention to bring them to the notice of his Government, in order that the latter might draw from them such conclusions as it thought proper at the appropriate moment.

M. Quevedo asked the Committee also to take note of those declarations.

He added that the Government of Ecuador would examine the United Kingdom proposals with the greatest attention. First, because they were put forward by a Government for which Ecuador had always had the highest esteem and the sincerest friendship; secondly, because that Government had done a great deal for the League of Nations; and thirdly, because, should certain of those proposals be accepted by the Members of the League, they would provide a formula which might lead to agreement at future discussions.

Moreover, since those proposals would command the attention of all Governments, the delegation of Ecuador felt that it would be desirable to clarify certain aspects of them as opportunity offered, so that all Governments might be able to appreciate exactly their implications and their consequences.

M. SANDLER (Sweden) said he might have confined himself to repeating his declaration in the Assembly,<sup>1</sup> to the effect that the Swedish Government reserved the right to decide on their merits the cases in which Article 16 should be applied.

As regards the general lines of its foreign policy, the Swedish Government adhered to the joint declaration made by the Foreign Ministers of the four northern countries at their meeting at Oslo in April 1938. It was therein noted that the Scandinavian countries would continue, as in the past, to keep aloof from any groups of Powers which might be created in Europe and would do their utmost to avoid being drawn into a war between such groups.

M. Sandler dealt next with the particular task before the Sixth Committee.

The Committee of Twenty-eight had arrived at the conclusion that it was for the Governments and the Assembly to appraise the opinions expressed during its discussions. It was now for the Sixth Committee, as an organ of the Assembly, to define its attitude as regards the effect to be given to that conclusion of the Committee of Twenty-eight.

On the substance of the question, the Swedish Government was of opinion that the situation of fact created by circumstances and sanctioned by practice in the application of Article 16 had long been quite clearly established. Its representative on the Committee of Twenty-eight<sup>2</sup> had expressed the view that the choice lay only between two alternatives: either tacitly to admit that the new situation had been established by practice, or expressly to recognise that fact in appropriate terms. Since then, the reasons in favour of the second alternative had found further justification and thereby gained weight.

Fresh facts had occurred. In particular, a large number of Governments had recently defined their attitude clearly, either by decisions or by declarations in the Assembly or in the Sixth Committee. Any idea of obtaining confirmation of the automatic and obligatory character of Article 16 must therefore be set aside.

It had been maintained, frequently, that the obligations of the Covenant could not be modified by unilateral declarations. But that was not really the point at issue. What should be done was to take note of a practice in the application of sanctions which had been followed by all States, including those which were laying the greatest stress on the obligatory and automatic character of sanctions. So numerous were the States that had proclaimed that practice that it would be more accurate to speak of multilateral than of unilateral declarations.

As regards the question of reciprocity which had been raised during the discussion, M. Sandler pointed out that, under the terms of the Copenhagen *communiqué*, the non-obligatory character of sanctions applied, not to a particular group of States, but to all Members of the League.

There was another consideration to be taken into account. It could not be admitted that certain States had any more right than others to determine or define what conclusions should be drawn from the situation created by the practice of sanctions.

The declarations made by the various Governments on the non-obligatory character of sanctions possessed all the weight that should properly be attached to the declared attitude of sovereign States and to their interpretation of the Covenant. But that was not all: events themselves had spoken and were still doing so every day. In the light of the staggering turn of events, which was a lesson to everyone to-day, could it be seriously maintained that the coercive machinery of the system of collective security was playing the part that had once been designed for it? That lesson of events would be understood in all its force by public opinion in Sweden.

The Swedish Government, which had expressed itself frankly regarding the scope it attributed to Article 16, was entitled to add that it was not the recognition of facts that constituted failure, but rather failure that necessitated such recognition.

It was a matter for regret that the system of collective security was not in operation at a time when the menace of war was very grave, at a time when there was every reason to fear that the swift development of events might lead, if not to war, at any rate to another "diktat", another Versailles on the ruins of Versailles. The bitter fruits of a "diktat" in a state of decomposition were now being gathered, but what would the fruits be of the "diktat" in process of composition? With bitterness it could now be noted that the League of Nations

<sup>1</sup> See page 2.

<sup>2</sup> See document A.7.1938.VII (Ser. L.o.N. P. 1938.VII.1), page 35.

and the principles of right and peaceful settlement on which it was based were crumbling away. The essential element in the present crisis was the clashing of the forces of the great Powers. It was of no use recalling the mistakes and hesitations of the past. Nothing was forgotten.

