

LEAGUE OF NATIONS

Official Journal

SPECIAL SUPPLEMENT No. 154

DOCUMENTS

relating to the Question of the Application
of the

PRINCIPLES OF THE COVENANT

- I. Recommendation adopted by the Assembly and Circular Letter 124.1936.VII.
 - II. Communications from Governments.
 - III. Report and Resolution adopted by the Assembly.
 - IV. Study of the Proposals submitted and the Statements made by the Members of the League.
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GENEVA, 1936

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APPLICATION OF THE PRINCIPLES OF THE COVENANT OF THE LEAGUE OF NATIONS.

Note by the Secretary-General.

In accordance with the recommendation adopted by the Assembly on July 4th, 1936 (see Part I, page 6), 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".

On September 17th, 1936, the Secretary-General circulated in document C.376.M.247.1936.VII a study of the proposals received by the Secretariat prior to September 12th.

On October 10th, 1936, the Assembly adopted the report of its General Commission (see Part III, page 41), recommending, in particular, that this first study should be completed in the light of the proposals received since September 12th, "including statements made during the course of the Assembly".

The study made in accordance with this recommendation of the Assembly, and which will be found at the end of this volume (Part IV, page 44), therefore replaces that communicated to the Members of the League in document C.376.M.247.1936.VII.

Part II (page 6) contains all the communications from Governments received by the Secretariat up to November 20th, 1936. It replaces document A.31.1936.VII (Ser. L.o.N. P. 1936.VII.9), which contained only the communications received before September 12th, 1936.

Annex.

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¹ 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.

I. CIRCULAR LETTER RECALLING THE TEXT OF THE RECOMMENDATION ADOPTED BY THE ASSEMBLY ON JULY 4TH, 1936.

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 IN REPLY TO CIRCULAR LETTER 124.1936.VII.

C.347.M.223.1936.VII.

I. THE NEW ZEALAND GOVERNMENT. ¹

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.

¹ 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.¹

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.² 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

¹ See Records of the Second Ordinary Session of the Assembly, Plenary Meetings, pages 411 and 412.

² 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. MUTERS.

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,¹ 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.

¹ 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 I, 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:

I. 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.

[1 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.

I. 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 II 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 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. 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 II, 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 II, 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.

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.

COMMUNIQUE 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 19.]

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,¹ 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.

¹ *Note by the Secretariat.* — For the text of this declaration, see the Annex to the Swedish Government's communication, page 19.

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 prompt 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.¹

(Signed) Walter ROBERTS.

¹ See Verbatim Record of the Sixth Plenary Meeting of the Seventeenth Ordinary Session of the Assembly, September 25th, 1936.

19. THE CHINESE GOVERNMENT.

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.

1. 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.

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 II 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.

Series of Publications: 1936.VII.II.

Official No.: A.35.1936.VII.

20. THE POLISH GOVERNMENT.

[*Translation.*]

Geneva, September 18th, 1936.

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.

Series of Publications: 1936.VII.12.

Official No.: A.40.1936.VII.

21. THE IRANIAN GOVERNMENT.

[*Translation.*]

Geneva, September 22nd, 1936.

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.

(Signed) A. SEPAHBODY,

*First Delegate of Iran to the seventeenth session of the
Assembly of the League of Nations.*

Official No.: A.46.1936.VII.

22. THE GOVERNMENT OF AFGHANISTAN.

Geneva, September 30th, 1936.

In reply to your communication C.L.124.1936.VII, regarding the recommendations adopted by the Assembly on July 4th, 1936, I have the honour to say that, in the opinion of my Government, the articles of the Covenant, as they stand, do not admit of any alteration, for, if they are completely projected and applied in time, they will be effective to check aggression. But Afghanistan is ready to agree to any further steps which the well-wishers of the League may desire to take in order to strengthen it.

(Signed) FAIZ Mohammed,
Minister for Foreign Affairs for
Afghanistan.

Official No.: A.84.1936.VII.

23. THE BULGARIAN GOVERNMENT.

[Translation.]

Geneva, October 9th, 1936.

With reference to your letter of July 7th last to His Excellency the Minister for Foreign Affairs regarding the recommendation adopted by the Assembly of the League of Nations at its meeting on July 4th, 1936, I have the honour to submit the following observations of the Royal Government on the measures to be recommended for the better application of the principles of the Covenant of the League of Nations.

1. The Royal Government considers that, in order to ensure the necessary efficacy of the Covenant, it would be advisable to determine with greater precision the meaning and scope of some of its provisions.

2. Equality between all the Members of the League of Nations being one of the fundamental principles of the Covenant, the Royal Government considers that half the non-permanent Members of the Council should be admitted by a vote of the Assembly and half by rotation in the alphabetical order of the States Members.

3. A tendency has lately been apparent in the League of Nations to supplement the collective guarantee of Article 10 by a system of limited guarantees provided by regional agreements for mutual assistance.

The Royal Government considers that, far from strengthening collective security, regional pacts might in certain circumstances be harmful to it.

Any attempt to weaken the collective guarantee laid down in this stipulation of the Covenant—a guarantee on which the whole edifice of the League of Nations is based—might have consequences incompatible with the principle of collective security.

This fundamental guarantee, contained in Article 10, must, in the opinion of the Royal Government, be preserved in its entirety.

4. The provisions of Article 11 regarding the prevention of war could be successfully supplemented by a system of bilateral agreements of non-aggression, arbitration and conciliation, laid down and applied in strict conformity with the tenor and spirit of the said Article.

5. With regard to the repressive action of the Covenant, the Bulgarian Government considers:

(a) That the general obligation under Article 16 must be maintained;

(b) That the Council of the League of Nations must preserve, with regard to repressive action, the full authority and complete initiative conferred on it by paragraph 2 of Article 16. It is for the Council to decide whether there has or has not been a breach of the Covenant, and to designate the aggressor and apply the coercive action which may ensue;

(c) That, whenever the Council decides, as a result of a breach of the Covenant, to recommend to the States Members the adoption of sanctions against an aggressor, it will designate the States which are to apply these measures, without taking into consideration the fact that they are parties to a regional agreement of mutual assistance.

6. The Royal Government considers that it is important, in order to safeguard general peace and the authority of the League of Nations, to co-ordinate the effects of Articles 18 and 20. The agreements, treaties or conventions submitted to the League for registration and publication should not be registered and published before the Council has decided that they are compatible with the principles and all the provisions of the Covenant.

7. Article 19 must, in the opinion of the Bulgarian Government, be given a more flexible form to facilitate its application.

As a first step in this direction, it would be necessary to replace the unanimity rule in the decisions of the Assembly to advise the reconsideration by Members of the League of treaties which have become inapplicable by a qualified majority, or by a unanimous vote of the Members of the Council excluding the parties concerned.

* * *

In submitting the above observations, I have the honour to inform you that the Royal Government reserves the right of stating more fully its views on the matter and of giving all necessary explanations.

(Signed) N. MOMTCHILOFF.

24. THE LIBERIAN GOVERNMENT.

*Memorandum.*¹

DEPARTMENT OF STATE.

Monrovia, September 15th, 1936.

The Government of the Republic of Liberia notes that, at its sixteenth ordinary session, the Assembly of the League of Nations, taking into account the unpleasant experience of the past few months, and looking towards the future for the stabilisation of world peace, decided that States Members should be invited to send in their views in relation to the reform of the Covenant of the League of Nations.

It should be stated at the outset that the fundamental aims of the League as originally conceived by the framers of the Covenant are the prevention of war, the organisation of world peace, and security for each State against external aggression.

These ideals of international solidarity and universal peace, of which this association of nations is an exponent, are of the very essence of the charter of organisation or Covenant of the League to which Member States have subscribed in a collective sense, and which they have solemnly undertaken to maintain.

In the light of the foregoing, and after giving careful study to the subject proposed for consideration, it is the considered view of the Government of the Republic of Liberia that the Covenant of the League of Nations as it presently exists is adequately equipped, and in very definite terms indicates the manner in which its Members, without exception, should give practical effect to its provisions.

It would therefore appear that the structure of the Covenant needs no fundamental modification, but rather it should be literally enforced in every case of aggression against a Member State, either by a covenant-breaking State or a State which may not be a Member of the League.

The Government of Liberia, recognising that the League of Nations was organised for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small nations alike, has upon all occasions associated itself with the principles consecrated in the Covenant of the League, and is prepared to adhere to this course in the future.