As regards the Sixth Committee's special task, which was of minor importance in view of the enormous responsibilities determining peace and justice in Europe, it was sufficient to take note of the existing situation. In fact, the only problem before the Committee was to decide the form in which to express the conclusions determined by the situation of fact.

On that subject, the United Kingdom delegation had made a suggestion, followed by a declaration the importance of which would escape no one. The present situation of fact was dealt with by that declaration in less definite terms than those employed by other delegations, including the Swedish delegation, in their statements in the Assembly, though the substance of those declarations was identical.

The United Kingdom suggestion was that the Committee should take note of the situation of fact created by the declarations made with regard to Article 16. The Swedish delegation supported that suggestion. It followed, as had indeed been confirmed by the discussion, that there was no question of drawing up a joint interpretative text.

That being so, the Swedish delegation would confine itself to recalling the declaration read by the Chairman at a previous meeting.<sup>1</sup>

M. FRASHERI (Albania) said that the provisions of the Covenant relating to sanctions embodied in Article 16 had been applied for the first time on behalf of Albania on the occasion of an armed conflict in 1921 between Albania and Yugoslavia. That memorable act of the League of Nations on behalf of peace and international justice remained an event of great importance in the history of the renaissance of Albania.

It would be painful therefore for Albania to have to express an opinion which might have the effect of impairing in any degree the efficacy of Article 16. Nevertheless, political events since 1921, and the present circumstances arising out of those events, had unfortunately considerably diminished in practice the efficacy of that article. In view of those considerations, the Albanian Government felt it its duty to state that it would reserve the right, if occasion arose, to act according to circumstances, though its actions would always be inspired by the spirit of international justice.

Sir Nripendra Nath SIRCAR (India) said that speeches in the Committee and opinions expressed in all quarters showed clearly that two interpretations attached to Article 16. The difference in interpretation was due to an avoidance of, or denial of, the real position: given a case of aggression within the meaning of Article 16, sanctions applied automatically. Doubts and confusion had arisen, which must be removed by an unequivocal interpretation of Article 16—though he entirely agreed that the moment was inopportune for embarking on such a discussion. If one interpretation were accepted, the declarations and statements of a large number of States concerning the meaning of Article 16 would be negated; if the other interpretation were accepted, it might mean the ultimate sapping of the League's foundations.

The confusion had arisen because of the use of the word "automatic". If the Covenant were construed as an undertaking entered into by humble individuals on a co-operative basis and the document came before a judicial tribunal, the judge would very quickly pull up an advocate who used that word "automatic". Was the obligation unconditional, or did it arise when certain other conditions had been fulfilled? That was the crux of the question, and the use of the word "automatic" only added to the confusion. The text of Article 16 read: "hereby undertake immediately to subject it"—the aggressor—"to the severance of all trade or financial relations". Did that permit of the addition of the words "provided no Member of the League need carry out the undertaking if, in its judgment, it should behave otherwise by reason of its size or geographical position or any other cogent or good reason"? Was it permissible, on a strict legal construction, to add the words "provided each Member of the League is bound to carry out the undertaking on condition that there is a reasonable probability that the course of action will effectively help in attaining the desired end"?

Those arguments, it might be objected, emanated from a mind obsessed with legal technicalities, and did not appeal to statesmen who had to deal with technical problems. The delegate of India did not propose to answer the questions he had himself propounded, because nothing could be gained at that juncture by fighting out the issue as to the correct interpretation of Article 16.

In the light of what had now happened, and of the unilateral opinions expressed, it must be conceded that, as the result of overriding circumstances, the League was unable to impose its will upon powerful aggressors. That was the real position.

Such being the case, the delegate of India entirely agreed with the exposition and attitude of the United Kingdom delegate, and he did so the more readily because he could imagine circumstances in which the interests of other States and the interests of the United Kingdom might not be the same as the interests of India. He could well imagine a situation in which it might be to the interest of the United Kingdom to boycott a particular country, whereas it might not suit India to boycott that country, perhaps one of her best customers.