In particular does it recommend that Articles 10, 11 and 16 of the Covenant, which constitute the security articles, should undergo no drastic revision, and that in all cases of war, or threats of war against a Member State, they should be enforced without regard to the geographical situation of the particular conflict, or threat of war, thereby fulfilling our obligations in a collective manner under the provisions of the Covenant.

It is further recommended that in the event of war, or threat of war against a Member State, the Council of the League of Nations should be summoned within three days after notification thereof to the Secretary-General.

That, after the Council has convened as above mentioned, its decisions with regard to the application of Article 16 of the Covenant against the covenant-breaking State should in such circumstances be conclusive and final upon obtaining a vote of three-fourths of the Members present.

It is also the view of the Government of the Republic of Liberia that the Covenant should be so reconstructed as to enable the League of Nations to have at its disposal adequate weapons of material force with a view to enabling it to effectuate its decisions within the limits of the Covenant.

There is another point to which attention should be invited. Discussions have been had in certain quarters to the effect that, if collective security is not immediately possible, regional pacts should be entered into by individual groups of States for the purpose of defending particular regions. Having regard to this suggestion, the Government of the Republic of Liberia would observe that, while admitting that certain benefits may be derived from such pacts, it is also obvious that the adoption of such a course by the League of Nations would be tantamount to a negation of the collective idea inherent in the Covenant and for which the League was originally

¹ This memorandum was transmitted to the Secretariat, on October 14th, 1936, by the Liberian Permanent Delegate.

founded. As has been appropriately observed, "under this system every great Power would, perhaps, pledge itself to use force in defence of the League only over certain limited areas coincident with its own national interests. In all other areas it would merely pledge itself to render to the League moral and economic support".

If indeed the League is to undergo reconstruction, each Member should live for all and all for each. Thus alone can this international organisation survive and collective security be recreated.

25. THE DELEGATION OF PANAMA.

[*Translation from the Spanish.*]

Geneva, October 10th, 1936.

I have the honour to transmit to you herewith a memorandum setting forth the views of the delegation of Panama accredited to the League of Nations on questions concerning the reform of the League Covenant.

I would ask you to be good enough to bring this memorandum to the notice of the special Committee set up by the seventeenth session of the Assembly—which terminated to-day—for the study of these questions, so that the Committee may be aware of the views of the delegation of Panama when it proceeds to study all the suggestions, proposals, and reforms submitted by Member States in accordance with the resolutions adopted by the sixteenth and seventeenth sessions of the League Assembly.

(Signed) Galileo Solís,
Head of the Delegation of Panama.

Memorandum from the Delegation of Panama to the Secretariat concerning the Reform of the Covenant of the League of Nations.

I.

During the sixteenth session of the Assembly of the League of Nations, on July 1st, 1936, the undersigned, as head of the delegation of Panama to that Assembly, delivered a speech, the following extracts from which set forth the views of this delegation on certain questions concerning the reforms that are necessary in the Covenant of the League of Nations:

"The idea of a universal organisation of nations for the common welfare of all and for the benefit of humanity as a whole is an idea which cannot die as long as man is amenable to moral improvement; and I believe that it is not the idea of a legal association of nations which has broken down, but the ambition or desire to obtain from the present League of Nations what a league of nations cannot give in the present state of humanity and of Western civilisation.

"In the times we live in, international conflicts can only be solved if each one is considered separately, and if solutions are sought on the basis of their peculiar circumstances. To endeavour to universalise the solution of a local conflict is, on the one hand, to give to such a conflict a scope which it does not possess, and, on the other hand, to apply to it remedies which are not specific and which cannot therefore be effective. Any endeavour to make a universal problem of each regional conflict cannot but bring chaos into relations between States. This is one of the great defects of the Covenant, because, instead of simplifying problems in order to seek the plainest solutions, it has sought for each local and simple problem a world-wide complication.

"Let us leave the League of Nations on the lofty plane where it can engage in the study, analysis and enunciation of the universally accepted principles of law; in the study, analysis and enunciation of the rules and principles which will ensure an improvement of life in all its manifestations; in the propaganda and educational activity necessary to bring about a higher degree of moral and ethical sensitiveness in world opinion; in the work of *rapprochement* between nations in order to create closer ties and greater harmony in their cultural, economic and political relations.

"The League of Nations can only subsist as long as it allows, within an ample sphere, the free play of regional interests, in order that they may be grouped, harmonised, organised and regulated according to the needs and characteristics of the group of nations which have common interests and common problems, and according to the degree of moral development which such nations have already attained and to the degree in which, in consequence, they are ready to give preference to right and justice over interests and selfish considerations.

"The existing structure of the League of Nations does not lend itself to the attainment of any satisfactory solution of the present situation, and possibly it would be advisable to summon a new international conference, inviting the co-operation of all the nations of the world which are at present absent from Geneva, in the hope that this institution may arise

rejuvenated from such a conference or that an entirely new league of nations may emerge within which we may seek solutions for all the conflicts and problems in suspense that threaten the peace of the world, on the basis of principles inspired by law and justice but with a greater sense of practical realities—principles which, while inspired by lofty and sublime ideals, still also reckon with existing realities and with the present vices, defects and shortcomings of humanity.”

The sixteenth session of the Assembly of the League of Nations decided to invite all Member States to submit their views concerning the problem of possible reforms of the Covenant, and that invitation was confirmed and repeated by the seventeenth session of the Assembly, which terminated to-day, and which has set up a Committee to study all suggestions and proposals submitted by Governments on this subject.

In order, therefore, to make its modest contribution to the study of the reform of the Covenant, the delegation of Panama has thought it desirable to submit the present memorandum, which falls into the following two parts. The first is a brief study of those provisions of the Covenant which have, in practice, proved to be ineffective or inexpedient or have been disregarded. The second part contains suggestions concerning the reforms which, in the opinion of this delegation, should be introduced either into the text of the Covenant itself or into the practical application thereof.

II.

Article 8 of the Covenant: Disarmament.

We have but to cast a glance at the world of to-day and to observe, even though superficially, the line of conduct followed by the Powers to be convinced that the assertion, made in Article 8 of the Covenant, that “the Members of the League recognise that the maintenance of peace requires the reduction of national armaments” is to-day a dead letter.

The increase, development, and improvement of the land, naval, and air armaments of all the great Powers, and even of many small nations, is, in fact, something that goes beyond all limits hitherto known.

In an unstable international situation, and in the face of immediate dangers or risks, and even in view of the possibility of future contingent dangers, every nation is under what might be called the biological necessity of making its preparations for the defence of its existence and security. The instinct of self-preservation applies to communities as to individuals, and, consequently, a nation that arms itself under the impulse of that instinct cannot be considered guilty of any violation of man-made laws, because those laws must give way to the ineluctable laws of nature.

This applies to cases of rearmament due to external influences. More serious, however, from the point of view of international relations, are the cases of rearmament due to reasons that are purely domestic to the country that rearms. These cases are more serious because they more easily escape international control and vigilance.

A Government which rearms excessively, with the sole object of maintaining itself within its own frontiers by stifling all opposing political movements in its own country, thereby constitutes a danger to international relations, because it gives rise, in other nations, to mistrust and suspicion, and to fears as to the use that the Government in question may ultimately make of its forces outside its own frontiers.

The armament race cannot develop except in an international situation that is unstable and charged with ambitions and suspicions. Underlying any such situation there are always economic, political, or ideological causes. Until remedies are found for those causes, all the obligations to reduce their armaments which nations may assume will be completely ineffective, whatever the form in which such obligations are expressed.

For this reason, the League of Nations has absolutely failed in all its efforts to bring about a reduction or limitation of armaments, and, for the same reason, it will continue to fail so long as attempts are made to achieve any progress in that direction by the means hitherto employed.

Article 10 of the Covenant: Guarantee of the Independence and Integrity of Member States.

The existence of the League of Nations has, as its necessary logical basis, the existence of the Member States of which it is composed. It has accordingly been said, and rightly, that Article 10 is the corner-stone of the Covenant, because by it “the Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League”.

Nevertheless, although this article, which is so categorical, is the very foundation of the Covenant, two cases have occurred in which the article has proved completely ineffective. The first was the Sino-Japanese conflict, as a result of which the “territorial integrity” of China was destroyed. The second case was the Italo-Ethiopian conflict, as a result of which the “territorial integrity and political independence” of Ethiopia were reduced to mere simulacra.

In the Sino-Japanese case, as soon as the League gave judgment against Japan, the latter left the League and placed itself beyond the League’s reach, thus proving that the League is ineffective as a protection for a Member State against another State outside the League.

In the Italo-Ethiopian case, although the League gave judgment against Italy, that country has not withdrawn from the League. This has shown that Article 10 of the Covenant is no less ineffective as a defence for a Member State against another and a powerful Member State.