A certain section of opinion in India was opposed, not merely to Article 16, but to all the other articles of the Covenant, and that section was gaining ground owing to the rapidly

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<sup>1</sup> See page 16.

decreasing prestige of the League. The League had been described in the Indian Assembly as a body which could neither punish its enemies nor help its friends. The matter was further complicated by another consideration, not strictly relevant to the interpretation of Article 16. There was in India a feeling of grievance about the representation of its nationals in the administration of the League ; that factor also had a bearing on India's attitude.

If the League could not justify its existence by constructive work towards the end for which it was established, India might lose all interest in Article 16 and the other articles of the Covenant. Personally, he was strongly opposed to the secession of India from the League. He merely desired to direct attention to the fact that such a measure was a possibility, even a probability, in view of the changes in the Constitution of India which were expected to come into effect at no distant date.

M. KLIMAS (Lithuania) said that he need only refer to the speech made by the delegate of Lithuania in the Assembly on September 21st, 1938,<sup>1</sup> of which he would ask the Committee to take note.

He simply desired to add that the Lithuanian delegation's view as to the scope and operation of Article 16 of the Covenant coincided with the interpretation laid before the Committee by the United Kingdom delegate.

M. KOMARNICKI (Poland) said that he also had stated his Government's opinion in the Assembly.<sup>2</sup> In order, however, to remove any misunderstanding as to the present juridical and political position of the League of Nations, he wished to make a declaration.

It should be understood that the Polish Government could only consider itself bound by its own declarations, seeing that no interpretation of general application could meet with unanimous acceptance by States.

His declaration in the Assembly must inevitably be confirmed by the trend of the existing political situation. Seeing that the doctrine of collective security as established by the Covenant was not in keeping with the actual practice, the Polish Government had decided to interpret the obligations arising out of Articles 16 and 17 of the Covenant as implying that it was for Poland to decide freely on the attitude she might think it necessary to adopt in the situations mentioned in those articles, her decision being based primarily on the requirements of her own security and the supreme interests of the Polish Republic.

M. KOHT (Norway) said that he fully endorsed the observations of the delegate of Sweden.<sup>3</sup>

M. COSTA DU REIS (Bolivia) said he quite agreed that the debate was inopportune. Bolivia regarded the Covenant as an indivisible and harmonious whole. To introduce the slightest fissure must inevitably weaken it, especially as, in present circumstances, political factors were likely to influence any particular interpretation by the States. In agreement with the point of view of France, the Bolivian delegation considered that the dissociation of the articles of the Covenant and unilateral declarations to that effect could not but weaken the Covenant and the League alike.

M. KARADJOFF (Bulgaria) said that the position taken up by the Bulgarian Government in regard to the reform of the Covenant had been expressed in its letter of October 9th, 1936, to the Secretary-General, published among the documents relating to the question of the application of the principles of the Covenant.<sup>4</sup> It had also been explained at the third session of the Special Committee for the Application of the Principles of the Covenant.<sup>5</sup>

Bulgaria, which was not among the original Members of the League of Nations signatories to the Peace Treaties, or among the States invited to accede to the Covenant, had adopted the ideal of the Geneva organisation when joining it on December 16th, 1920. For eighteen years, she had offered her modest co-operation and, in spite of disillusionment, had remained faithful, as perhaps no other country had, to all the contractual undertakings she had accepted.

The League, in the course of its existence, had passed through grave crises. The balance established in the Covenant by a wise interplay of its principles had been upset, and the present situation was one which Lord De La Warr had described in the following terms :<sup>6</sup>

“ The Covenant has come to be regarded, not only as mainly punitive in its objects, but as an instrument for the indefinite maintenance of the *status quo*, whereas its real essence lies in the express recognition of the principle of peaceful change and in the prohibition of any resort to war until all means of pacific settlement, including in particular some form of international arbitrament, have been exhausted.”

The Committee had before it a proposal, presented by Mr. Butler in the name of the United Kingdom, asking the members to express their views on the way in which they interpreted, in the light of the new situation, the obligations of Governments arising out of Article 16.

<sup>1</sup> See page 12.

<sup>2</sup> See page 6.

<sup>3</sup> See page 25.

<sup>4</sup> See *Official Journal*, Special Supplement No. 154, page 32.

<sup>5</sup> Document A.7.1938.VII (Ser. L.O.N. P. 1938.VII.1), page 30.

<sup>6</sup> See records of the fourth plenary meeting of the nineteenth Assembly.

It had been M. Karadjoff's earnest desire, during the present crisis, to take no part in the discussion, so as not to weaken further his colleagues' faith in the ideal by which they had been inspired at the time when the Covenant had been drawn up.