In practice, therefore, the guarantees of Article 10 of the Covenant have been completely ineffective.

It might perhaps have been better to limit Article 10 to an explicit and clear declaration of the principle of the territorial integrity and political independence of Member States, without embodying in the same article an absolute obligation of protection in terms which have proved to be vain words. The dignity and moral force of the enunciation of the principle itself would thus have been preserved. The guarantees of protection should not have been mentioned in Article 10, but should have been developed only in the later articles, the object of which is to lay down in precise terms such measures as are best calculated to make those guarantees a more or less effective reality.

Article 16 of the Covenant: Repressive Action in the Case of War involving Violation of the Undertakings of the Covenant.

The only case in which the League has decided to apply Article 16, and has taken steps to enforce it, was the case of the Italo-Ethiopian conflict, and, in consequence of the complete ineffectiveness of the measures decided upon, the League found itself compelled to recognise explicitly and openly that this provision of the Covenant has proved completely inoperative for the purposes its definite application was intended to serve.

In other words, a Member State was declared to be an "aggressor" by the League, and the latter decided to apply "sanctions" against that State in order to put an end to the aggression. The "sanctions" were ineffective in restraining the "aggressor", who continued his enterprise to the end. Thereupon, the League itself raised the "sanctions" and tacitly accepted the accomplished facts, and continues to carry on as if nothing had happened. There is only this paradoxical difference: that the "aggressor" State, whose international personality and influence have been strengthened as a result of the "aggression", continues to be a Member of the League but refrains from taking part in its proceedings—proceedings which the State in question regards with a certain disdain—whereas the State "victim of aggression", whose international personality has been reduced to a mere shadow, continues to take an active part in the work of the League.

Article 16 has proved completely ineffective because the "sanctions" for which it makes provision cannot operate effectively against the "aggressor" unless they are applied universally, and this universality in application cannot be achieved so long as there are countries outside the League.

The most important lesson that we have learnt from the Italo-Ethiopian conflict, however, is that, even if the League were universal, it would still be impossible to apply Article 16 in the form in which an attempt was made to apply it to this conflict. The reason is that it is not certain that a local conflict will equally affect and concern all the countries of the world, and, consequently, it is also not certain that "sanctions" of a general character, to be applied by all nations simultaneously, will have the same internal effects in all the countries which apply them, and will, in each of those countries, be received with the same interest, the same spirit of decision, the same good-will, or even the same comprehension.

Articles 11, 12, 13, 15, 19, and 23, paragraph (e), of the Covenant: Action to prevent Conflicts.

There are two ways of preventing international conflicts. One consists in providing pacific means for the settlement of any conflicts that may arise, and this is the purpose of Articles 12, 13, and 15, and of the first paragraph of Article 11. The other way consists in seeking solutions for those questions which affect, or may affect, the harmonious development of economic, cultural, or political relations between nations, and which, if they are not studied in time and with due care, may later lead to the outbreak of conflicts between States. These are the objects sought in Article 19, Article 23, paragraph (e), and Article 11, paragraph 2.

The first way, therefore, implies the *pacific settlement of disputes*, whereas the second implies the *timely removal of the underlying and fundamental causes from which disputes may arise*.

The League has failed in the application of *pacific solutions, as means of obviating warlike acts* between nations, in the following cases: China-Japan, Colombia-Peru, Paraguay-Bolivia, and Italy-Ethiopia. In the last two cases, the failure was so complete that it proved impossible to prevent a *formal state of war between the opposing countries*.

As regards the *timely removal of causes that may lead to disputes*, the League has done practically nothing, and no serious effort in that direction has ever been made. In this connection, it should be noted that, of the above-mentioned conflicts, the only ones in which a solution was found were the conflicts between Colombia and Peru and between Paraguay and Bolivia. It was, in fact, possible to find solutions for those conflicts after they had broken out, because the fundamental and underlying causes were sought and attacked, with the object of applying a remedy to the very root of the trouble.

When the organs of the League devote greater and more vigilant attention to "any circumstance whatever affecting international relations which threatens . . . the good understanding between nations" (Article 11, paragraph 2), to the "reconsideration of treaties which have become inapplicable and the consideration of international conditions whose continuance" affects good relations between States (Article 19), and to the need to "secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all"—and this should include the removal of economic and financial barriers and the opening of all world markets to all countries on an equal footing—then international disputes will have been reduced to their minimum.

Article 21 of the Covenant: Regional Agreements.

Article 21 was introduced into the Covenant with the sole object of facilitating the ratification of the Covenant by the United States Senate. It was thought, in fact, that by explicitly safeguarding the "Monroe Doctrine", at the very time when the Government of that country had carried the international policy of the "big stick" to its extreme point, it would be possible to prevent opinion in the United States from turning against the ratification of the Covenant. Obviously, there could have been no other reason for adopting this article, since post-war mentality was resolutely opposed to anything that might give rise to new alliances or offensive and defensive pacts, and any tendency to permit the formation of groups of nations would at that time have been interpreted in that sense.

The United States did not ratify the Covenant, but Article 21 remained, though no one was ever able clearly to understand its real significance in the organisation and constitution of the newly founded League.

In this connection, the Italo-Ethiopian conflict has been a veritable revelation, for, when an attempt was made to universalise the application of "sanctions", it became clear that, even though all States have, or should have, the same interest in, and the same desire for, the clear definition of the principles of law, the rule of justice, and the ever more effective development of peaceful means of settlement for disputes, it is by no means certain that a local conflict affects all nations equally, or that all nations are able to intervene with equal effect in the settlement of each individual conflict. Hence arose the theory, which is very accurate, just, and reasonable, that, in any common international action to prevent or settle a conflict, the extent of the intervention of each State should be proportionate to the extent to which that conflict affects that State, and also to the extent to which that State could reasonably exercise an effective influence in the appropriate settlement of the dispute.

The experience of the Italo-Ethiopian conflict has thus brought out the real importance of Article 21 of the Covenant. Nevertheless, as that article was drawn up without regard to the entirely new circumstances that have arisen to-day, its text does not clearly meet the needs imposed by those circumstances. It is therefore necessary to modify, clarify, or explain its text, if this article is to make its full potential contribution to the better regulation of relations among all the nations of the world.

The Principle of the Universality of the League.

It cannot be denied that universality is an essential condition for the full efficacy of a League of Nations; but that does not mean that the League of Nations should not exist, or has no reason for existence, if it is not actually universal. On the contrary, a League of Nations may exist, even though all the nations of the world do not belong to it, provided that it is capable of becoming universal through the possible accession of those States that do not form part of it.

Universality is, therefore, an aim, but not an essential condition of its existence.

If universality were a vital condition, then we should be forced to the conclusion that we must accommodate ourselves to all the ambitions and claims of those nations that are outside the League, in order to induce them to do us the honour and favour of joining it. On the other hand, if universality be accepted as an aim, the League of Nations will be able to exist, whatever the number of its Members, provided the latter really desire to work for international peace and justice, and thus to achieve the desired universality when all countries come to be animated by the same spirit of altruism and co-operation for the welfare of mankind.

In other words, the League should not sacrifice its adherence to its principles or its faith in them in order to make universality possible. On the contrary, it should be ever more faithful and constant in the service of those principles, so that universality may one day be attained on the basis of the universal acceptance of those same principles.

If the reform of the Covenant is considered from the standpoint of the universality of the League, it will be necessary to introduce such reforms as will remove from the Covenant some defects which provide certain States with reasonable grounds for not joining the League. We must not, however, go to the other extreme and accept reforms the only object of which is to satisfy the demands put forward by States outside the League as a condition for applying for admission.

Should the Covenant be strengthened or should it be improved?

In the matter of the reform of the Covenant, there are some who maintain that, if there have been failures in the application of the Covenant, this is because the obligations under the Covenant have not been discharged by the States, and that, consequently, it is necessary to introduce reforms for the purpose of rendering those obligations more binding and imperative, so that it will in future be more difficult for States to evade their fulfilment. There is, however, no reason to suppose that if the same circumstances were to occur again, and if the same procedure were adopted, the same results would not follow. It seems childish to think that, if it has proved impossible to carry out the existing provisions of the Covenant in full, it would at a later date be possible to ensure compliance with stricter provisions. It therefore appears to follow logically that the idea of *strengthening* the provisions of the Covenant in order to make them more imperative would only result in making future failures even more marked.