Nevertheless, in deference to the United Kingdom delegation and in view of the declarations of numerous delegations, he considered that he ought, in his turn, to define the Bulgarian Government's position by declaring that, while it remained faithful to the ideal and the guiding principles of the Covenant, it reserved full right to revise the position hitherto adopted in regard to the provisions of Article 16 and, in consequence, in regard to Article 17, paragraph 3, of the Covenant.

M. FRANGULIS (Haiti) felt obliged to make a categorical statement on the question under consideration, especially as the Committee set up to examine the possibility of reforming the Covenant had not included representatives of all the States which made up the League of Nations. He and the representative of the Union of Soviet Socialist Republics<sup>1</sup> had been alone in urging the advisability of co-operation between all the Members of the League of Nations, but that view had not been adopted by the General Committee. Thus, only twenty-eight States had been represented on the Special Committee and the only course open to the twenty-four others had been to submit a memorandum embodying their views to that Committee.

The problem at issue was no new one. As far back as 1921, in the Sixth Committee, M. Branting, the Swedish delegate, had, as M. Sandler had done now,<sup>2</sup> upheld the principle that Article 16 of the Covenant did not operate automatically. Various States had consistently endeavoured to escape from that conception of automatic operation.

The League of Nations, it should be remembered, had in the beginning been deserted by its own founders. In his famous Mount Vernon speech, in 1917, President Wilson had called on all the States to rise against the aggressor and impose their will. That was the magnificent idea of "all for one", designed to defend the victim of aggression in the name of the imprescriptible rules of law. That idea was, on the personal insistence of President Wilson, embodied in the Covenant by which the League was still governed. The United States of America, though, was the first to refuse to join the League of Nations, and the latter had never from the start possessed a universal coercive character.

The Committee would also recollect the efforts made by the French Government through M. Léon Bourgeois, followed by the Tardieu Cabinet and finally by M. Paul-Boncour, to create an international force. No one would have anything to do with it. Having failed to organise an international force and give the League of Nations the secular arm which it needed and to-day lacked, the next stage was to improvise the application of Article 16 of the Covenant by an elaborate system of sanctions. If to-day, after the experience of sanctions which had only been applied partially, they had now come to the point of asking whether Article 16 was or was not obligatory, that was because a series of defections which began when the League was founded had made the application of Article 16 more and more problematical. There was a remedy, however. No one had dared to deny the actual principle of coercion or the obligatory character of the clauses of the Covenant. All had accepted those principles, and, although at times it had been difficult to apply them and although the forces available were faced with tremendous difficulties, the legal and moral basis of the Covenant remained intact. That had been clearly stated by the delegates of the United Kingdom and France.

It must not be forgotten that what was known as the act of aggression—that was to say, war—had lost its legitimate character in 1928. Sixty-three States, several of which were not members of the League of Nations, had declared that war was forever banned as an instrument of foreign policy.

The declarations just heard in the Committee foreshadowed the possibility that an individual State might have to take measures if its interests were affected and to the extent to which it was pledged to mutual assistance in regard to its neighbour. Each State, however, claimed to be sovereign judge of the cases in which it would be prepared to intervene. Article 16 might therefore be applied in certain regions and to a limited extent. That meant the application of the principles contained in Article 16 in regional agreements which were also provided for in the Covenant.

That was where the matter stood. It was not a question of the League of Nations having failed. The conception was a different one, less lofty than the magnificent ideal outlined by President Wilson in his famous speech and realised in the Covenant. It still remained a conception of obvious practical utility which would allow the League of Nations to do useful work yet.

The fact of applying Article 16 on such modest lines must not, however, be regarded as a revival of the old alliances, which had been out of date since 1920. The Council was now the judge, and the only judge, of the entry into force of Article 16, in full agreement with the States concerned. Even when thus set out, the problem did not imply the failure of the League of Nations. It was for all the States to apply the great principles which had made the League the only charter and the only hope left to humanity.

M. BENAVIDES (Uruguay) said that he had not intended to take part in the debate, since the League was in possession of a report by the Committee of Twenty-eight, on which his country had been represented. Nevertheless, the Uruguayan delegation felt that it ought, in its turn, to explain its point of view.

<sup>1</sup> See *Official Journal*, Special Supplement No. 162, pages 14 and 15.