There are others who think, on the contrary, that the Covenant has defects and blemishes which prevent all progress, and that it is necessary to *improve* it by purifying it of the dross which it contains. The delegation of Panama considers that the Covenant, viewed from the standpoint of pure doctrine and principles, is perfect so far as any human work can be perfected, regard

being had to the circumstances in which it is carried out. The delegation does not believe, however, that the world is sufficiently mature to apply successfully and completely the doctrine and the pure principles embodied in the Covenant, and that, consequently, this divergence between the practical reality, the evils of which it is desired to treat, and the ideal plane, from which it is sought to derive the remedies, is the chief cause of the failure which the League has hitherto encountered in practice.

The delegation of Panama is of opinion that the Covenant should be precise and definite as regards the enunciation of the principles of international law and justice that should govern relations between States. The practical methods and means of ensuring the application of those principles, however, should be such as are adapted to the present circumstances and habits of mankind, and permit of sure progress along the road to peace, however small the advance may be, provided it goes as far as possible. In the course of its ceaseless betterment, humanity will go on improving and gradually strengthening, day by day, the most effective means for bringing about in the future new and greater progress towards the complete application of those principles.

This delegation does not hesitate to assert that this is the distinctively American conception in the development of international law.

In these circumstances, therefore, the conclusion must be drawn that what the Covenant needs is not to be *strengthened or improved*, but merely to have its methods and procedures for the practical application of the principles it embodies *adapted* to the international realities of to-day, so that, within the limits of those international realities, we may ensure the best and greatest progress possible at present in the direction of the recognition and observance of those principles. Thus, we shall guarantee to humanity all that progress which it is possible to attain at the moment in the direction of the supreme and ultimate ideal—universal peace on the permanent basis of law and justice.

Should the Text of the Covenant be amended or should it be interpreted ?

The question has been discussed whether, in view of the urgent needs of the moment, it is necessary to *amend* the text of the Covenant, or whether it will suffice merely to *interpret* some of its provisions in order to improve their application. At bottom, this is merely a formal question, since all are agreed that something must be done to improve the far from encouraging results so far achieved in the application of the Covenant.

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*.

This delegation is fully aware of the enormous difficulties that stand in the way of any *formal amendment* of the text of the Covenant. Accordingly, since the question is merely one of form and not of essential substance, this delegation considers that approval should be given to any resolution described as *interpretative*, if its real object is to amend the practical application of the Covenant, its methods and procedures, and the scope of some of its articles, in order to ensure its more real and effective application.

III.

In accordance with the views set forth in the two preceding sections of this memorandum, the delegation of Panama to the seventeenth session of the Assembly of the League of Nations considers that the reforms to be introduced into the League Covenant, whether in the form of amendments to the text of the Covenant or in the form of "interpretative resolutions", should deal with the following questions.

Action to prevent Conflicts.

(a) Every Member State should have the right, individually or in association with other States, whether Members of the League or not, and independently of any collective action by the League itself, to perform any friendly acts that it may consider expedient with a view to dispelling or remedying, through friendly action and peaceful understandings, any tension or dispute that may arise, or may threaten to arise, between any other States whatsoever, whether Members of the League or not. Every Member State should also have the right to accept similar intervention by other States, whether Members or not, in questions which affect it. In all cases, a State that is a Member should keep the League of Nations informed.

(b) The League should have permanent organs and departments for the *official* investigation of all incidents, circumstances, and events, whether legal, political, economic, financial, or ideological in character, which may be likely to lead, or may in fact lead, to friction between States, and which might ultimately result in a conflict. Taking account of the reports made by such organs or departments, it is the right of every Member State, and the duty of the Council, to make the necessary representations to the Governments concerned for the purpose of removing or remedying any cause of dispute.

(c) Every Member State should have the right to request the competent organs of the League to investigate any fact or circumstance that may affect the good relations of any other States whatsoever.

Repressive Action in the Event of War.

(a) In the event of war, whether the belligerent States are Members or not, all Member States shall be obliged to employ, with regard to the belligerents, all known friendly means to

bring them to an understanding that will put an end to hostilities and open up the way for peaceful negotiations.

(b) In the event of war, no sanctions other than those expressly announced by the League Assembly shall be employed against a State declared to be the "aggressor".

In no case shall a Member State be obliged to apply military sanctions to which it has not freely consented.

Economic and financial sanctions shall not be obligatory for any Member State unless they have been approved by two-thirds of the Member States that make up the *regional group* to which the State in question belongs.

Diplomatic and moral sanctions shall be obligatory for all Member States if they are approved by two-thirds of the Members of the League sitting as the Assembly.

(c) Any State, whether a Member or not, that is declared to be an "aggressor" shall be responsible for compensation for damage occasioned by its "aggression" to the State or States victims of the "aggression", and also to all States that may take part in any common action undertaken in fulfilment of obligations deriving from the Covenant.

(d) Any State that commits an act which creates a "state of war" should be considered an "aggressor" if by its action it violates an international undertaking.

The declaration of "aggression" must be made by the Assembly by a majority of two-thirds of the Member States, or by the Council unanimously. In the latter case, however, the Assembly may, by a vote of two-thirds of its Members, revoke the declaration made by the Council.

Regional Groups.

The Assembly, by a vote of two-thirds of its Members, may determine the "regional divisions" amongst which the Members of the League may be distributed or classified. When these divisions have been determined by the Assembly, every Member State must, within two months, declare in which of the groups it considers itself to be included. Such declaration shall be final, and may not be changed except by authorisation of the Assembly approved by two-thirds of the Members.

The Assembly or the Council should be empowered to delegate to the "regional groups" the consideration of any matters which come within the jurisdiction of the Assembly or the Council, but which affect only the Members of a certain group or groups. In such cases, the decisions reached by the countries that make up the "regional group" in question should be valid and obligatory, as if they had been approved by the Assembly or by the Council, as the case may be, as regards their binding force in the case of the Member States that make up the "regional group" in question, provided that they do not affect the interests or rights of other nations outside the group.

Separation of the Covenant from the Peace Treaty.

In order to avoid the pernicious influences on the development and interpretation of the Covenant which result from the linking of the latter with the Versailles Treaty of Peace, the Covenant should be completely separated from that treaty, so that it may not continue to be bound up with the consequences of a past war.

Respective Jurisdictions of the Assembly and the Council.

Paragraph 3 of Article 3 of the Covenant, which specifies the powers of the Assembly, and paragraph 4 of Article 4 of the Covenant, which specifies the powers of the Council, are identical in their wording. This creates confusion as to the respective powers of each of those bodies. It is therefore necessary to determine with greater precision the field of competence of each of them.

In general terms, the Council should not have the power to impose obligations of a general character on any Member State. This should come within the exclusive competence of the Assembly.

Any resolution of the Council should be capable of being revoked by the vote of two-thirds of the Member States sitting as the Assembly, provided that any State has notified the Council within the ten days following that it will request the next Assembly to revoke such resolution.

It should be possible for a resolution that has not been approved by the Assembly, because it has not been supported by the necessary number of votes, to remain open for six months at the Secretariat for the subsequent approval of States, if any Member State so requests. In such cases, when the necessary number of votes has been received, the Secretary-General shall give notice to all Member States, and the resolution in question shall be regarded as finally approved.

* * *

The present memorandum contains the views which the delegation of Panama to the seventeenth session of the Assembly submits for the consideration of the special Committee set up by the Assembly for the purpose of studying the problem of the reforms which it is necessary to introduce into the Covenant of the League of Nations.

Geneva, October 10th, 1936.

(Signed) Galileo SOLÍS,

First Delegate of the Republic of Panama
to the Seventeenth Session of the Assembly of the League of Nations.

26. THE BELGIAN GOVERNMENT.

[*Translation.*]

Brussels, November 10th, 1936.

I have the honour to inform you of the Belgian Government's views on the question of the application of the principles of the Covenant of the League of Nations.

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.

According to the fundamental conception with which it was created, the League should do its utmost to attain universality, which is a condition of the full and entire efficacy of the Covenant. In the absence of universality, there can be no unbroken international co-operation; action taken in virtue of the Covenant will always be incoherent, its results may prove inadequate, and it may even, in certain cases, give rise to a group antagonism between Member States and non-member States. It is therefore desirable to examine the possibilities of making adjustments in the Covenant to render it easier for non-member States to join the League.

In connection with the prevention of war, the Council's action may take a wide variety of forms, its principle being laid down in Article 11 of the Covenant. It would be advisable to define the measures that the Council can take as "effectual to safeguard the peace of nations" by eliminating threats of war.

In this connection, the special Committee appointed to study the application of the principles of the Covenant might usefully refer to a report adopted on March 15th, 1927, by the Committee of the Council, whose rapporteur was M. de Brouckère, dealing with the methods and regulations which would enable the Council to take such decisions as may be necessary to enforce the obligations of the Covenant as expeditiously as possible. The Assembly, at its session in September 1927, approved that report and recommended its adoption by the Council "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". The Council, in turn, at its session in December 1927, approved the report and adopted it in the same terms as the Assembly. It contains valuable suggestions—which will no doubt be considered and may be enlarged upon by the special Committee of Enquiry—regarding measures that the Council might recommend against a State whose attitude was endangering peace.

Furthermore, in order to prevent the Council's action under Article 11 from being paralysed, a special exception to the unanimity rule should be made in the application of that article; for it is unimaginable that the adoption of preventive measures by the Council should be conditional upon the acquiescence of the party who is threatening the peace.

The Government also considers that the initial procedure under Article 11 should be expedited, since its effectiveness depends largely on the speed with which it is set in motion.

With reference to repressive action by the League, it would be highly desirable to dispel the uncertainty which still prevails as to the extent of the obligations imposed on Members of the League by Article 16 of the Covenant. 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. Moreover, the practical operation of the system might be seriously interfered with in some cases by doubts and controversies arising out of it.

In making this effort to clear up the situation, it would obviously be proper to bear in mind the lessons of experience. The resolutions adopted by the Assembly in 1921 might also afford useful guidance.

(Signed) P. H. SPAAK.

III. REPORT AND RESOLUTION SUBMITTED BY THE SPECIAL MAIN COMMITTEE TO THE ASSEMBLY AND ADOPTED BY THE LATTER ON OCTOBER 10TH, 1936.

Rapporteur : The Right Honourable S. M. BRUCE (Australia),
Chairman of the Main Committee.

At its meeting of October 8th, 1936, the Assembly adopted the following resolution setting up a Main Committee 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 Main Committee 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 Committee 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 Committee 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 Committee 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.

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 Committee 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 Committee 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 Council¹, the delegates of certain League Members who do not at present hold seats on the Council.

The Committee 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 Northern Ireland,	New Zealand,
Bulgaria,	Poland,
Canada,	Portugal,
Chile,	Roumania,
China,	Spain,
Colombia,	Sweden,
Czechoslovakia,	Switzerland,
France,	Turkey,
Greece,	Uruguay,
Iran,	Union of Soviet Socialist Republics.

The Committee 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 Committee 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 Main Committee 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.

¹ At the sixteenth meeting of the Assembly, on October 10th, 1936, the Chairman of the Special Main Committee made the following proposal, which was adopted by the Assembly: “ . . . I have been advised that, owing to the departure of the representative of that country (Ecuador, a Member of the Council) on a new mission, and to the necessary lapse of time before the arrival of his successor, it will not be possible for Ecuador to nominate a representative. As the Special Main Committee entrusted me with the task of making a recommendation regarding the States to be represented on the Committee, I propose the substitution of Colombia for Ecuador.”

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."

IV. STUDY OF THE PROPOSALS SUBMITTED AND STATEMENTS
MADE BY MEMBERS OF THE LEAGUE

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INTRODUCTION.

1. The communications regarding the application of the principles of the Covenant which are analysed in this report were received before November 20th, 1936. They came from the Governments of the following twenty-five countries:

Afghanistan	Liberia
Argentine	Lithuania
Belgium	New Zealand
Bulgaria	Norway
China	Panama
Colombia	Peru
Denmark	Poland
Estonia	Sweden
Finland	Switzerland
France	Union of Soviet
Hungary	Socialist Republics
Iran	Uruguay
Iraq	
Latvia	

2. The statements made in the Assembly during the discussion by delegates of Governments which had not sent in written communications proceeded from the Governments of the following seventeen countries:

Australia	Dominican Republic
Austria	Ecuador
Belgium	Haiti
United Kingdom	India
Canada	Mexico
Chile	Netherlands
Cuba	Portugal
Czechoslovakia	Turkey
	Venezuela

3. This study includes points in the oral statements made during the last ordinary session of the Assembly amplifying or developing the written communications from Governments.

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 question have been classified in the following seventeen chapters.

CHAPTER I. — EXPEDIENCY OF DEALING WITH THE QUESTION.

1. Certain Governments were doubtful as to the expediency of dealing in present circumstances with the question of the application of the principles of the Covenant.

The *Iranian* Government "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".

The *Polish* Government "considers it premature . . . 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 a political atmosphere which had been cleared of the heavy anxieties of the present moment".

2. The Government of the *Union of Soviet Socialist Republics* expresses a contrary opinion. M. Litvinoff said in the Assembly:¹ "I hope I shall be excused if I disagree with the view of some Governments, reported in the summary circulated by the Secretariat, that the work of interpreting and applying the Covenant should be postponed until the political atmosphere has been relieved of its present anxieties. I would rather express the view that it is the very presence of these anxieties which constitutes the most powerful argument in favour of an early consideration of this question."

¹ Speech of September 28th, 1936.

CHAPTER II. — 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.

I. *Collective Security.*

1. Some Governments urge the importance of collective security. The *Estonian* Government considers that it is the main duty of the League "to supervise the normal 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 Government of *Liberia* says: "It should be stated at the outset that the fundamental aims of the League as originally conceived by the framers of the Covenant are the prevention of war, the organisation of world peace, and security for each State against external aggression.

"These ideals of international solidarity and of universal peace, of which this association of nations is an exponent, are of the very essence of the charter of organisation or Covenant of the League to which Member States have subscribed in a collective sense, and which they have solemnly undertaken to maintain."

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. The *Canadian* Government¹ holds, on the contrary, that the provisions relating to collective security have been an obstacle to the attainment of universality. It says: "The coercive and punitive provisions of the Covenant have operated in the past as a deterrent to the kind of collaboration which must serve as an intermediate stage to a League of Nations which will be universal. By emphasising the mediation and conciliation aspects of the Covenant, we can help to transform the collective system from a hope into a reality. Every vacant seat in this Assembly is a broken link in the chain of 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 *Canadian* Government is one of these (see previous paragraph).

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".²

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 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

¹ Speech by Mr. Mackenzie King, September 29th, 1936.

² 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."

disputes that may arise between States Members, and offer possibilities of remedying situations the maintenance of which might imperil world peace.”¹

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”.

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.”

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”.

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 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,² 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, said³: “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 Government of *Iran*, speaking through M. Sepahbodi,⁴ says: “I feel in duty bound to say in all solemnity that my country can never take part in a reform of our fundamental charter such as will restrict its scope or create legal inequalities between the Members of the League, or in any way impair the strength of its fundamental principles, since it is for the sake of those principles that we are taking part in this international institution.”

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”.

¹ The written communication from the Hungarian Government reaffirms this declaration and makes reference to the speech in which it is to be found. The Hungarian Government's attitude is further expressed in the speech of General Tánzos (September 28th, 1936). He said:

“The Hungarian Government's point of view in this matter is based on the idea that, since international life is not passed in a static and unchanging environment, any system of organising peace, and, therefore, the instrument which was created after the great war as a safeguard for peace, must of necessity serve to promote peaceful evolution.

“The League of Nations cannot, however, guarantee this process of evolution unless it regards it as a fundamental duty to be continually on the watch to eliminate in time any circumstances likely to embitter relations between States, and to make full use of the means to that end included in the various provisions of the Covenant.”

² Speech in the Assembly, July 1st, 1936.

³ Speech in the Assembly, July 3rd, 1936.

⁴ Speech of July 2nd, 1936, referred to in the Iranian communication.

Speaking on behalf of the *Mexican* Government, M. Narciso Bassols said:¹ "The Mexican delegation considers it important to make sure that all the countries represented here are determined to take steps without delay to strengthen the League for the future by the adoption, at this session of the Assembly, of definite resolutions aimed at an immediate investigation of this problem".

The *New Zealand* Government says: "We are prepared to reaffirm with the utmost solemnity our continued acceptance of the Covenant as it stands".

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.

"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."²

The *Austrian* Government says:³ "The League should be careful not to interpret its mission in too strictly formalist a sense, and thus to forgo the suppleness indispensable to any political organ. It is obvious that, if it takes too rigid a view of its duties and thus assumes tasks which commit its responsibility too far, the League may see its action paralysed and its authority compromised. It seems to me, for example, that it would be wise to proceed to a detailed consideration of those articles of the Covenant which might, if too strictly applied, aggravate a delicate situation still further rather than promote a settlement."