<sup>2</sup> See page 25.

Uruguay remained faithful to the principles of the League Covenant, principles which were intimately bound up with another. She did not, however, exclude the possibility that, at the appropriate time—certainly not yet—certain improvements in the matter of procedure and certain amendments might be introduced which would promote the universality of the League without weakening it.

As far back as 1921, Uruguay had made reservations in the matter of Article 16, having regard to the geographical situation of a country from the point of view of joint action against the aggressor.

In its communication of August 18th, 1936,<sup>1</sup> Uruguay had again raised the question of limited or regional organisations with a view to restricting the scope of crises in the case of States Members of the League far removed from the area affected by an armed conflict.

Those possibilities had been re-examined recently in connection with the reform of the Covenant. In particular, in the *Revue de droit international*,<sup>2</sup> the Union juridique internationale, having taken up the study of that reform, two jurists, M. de Lapradelle and M. Le Fur, had come to the same conclusion—namely, that regional agreements appeared to constitute a possible solution for facilitating the application of the Covenant. The satisfactory ending of the Chaco conflict would strengthen that possibility.

In conclusion, M. Benavides recalled the words of Mr. Wrong, the Canadian member of the Committee of Twenty-eight, words which were, he said, in complete agreement with the present attitude of the Uruguayan Government<sup>3</sup>:

“ It seems therefore to my Government that the only possible course is to keep the League operating as effectively as possible within the scope which experience has shown to be practicable, and to seek to make at a more opportune time such formal adjustments as may be required to secure the co-operation of all States which are prepared to renounce aggression and to co-operate in the peaceful settlement of international problems.”

M. RUÍZ GUIÑAZÚ (Argentine Republic) said that he had defined his Government's position in regard to Article 16 at the meeting on September 22nd<sup>4</sup>—that was to say, before being invited to do so by the United Kingdom delegate. He had nothing to add to that declaration.

Mr. BUTLER (United Kingdom) said that the United Kingdom Government attached importance to clarifying certain points that had been raised.

It had been suggested that there was an inherent contradiction between the statement that the principles of the Covenant remained unaltered and the ensuing statement that His Majesty's Government would interpret its obligations under Article 16 in accordance with the four propositions<sup>5</sup> which he had enunciated in reading the United Kingdom declaration. He did not think there was any contradiction, because they had all agreed that there was nothing inherently wrong with the provisions of the Covenant in themselves, that they had no wish to make any alteration in those provisions, and further that, even if there were any members of the Committee who did so wish, it would be impossible to reach general agreement on the subject.

At the same time, some members of the Committee had felt it necessary to state that, in the special circumstances existing at the present time, Members of the League could not be expected to carry out the obligations coming under Article 16 in their literal sense. In the United Kingdom declaration, it had been specifically stated that the interpretation which the United Kingdom Government would feel bound to place upon its obligations under Article 16 arose from the special circumstances of the moment. In other words, that part of the declaration had a provisional character. On the other hand, it held that the principles had a permanent character.

Those observations applied equally to the remarks of the delegate of China concerning the first proposition in the United Kingdom declaration. The delegate of China had said that that proposition was directly contrary to the letter and spirit of Article 16, and that the idea that each case should be considered on its merits made nonsense of the essential provisions of the Covenant. Mr. Butler could only repeat that, seeing it had proved impossible in existing circumstances to carry out the provisions of Article 16 in their literal sense, the only course open to those Members of the League who were actuated by a spirit of frankness towards other Members was to define the extent to which they felt it possible at the present time to give practical effect to their obligations under the article in question.

On the second point, the delegate of China had asked whether it was meant that the consultation envisaged should take place within the framework of the League. The answer was in the affirmative. There had been no suggestion on the part of the United Kingdom delegation that the usual procedure of the League in dealing with disputes should be interfered with in any way.

On the third point—namely, that each Member of the League would be the judge of the extent to which its own position would allow it to participate in any measures that might be proposed under Article 16, the delegate of China had said that that proposition destroyed the automatic character of Article 16. There again, there was a tendency to overlook the special nature of the United Kingdom declaration. Mr. Butler considered, too, that the delegate of China had also overlooked the fact that the third proposition was really little more than a restatement of the practice which the League had in fact followed hitherto. It had always

<sup>1</sup> See *Official Journal*, Special Supplement No. 154, page 8.

<sup>2</sup> Paris, No. 2, 1937.