The speech of the delegate of the *Chilian* Government⁴ contains the following passage: "It was such a situation that led us to assert objectively in the course of the Assembly of September last that it would be an error to expect the League of Nations to undertake action which was beyond its capacity. It is sufficient to read the Covenant to realise that the fundamental tasks which it entrusts to the League of Nations presuppose universality, and, if we are not to be illogical, we must admit that the lack of such universality was necessarily bound to make it impossible for the League of Nations to carry out the mission which the Covenant has entrusted to it.

"What is thus unchallengeable in the realm of thought has been found to be equally true in the realm of actual fact. Recent events have proved it beyond doubt. So far as the future is concerned, there is no plausible reason which would lead us to hope that the same causes may not in future lead to the same effects."

The delegation of *Panama* observes: "It seems childish to think that, if it has proved impossible to carry out the existing provisions of the Covenant in full, it would at a later date be possible to ensure compliance with stricter provisions. It therefore appears to follow logically that the idea of strengthening the provisions of the Covenant in order to make them more imperative would only result in making future failures even more marked . . .

"In these circumstances, therefore, the conclusion must be drawn that what the Covenant needs is not to be strengthened or improved, but merely to have its methods and procedures for the practical application of the principles it embodies adapted to the international realities of to-day, so that, within the limits of those international realities, we may ensure the best and greatest progress possible at present in the direction of the recognition and observance of those principles. Thus, we shall guarantee to humanity all that progress which it is possible to attain at the moment in the direction of the supreme and ultimate ideal—universal peace on the permanent basis of law and justice."

The *Portuguese* Government says:⁵ "We are not faced with a crisis of principle. The debates of recent Assemblies show that a sort of general agreement exists as to the objective of the League—peace within the framework of international justice. Even a superficial analysis of events proves that what is lacking is the will to apply the Covenant. The peoples of the world are not yet prepared to make the sacrifices such application entails. They already claim the benefits of collective security at times of difficulty or despair; but they do not yet wish to pay the price of solidarity which it involves."

The *Swiss* Government 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."

¹ Speech of October 2nd, 1936.

² 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."

³ Speech by M. Schmidt, September 29th, 1936.

⁴ Speech by M. García Oldini, October 2nd, 1936.

⁵ Speech by M. Monteiro, September 30th, 1936.

3. *Intention to apply the Covenant.*

Several Governments demand that there should be a genuine intention to apply the Covenant.

The *Afghan* Government says that, if the articles of the Covenant "are completely projected and applied in time, they will be effective to check aggression".

The *Argentine* Government, through the mouth of M. Cantilo,¹ says: "No one here will be surprised if I say unanimity exists as to the need for strengthening the Covenant and for ensuring its integral application in letter and in spirit".

Mr. Eden,² speaking on behalf of the *United Kingdom* Government, said: "In considering the problem of the future of the League, let us recognise clearly that there are two essential elements to its solution: the League's machinery and the will to work that machinery. Of the two, the second is without doubt infinitely the more important."

M. Carlos Lozano y Lozano said, on behalf of the *Colombian* Government:³ "The distinguished Foreign Minister of the United Kingdom asserted that one of the essential factors in the future of the League was the will to make its machinery work effectively. This remark is all the more true, since we may say that it is not the articles of the Covenant, but their incomplete or inappropriate execution, that has called forth the most severe criticisms against the work of the League."

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 *Iranian* Government expressed the following opinion:⁴ "In truth, it is not the Covenant and its articles that we must change, but rather the spirit of those who have to apply them. So long as there is in this Assembly no such spirit of sincerity in carrying out the undertakings entered into, no Covenant, however perfect, will prevent war or safeguard peace."

The communication from the Government of *Liberia* contains the following passage: "It would . . . appear that the structure of the Covenant needs no fundamental modification, but rather it should be literally enforced in every case of aggression against a Member State, either by a Covenant-breaking State, or a State which may not be a member of the League".

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".⁵

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 *Afghan* Government declares that "the articles of the Covenant, as they stand, do not admit of any alteration".

The *Argentine* delegate⁶ said, in the Assembly: "If, as we think, it is necessary—indeed urgent—to strengthen the League and to improve the application of the principles of the Covenant, to do so by the system of amendments seems to us the longest, the most difficult and the least efficacious method. We know by experience how hard it is to achieve results by this means, and the long delays which such a course involves."

The *Australian* delegate⁷ said: "The first point I wish to make clear is that my Government does not in any way suggest that there should be amendments to the Covenant".

The *Belgian* 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".

The *Canadian* delegate⁸ said: "The Canadian Government does not believe that formal amendment of the Covenant now is either possible or necessary. The powers and duties of the League develop by usage and experience as well as by explicit amendment. What its Members will and will not do can be read more clearly from what they have done and not done than from the text of the Covenant. What is now called for is to register in the light of actual facts the position

¹ Speech of September 30th, 1936.

² Speech of September 25th, 1936.

³ Speech of October 1st, 1936.

⁴ Speech by M. Sepahbodi, July 2nd, 1936, referred to in the Iranian Government's communication.

⁵ 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".

⁶ Speech by M. Cantilo, September 30th, 1936.

⁷ Speech by Mr. Bruce, September 29th, 1936.

⁸ Speech by Mr. Mackenzie King, September 29th, 1936.

which has developed during sixteen years of League history by the interpretations given and the action taken or not taken as occasion for decision arose."

The *Chinese* Government says: "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."

Referring to amendments to the Covenant, the *Cuban* delegate said: "There is a tendency now towards a basic remodelling of the Covenant within a few years of its acceptance, and my Government does not agree with this tendency because, as I have said, it regards the Covenant as an admirable instrument, and because it is prompted by considerations of prudence. A delegate who, for several years, played a prominent part in the League, the Belgian Minister, M. Hymans, recently wrote that we ought not to mutilate 'an edifice which has all the beauty of style and unity'; he followed up this advice with a reference to the necessity, more urgent than the reform of the Covenant, for the reform of men's minds, moral reform, the reform of the mentality of peoples and of the men who lead them."¹

The *Danish* Government "considers that, in the present situation, it is neither necessary nor possible to amend the Covenant".²

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 states, through M. Delbos,³ that France will 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 delegate of *India*⁴ said: "I . . . cannot believe that wisdom lies in attempting any heroic changes of our Constitution in this hour of depression. Our Constitution, after all, is elastic and can be adjusted to our changing needs."

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 Government of *Liberia* says: "The Covenant of the League of Nations as it presently exists is adequately equipped, and in very definite terms indicates the manner in which its Members, without exception, should give practical effect to its provisions".

The *Lithuanian* Government hopes "that the present wording of the articles of the Covenant will be left intact".

The delegate of the *Czechoslovak* Government⁵ said: "As regards the reform of the League, the States of the *Little Entente* do not think the Covenant should be altered. They think it would be best to consider for the future how the basic provisions of the Covenant can be applied in the light of past experience."

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.

(a) 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".

¹ Speech by M. de Blanck, October 2nd, 1936.

² M. Munch (speech of September 28th) said, on similar lines: "With regard to the Covenant, it is evident to anyone reading the replies of the various Governments that there is no possibility of changing it at present. Opinions are too varied with regard to the form such a change should take. In the circumstances, it is obvious that no modifications of the Covenant can be made, except as part of a general agreement designed primarily to give the League a more universal character and of such importance that the States Members, with a view to facilitating that agreement, would accept amendments to the Covenant which they would hesitate to adopt at present."

³ Speech in the Assembly, July 3rd, 1936.

⁴ Speech by the Aga Khan, September 29th, 1936.

⁵ Speech by M. Krofta, September 29th, 1936.

(b) The *Colombian* Government does not explicitly advocate any particular method, but some of its suggestions imply amendments to the Covenant.¹

The *Peruvian* Government proposes a considerable number of changes, most of which would involve amendments to the Covenant.

(c) The delegation of *Panama* proposes that a world conference should be held to establish a new League of Nations. It says: "The existing structure of the League of Nations does not lend itself to the attainment of any satisfactory solution of the present situation, and possibly it would be advisable to summon a new international conference, inviting the co-operation of all the nations of the world which are at present absent from Geneva, in the hope that this institution may arise rejuvenated from such a conference or that an entirely new League of Nations may emerge within which we may seek solutions for all the conflicts and problems in suspense that threaten the peace of the world".

(d) 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.

A. General Observations.

I. A number of Governments are in favour of a method which would aim at strengthening the Covenant by interpreting or amplifying it.

The *Argentine* Government proposes that "the procedure adopted should be that of interpretative rules . . . pending the introduction of formal amendments".²

The delegate of *Australia*³ states that his Government feels "that it is most desirable that by interpretative action we should define more clearly what are the obligations of States Members."