<sup>3</sup> See document A.7.1938.VII (Ser. L.O.N. P. 1938.VII.1), page 26.

<sup>4</sup> See page 13.

<sup>5</sup> See page 15.



been recognised that, even on a strict interpretation of Article 16, Members of the League should not, in practice, be asked to participate in measures without their special position being taken into account, and that to a large extent they must be the judge of what their special position would allow them to do, and, further, that it was inevitable that Members, in deciding to take action, must be influenced by the extent to which other Members were prepared to do the same.

Although the wording of the fourth point was in part analogous to that of Article 11, the proposition was not intended as a mere reaffirmation of that article. On the contrary, it related, as did all the United Kingdom propositions, to the situation arising under Article 16, and it was intended to indicate that, in the opinion of the United Kingdom Government, a resort to war against a Member of the League was a matter of concern to every other Member, whether immediately affected by the resort to the war in question or not, and that it was not a matter on which any Member of the League was entitled to adopt an attitude of indifference.

Two corrections in the fourth proposition in the United Kingdom declaration would make its meaning clearer. The passage should read :

“ The foregoing propositions do not in any way derogate from the principle, which remains intact, that a resort to war *against a Member of the League*, whether immediately affecting any of the *other* Members of the League or not, is a matter of concern to the whole League and is not one regarding which Members are entitled to adopt an attitude of indifference.”

The United Kingdom Government was maintaining the essential character of the Covenant unaltered, while bowing to the practical necessities of the hour, which in its view made it desirable to recognise frankly that the integral, literal and unconditional application of the provisions of Article 16 could not in present circumstances be expected from all Members of the League.

Mr. Butler paid a tribute to the speeches made, in particular to that of the delegate of France,<sup>1</sup> who had, he said, revealed a sympathetic understanding of the United Kingdom attitude and had pointed out how desirable it was that the Assembly should have a clear view of the possibilities and limitations of collective security.

M. SOUBBOTITCH (Yugoslavia) said that the scope of the United Kingdom declaration and the significance of the debate to which it had given rise had escaped no one. The Yugoslav delegation, after hearing the various opinions expressed on Article 16, could only note those opinions which, moreover, appeared to take account of present circumstances. The application of those provisions of the Covenant being in essence based on the idea of reciprocity, the Yugoslav Government could only bring its attitude towards Article 16 into line with the very general feeling which had revealed itself in the Assembly. Consequently, the Yugoslav Government, on the basis of the idea of reciprocity expressed with such force by the Turkish delegate, M. Rüstü Aras, on the previous day<sup>2</sup> would, if occasion arose, take into consideration the general situation as it might present itself at a given moment, having regard in particular to the attitude of other countries, especially neighbouring countries and allied and friendly countries.

M. Wellington Koo (China) thanked the United Kingdom delegate for his explanations, which, he said, threw a great deal of light on the interpretation of Article 16 placed before the Committee by the United Kingdom delegation. Notwithstanding that clarification, however, the Chinese delegation was unable to reconcile its views with those of the United Kingdom delegation.

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## NINTH MEETING

*Held on Wednesday, September 28th, 1938, at 3 p.m.*

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*Chairman : M. OLIVERA (Argentine Republic).*

### 32. Application of the Principles of the Covenant of the League of Nations : Questions relating to Article 16 of the Covenant : Examination and Adoption of the Draft Report and Resolution.<sup>3</sup>

M. KOHT (Norway) recommended the adoption of the draft report, in which, however, he would like to see substituted for the following words in the second paragraph :

“ It is clearly the general view that those principles are right and sound ; that recourse to war . . . ”,

the words :

“ It is clearly the general view that those principles are right and sound. It was emphasised that recourse to war . . . ”

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<sup>1</sup> See page 17.

<sup>2</sup> See page 23.

<sup>3</sup> The draft report is not reproduced. For the final text of the report submitted to the Assembly, see page 1.