The *Bulgarian* Government "considers that, in order to ensure the necessary efficacy of the Covenant, it would be advisable to determine with greater precision the meaning and scope of some of its provisions".

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".⁴

The Government of *Iran* is "ready to admit that these principles⁵ can perhaps be still further strengthened by the interpretation of certain articles of the Covenant".

The delegation of *Panama* says that it "is fully aware of the enormous difficulties that stand in the way of any formal amendment of the text of the Covenant. Accordingly, since the question is merely one of form and not of essential substance, this delegation considers that approval should be given to any resolution described as *interpretative*, if its real object is to amend the practical application of the Covenant, its methods and procedures, and the scope of some of its articles, in order to ensure its more real and effective application."

2. Certain Governments advance reservations or objections in regard to the value of this method.

The delegate of the *Argentine Republic*⁶ said: "Many chancelleries, abandoning reform by means of amendment, prefer resort to simpler and swifter means and advocate reform by a process of interpretation. But here again we are faced with a serious difficulty.

"My Government recognises that the system of interpretation allows of a certain margin, but this margin must necessarily be a narrow one, which cannot be exceeded without grave risk."

B. 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 X).

¹ 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."

² M. Saavedra Lamas, in the preface to the book already mentioned, to which the Argentine Government's communication refers, also 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."

³ Speech by Mr. Bruce, September 29th, 1936.

⁴ M. Blum's speech in the Assembly on July 1st, to which the French communication refers.

⁵ The principles mentioned by the Government of Iran—viz., collective security, indivisible peace, etc.

⁶ Speech by M. Cantilo, September 30th, 1936. It will be recalled that the Argentine Government contemplates primarily the method of co-ordinating the principal international pacts (see Chapter III, Section III).

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 *Belgian* Government proposes "to follow, as far as possible, the method adopted by the 1921 Assembly, whereby the Covenant would be more elastic by the Assembly's giving an interpretation of certain of its articles for the guidance of Governments in applying them".

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".

The *French* Government said on July 3rd, 1936:¹ "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 delegate of *Hungary*² said: "We are, therefore, of opinion that the efforts to be made to perfect the Geneva mechanism should lead, above all, to a better working of the procedures for preventing war, and, further, that a serious attempt should be made to see whether the provisions of the Covenant could be thus perfected, without any radical modification of the Covenant itself, by means of interpretative resolutions, for which the League's antecedents already offer us certain guiding-lines. The work of reform should therefore be concerned with the actual practice followed at Geneva; for the improvement of that practice has, in our opinion, become an extremely urgent matter; as a result of the discrepancies now found to exist between the action of the League and the principles of its Covenant."

The delegate of *Czechoslovakia*³ said: "It will be sufficient for the Assembly to adopt resolutions expressing its opinion as to action to be taken by the States and the Council in application of the provisions of the Covenant, without affecting the fundamental principles of the latter in respect of the sovereignty and equality of States".

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.

(d) *Plebiscite.*

The *New Zealand* Government proposes that all the Members of the League should hold a national plebiscite on the application of Article 16.⁴

¹ M. Delbos' speech in the Assembly on July 3rd, 1936, to which the French communication refers.

² Speech by General Tanczos, September 28th, 1936.

³ Speech by M. Krofta, September 29th, 1936. The Czechoslovak delegate added: "In other words, we believe that all the safeguards of the present provisions of the Covenant should be maintained and we shall not accept any modification or interpretation which would impose upon us decisions to which we have not given our consent".

⁴ The New Zealand Government's communication contains the following passage:

"(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 or 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."

CHAPTER III. — 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.*

Twenty-two Governments—those of the *Argentine, Australia, Austria, Belgium, the United Kingdom, Canada, Chile, Cuba, Denmark, Estonia, Finland, Haiti, Hungary, India, Iraq, Latvia, Lithuania, New Zealand, Norway, Portugal, Sweden and Switzerland*—refer to the League's lack of universality as a circumstance which renders the performance of its tasks more difficult,¹ or express the desire, often in categorical terms, that the League of Nations should be made universal.

How is this to be brought about ?

(a) Several Governments propose that efforts should be made, but give no further details.

M. Schmidt says² that "the *Austrian* Government expresses its whole-hearted agreement with the hope . . . that the ideal of universality should be realised as fully as possible in the near future, since that ideal is inseparable from the very conception of an organisation created to serve world peace. Austria, for her part, is fully prepared to support to the utmost the efforts of other Member States to that end."

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".

(b) Two Governments 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".

(c) Two Governments ask that an invitation should be extended to non-member States.

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".

(d) Other Governments ask that negotiations should be entered into with non-member States.

The *Chilian* Government, through M. García-Oldini, says: "We must thus conclude that the radical and permanent defect of the League is its lack of universality. This defect, by introducing the seeds of impotence, has undermined its strength, hampered its action, and, in short, has been the cause of its failures. It may ultimately prove its downfall . . .

"We then said, and I now repeat, that the Government of Chile deems it necessary and desirable that the voices of the States absent from Geneva should be heard. A consultation of these States or their eventual participation in the work, which the replies received so far from various Governments and the opinions expressed from this platform will not fail to determine, would, in our opinion, be one of the most effective means of ensuring their entry into or their return to the League."³

The Chilian delegation made the following further proposal in the Assembly:

"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."⁴

¹ 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."

² Speech by M. Schmidt, September 29th, 1936.

³ Speech of October 2nd, 1936.

⁴ On this subject, the report of the Main Committee, adopted by the Assembly, contains the following passage:

"The Main Committee 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."

The *Cuban* delegate ¹ made the following observation to the same effect: "Until the League of Nations is universal, we doubt whether it will be of any practical use to undertake reforms of the Covenant, which, owing to the absence of co-operation on the part of the nations that should be here, might prevent that universality we all desire".

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 delegate of *Hungary* ² stated in the Main Committee that it was "much to be desired that, in work concerning the question of the application of the principles of the Covenant, it should be possible for all States whose collaboration is necessary to take part in that work in order that the activities of the League of Nations may be made really effective in the future".

The *Swedish* Government "expresses the hope that negotiations will be undertaken with the countries which have left the League".

(e) Several Governments propose or suggest that, if necessary, new formulæ should be adopted to induce absent countries to join or rejoin the League.

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 *Australian* delegate said: ³ "We have to try to adapt this machinery to bring about the greatest possible measure of co-operation, and by doing that we shall be paving the way for those nations outside the League to come in and join our ranks".

The *Belgian* Government said: "It is . . . desirable to examine the possibilities of making adjustments in the Covenant to render it easier for non-member States to join the League".

Mr. Eden, speaking for the *United Kingdom* Government, said ⁴: "If we examine, as we should, and frankly, the causes of the abstentions and defections from the League, we may find that these are based on two principal objections: first, that the Covenant invites signatories to assume obligations and commitments which all the Governments of the world are not ready in present circumstances to accept; and, secondly, that the League stands, so it is alleged, for the maintenance of an order of things with which some Governments are not content.

"It will therefore seem appropriate that all nations should examine the present incidence of their commitments and the possibility of making them more applicable to the realities of the world situation as it exists to-day. We must also seek to encourage and facilitate the use of the League's machinery for adapting situations to changing circumstances and for the remedy of what may be recognised to be legitimate grievances."

The *Canadian* Government says: ⁵ "By emphasising the mediation and conciliation aspects of the Covenant, we can help to transform the collective system from a hope into a reality".

The delegate of *Haiti* says: ⁶ "My delegation has in mind, not merely the return of those of our European members who have withdrawn from international collaboration; it is also thinking of those Powers, great and small, in all parts of the world, which refuse to accede to the Covenant for fear of entering into commitments that have nothing to do with their vital concerns and will profit only some particular Power in some particular continent".

The delegate of *India* says: ⁷ "We have at times failed because we have all too often let the better be the enemy of the good. It is an amiable weakness . . . But the realisation of ideals in this imperfect world can only come by way of a clear appreciation of what is practical. If we aim at too high a standard, we shall not make it easier for those who have left us to return or for those who have stood out from the beginning to come in."

The *Portuguese* Government says: ⁸ "The Powers should unite every effort to bring about the return to Geneva of the States which have abandoned us, and to induce the States which have never given us their co-operation to join our ranks. If sacrifices are necessary to this end, in my view they should be made without demur. The co-operation of all countries is essential to the work for peace and to the influence of the League."

The *Swiss* Government says: "Universality, which was looked upon from the outset as an essential condition of its (the League's) 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."