Mr. CAMPBELL (New Zealand) agreed in commending the Rapporteur's draft as a fair presentation of opposing views. He felt, however, that there was a conflict, at least some possible ambiguity, in the two sentences : first, "the principles of the Covenant remain unaltered" and secondly, referring to declarations and observations, the statement that "the Committee noted the situation of fact created by them". Was any situation of fact so created? He recalled that the United Kingdom delegate had the previous day drawn attention in another context to certain words in a report by the Committee of Jurists : "Considering that, from the first, the Covenant has had an independent existence which is expressed in particular : . . . in the power given to Members of the League to amend the Covenant in conformity with the provisions of Article 26". Instead, therefore, of saying ambiguously, "the Committee, however, noted the situation of fact created by them"—*i.e.*, by the declarations and observations—Mr. Campbell suggested repeating in substance : "The Committee is bound to recognise that such declarations and observations cannot alter the explicit terms of the Covenant, provision for the proper amendment of which is made in Article 26." That seemed to him precisely a statement of fact. The present text was unacceptable.

M. DE AZCÁRATE (Spain) shared the opinion of the New Zealand delegate. It was to be regretted that the second part of the report was not as clear as might have been desired. The sentence in the penultimate paragraph, beginning : "The Committee, however, noted the situation of fact created by them", might be misinterpreted, and it would be better to delete it.

M. LITVINOFF (Union of Soviet Socialist Republics) also objected to the passage to which the delegates of New Zealand and Spain had referred. Many delegates had said that they did not aim at altering the structure or legal effect of the Covenant. That being so, he would have expected the report simply to reproduce the declarations made by delegates expressing various views and opinions, and nothing else. But the Rapporteur had gone farther, and was trying to draw conclusions, which might convey the impression that the effect of the Covenant had changed and a new situation been created. How could that situation have been created? The Covenant was a treaty between a number of States ; like every other treaty, it could not be changed except with the consent of all the signatories. Unilateral declarations could not change bilateral or multilateral instruments, nor could they create any new fact that ought to be taken into consideration.

M. Litvinoff endorsed the remarks of the delegates of New Zealand and Spain, and was prepared to accept the New Zealand amendment.

M. UNDÉN (Sweden) associated himself with the Norwegian delegate's remarks. With regard to the New Zealand delegate's observations, he reminded the Committee that it had taken as a basis of discussion the programme proposed by the United Kingdom delegation in the following terms :<sup>1</sup> "The Committee would then, while expressing no opinion as to the contents of those declarations, take note of the situation of fact created by them, and would report accordingly to the Assembly."

M. Undén insisted that the Committee should keep to the procedure agreed on and leave that part of the report as it stood.

M. QUEVEDO (Ecuador), while congratulating the Rapporteur on his report, felt that the difference in the points of view expressed in the Committee might lead to a very lengthy discussion on the terms of the report. In order to arrive at a speedier and more satisfactory solution, he suggested that, of the text of the report as it stood, only the first paragraph and the first part of the fifth paragraph should be retained.

Mr. BUTLER (United Kingdom) regretted that he could not agree to the proposal of the delegate of Ecuador, which would mean cutting out the major part of the report.

There should be no great difficulty in agreeing to the addition proposed by the delegate of Norway. There might be more difficulty in accepting the fifth paragraph, and the United Kingdom delegation would be ready to adopt another form of words. He suggested the following text :

"The Committee observed that several declarations took note of a new situation of fact. Other declarations took the opposite view. The Committee decided to propose that the Assembly should communicate . . ."

M. KOMARNICKI (Poland) associated himself with the remarks of the delegates of Norway and Sweden. He saw no objection to the adoption of the United Kingdom delegation's proposal, but he would prefer to keep the text of the draft report as submitted to the Committee, amended in accordance with the Norwegian delegate's proposal.

In M. Komarnicki's opinion, the proposal put forward by the delegate of Ecuador went too far ; if adopted, it might give the impression that the situation had scarcely changed since the meeting of the Committee of Twenty-eight.

Mr. CAMPBELL (New Zealand) said he was prepared to drop his amendment if the delegates of Spain and the Union of Soviet Socialist Republics concurred. Three courses were open to the Committee. It could agree to the report as it stood or, having regard to the fact that two

<sup>1</sup> See page 15.

important countries had supported his amendment, it could regard that amendment as being under consideration, or it could simply delete the words ". . . however, noted the situation of fact created by them and".

M. WELLINGTON KOO (China) said that the Chinese delegation had stated its views on Article 16. It considered that that article, from a juridical point of view, remained intact, and that any changes should be effected in accordance with the procedure laid down in the Covenant. The ten words to which objection had been taken were well founded; it was quite clear what the situation was as referred to there. While appreciating the United Kingdom delegate's spirit of conciliation, the Chinese delegation's preference was for the proposal of the delegate of New Zealand to delete the ten words in question: the proposed compromise added nothing to the paragraph.

M. LITVINOFF (Union of Soviet Socialist Republics) said that the compromise proposed by the United Kingdom delegate neutralised the rest of the phrase. He would be willing to accept it, but agreed with the Chinese delegate that it was superfluous. If, therefore, the United Kingdom delegate did not insist, he thought it would be preferable to omit the ten words.

M. KOHT (Norway) also felt that the amendment proposed by the United Kingdom delegate might have the effect of neutralising the sentence under discussion. The draft report presented an accurate picture of the situation and should be adopted.

M. LOUDON (Netherlands) associated himself with the Norwegian delegate's observations. He added that the Netherlands delegation could not accept the report if the phrase in question were struck out.

M. DE AZCÁRATE (Spain) said that the Spanish delegation was prepared to accept the suggestion of the delegate of New Zealand, or—which had been his first proposal—purely and simply to delete the phrase. It would have no objection either to adopting the United Kingdom proposal.

It would, however, be difficult for the Spanish delegation to accept the report as it stood. The phrase in question seemed to indicate that the various statements and observations had created a particular situation; he could not, however, see what the situation was supposed to be. Further, unilateral declarations could not bring about a new situation requiring to be mentioned in the report.

M. MUNTERS (Latvia), Rapporteur, accepted the draft amendment submitted by the delegate of Norway, the passage to read: "It is clearly the general view that those principles are right and sound. It was emphasised that recourse to war . . ."

*The amendment proposed by the Norwegian delegate was adopted.*

With regard to the penultimate paragraph of the report, M. MUNTERS (Latvia) explained that he had used the phrase "The Committee, however, noted the situation of fact created by them . . ." because it had been expressly asked for by the Swedish and United Kingdom delegations, and a considerable number of members of the Committee had associated themselves with the view expressed by the United Kingdom delegate.

M. LITVINOFF (Union of Soviet Socialist Republics) said that one delegate at least had declared that the resolution, with the objectionable words deleted, would be acceptable. Other delegates had declared that they could not accept any report which contained those words. The Committee, he pointed out, did not have to submit a draft resolution. He would be quite content if there were none. Even the compromise proposed by the United Kingdom delegate was not generally acceptable. M. Litvinoff himself was prepared to accept it, but if others were not, he proposed that the Committee should drop the matter, seeing that unanimity was required in the Assembly.

M. UNDÉN (Sweden) proposed that the Committee should first vote on the question whether the draft report should be maintained as it stood, and then, if necessary, decide on the alternative suggested.

He pointed out that the draft resolution to be submitted to the Assembly stated merely that the Assembly decided "to communicate the present report, together with its annexes, to all the Members of the League". It seemed, in any case, as if it could be adopted unanimously.

M. BASDEVANT (France) did not think that there was any fundamental difference of opinion on the report. A compromise might be found in the adoption of the United Kingdom amendment.

M. UNDÉN (Sweden) supported by M. KOMARNICKI (Poland), asked for a vote on the fifth paragraph.

M. QUEVEDO (Ecuador) said that his earlier statement had simply been intended as a suggestion to facilitate the discussion. He now supported the United Kingdom amendment.

Mr. CAMPBELL (New Zealand) and Mr. FITZMAURICE (United Kingdom) asked for a vote on the United Kingdom amendment.

On the Chairman's proposal, a *Drafting Committee was appointed*—consisting of the delegates of the United Kingdom, France, Greece, Norway, Sweden and the Union of Soviet Socialist Republics and the Rapporteur.

The Drafting Committee agreed upon the following amended text, which was submitted to the Sixth Committee :

“ In these circumstances, the Committee has decided to annex to the present report all the declarations and observations on the subject which have been made before the Assembly and the Committee, without expressing any opinion on their contents or on a *de facto* situation which, according to certain delegations, is thus created. The Committee decided to propose that the Assembly should communicate the present report, with its annexes, to all the Members of the League for their information.

“ In conclusion, therefore, the Committee submits to the Assembly the following draft resolution :

“ ‘ The Assembly decides to communicate the present report, together with its annexes, to all the Members of the League.’ ”

*The amended text was adopted.*

*The report, as amended, and the draft resolution were adopted.<sup>1</sup>*

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<sup>1</sup> The resolution was adopted by the Assembly on September 30th, 1938.