On the other hand, several Governments would not wish the efficacy of the League to be sacrificed to a nearer approach to universality.

¹ Speech by M. de Blanck, October 2nd, 1936.

² General Tánzos, October 9th, 1936.

³ Speech by Mr. Bruce, September 29th, 1936.

⁴ Speech of September 25th, 1936.

⁵ Speech by Mr. Mackenzie King, September 29th, 1936.

⁶ Speech by M. Mayard, September 30th, 1936.

⁷ Speech by the Aga Khan, September 20th, 1936.

⁸ Speech by M. Monteiro, September 30th, 1936.

The *Estonian* Government 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".

The delegation of *Panama* says: "If universality were a vital condition, then we should be forced to the conclusion that we must accommodate ourselves to all the ambitions and claims of those nations that are outside the League, in order to induce them to do us the honour and favour of joining it. On the other hand, if universality be accepted as an aim, the League of Nations will be able to exist, whatever the number of its Members, provided the latter really desire to work for international peace and justice, and thus to achieve the desired universality when all countries come to be animated by the same spirit of altruism and co-operation for the welfare of mankind.

"In other words, the League should not sacrifice its adherence to its principles, or its faith in them, in order to make universality possible. On the contrary, it should be ever more faithful and constant in the service of those principles, so that universality may one day be attained on the basis of the universal acceptance of those same principles."¹

The Government of the *Union of Soviet Socialist Republics* says, through M. Litvinoff: "In principle, we are all in favour of universality. We ask for nothing better than the earliest possible entry of every State into the League—a League, naturally, affording genuine guarantees of security to all its Members, a League founded for mutual aid, a League which recognises the equality of peoples. But if the idea is that, until such universality has been reached, we shall do nothing to improve the Covenant, and if we are once again invited into the 'waiting-room', I must express my dissent. I would object even more strongly if, in the name of universality, the League were to set about eliminating from the Covenant all that makes it an instrument of peace and a threat to the aggressor . . . Better a League without universality than universality without League principles."²

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

¹ The delegation of *Panama* adds: "If the reform of the Covenant is considered from the standpoint of the universality of the League, it will be necessary to introduce such reforms as will remove from the Covenant some defects which provide certain States with reasonable grounds for not joining the League. We must not, however, go to the other extreme and accept reforms the only object of which is to satisfy the demands put forward by States outside the League as a condition for applying for admission."

² Speech of September 28th, 1936.

the withdrawing State to the League, and that desire makes it difficult to maintain the decisions reached."

3. *Universality in the Activity of the League.*

The delegation of *Haiti*¹ " considers that the League of Nations must pursue the principle of universality according to another conception of its meaning. That is, our social activity must be applied without restriction, and with equal concern, to problems of peace in all parts of the world where there exist national communities having relations with the League, or even with some of its Members only."

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, Chile, 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 "formulae 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 work² 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

¹ Speech by M. Mayard, September 30th, 1936.

² "The Argentine Pact of Non-aggression and Conciliation", published by the Ministry for Foreign Affairs of the Argentine Republic.

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."

The *Chilian* Government, as represented by M. García-Oldini, says:¹ "This co-operation (the co-operation of all countries) may be organised in various forms, some of which may be combined or exist side by side. One of these forms of organisation is that suggested by the Argentine delegation, which has our whole-hearted support."

On behalf of the *Haitian* Government, M. Mayard said:² "I trust that the Assembly will not think it out of place for me to give expression to my Government's fervent hope that, after bringing the Pact of Paris into harmony with the Covenant and having, in one of its resolutions of July last, recognised the American declaration of August 3rd, 1932, the League will likewise decide to incorporate without delay in its pacific means of action the Argentine Pact of Non-Aggression and Conciliation, of October 10th, 1933, which bears the name of a statesman to whom this Assembly looks up with admiration and whose career is already a matter of pride to all the peoples of America. The delegates of the States assembled here will realise that, if we do this, we shall have taken a new and decisive step towards the universality of the League—that is to say, towards increasing its membership."

The Government of the *Union of Soviet Socialist Republics* says:³ "We consider that attempts at a universal agreement can be made by calling together a Peace Conference or the Commission of Enquiry into European Union. Not being bound up with the past, and free as yet from all pacts, either of these organisations would represent a most suitable framework for the preliminary discussion of any question, whether political (including disarmament) or economic. If any State refused to participate, even in such organisations, everyone will see clearly that our road and theirs do not run together, and that we must finally organise peace and international order without them."

SECTION III. — CONTINENTAL OR REGIONAL ORGANISATION OF THE LEAGUE.

In Chapter IV (Composition of the Council), Chapter X (Article 16) and Chapter XIII (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.

I. 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.

Such proposals are advanced by the Governments of Colombia, Panama, and Uruguay.

¹ Speech of October 2nd, 1936.

² Speech of September 30th, 1936.

³ Speech by M. Litvinoff, September 28th, 1936.

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."

2. Under the heading "Regional Groups", the delegation of *Panama* proposes the following system:

The Assembly, by a vote of two-thirds of its Members, may determine the "regional divisions" amongst which the Members of the League may be distributed or classified. When these divisions have been determined by the Assembly, every Member State must, within two months, declare in which of the groups it considers itself to be included. Such declaration shall be final and may not be changed, except by authorisation of the Assembly approved by two-thirds of the Members.

The Assembly or the Council should be empowered to delegate to the "regional groups", the consideration of any matters which come within the jurisdiction of the Assembly or the Council, but which affect only the Members of a certain group or groups. In such cases, the decisions reached by the countries that make up the "regional group" in question should be valid and obligatory, as if they had been approved by the Assembly or by the Council, as the case may be, as regards their binding force in the case of the Member States that make up the "regional group" in question, provided that they do not affect the interests or rights of other nations outside the group.

The delegation of *Panama* emphasises the importance it attaches to the settlement of certain international conflicts on regional lines.¹

3. 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.²

The speeches of various delegates also contain statements relevant to the point under consideration.

The *Chilian* Government says:³ "We should have liked to consider, for a few moments, regional interests, the possibility of their special organisation and the need for their own particular activities within the universal framework of the Covenant.

"We should have reminded you that such regional organisation, provided it bears no characteristics of a political or military alliance, is perhaps the most active means of making universality a living force."

The Government of the *Dominican Republic* says:⁴ "The sphere of action of the Pan-American Union has gradually widened with the passing of time, and already there is a prospect of endowing it with political powers which would transform its character so that there would emerge from it a real association of the American peoples. This proposal we owe to His Excellency the President of the Dominican Republic."

¹ The communication from the Government of *Panama* contains the following passage: "In the times in which we live, international conflicts can only be solved if each one is considered separately and if solutions are sought on the basis of their peculiar circumstances. To endeavour to universalise the solution of a local conflict is, on the one hand, to give to such a conflict a scope which it does not possess and, on the other hand, to apply to it remedies which are not specific and which cannot therefore be effective. Any endeavour to make a universal problem of each regional conflict cannot but bring chaos into relations between States. This is one of the great defects of the Covenant, because, instead of simplifying problems in order to seek the plainest solutions, it has sought for each local and simple problem a world-wide complication."

² 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."

³ Speech by M. García-Oldini, October 2nd, 1936.

⁴ Speech by M. Henriquez Urefia, October 1st, 1936.

The Government of *Ecuador* says: ¹ "Let us also express the hope that continental and regional agreements, which are contemplated and indeed specifically referred to in the Covenant, may become increasingly numerous and coherent and may be more effectively embodied in that movement in which converge all forces seeking the same international ideal: the ideal of which the League of Nations is already more than a symbol.

"For these partial but concordant ententes, the League of Nations alone can serve as a common denominator and organic centre. It can only do this if it represents the conscience of the international world and, at the same time, distinguishes between and respects the diversity of aspirations and of means of collaboration as affected by considerations of distance."

The *Venezuelan* Government says: ² "In several quarters, too, there is talk of the possibility of establishing closer and more clearly defined co-operation between the League and the (Pan-American) Union, thus forging, as it were, new links between the League and the American nations that remain loyal to it.

"It is clear that these problems as a whole will need to be considered with extreme care. Whatever may be the results of the Buenos Aires discussions, whether the Conference, in response to circumstances which it is not at present easy to foresee, goes beyond its traditional limits or remains within them, each of our States seems likely to draw from those results conclusions which may exert a decisive influence on its policy outside America."

II. 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."³

CHAPTER IV. — 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. — COMPOSITION OF THE COUNCIL.⁴

I. Certain Governments are anxious that changes should be made in the system of permanent seats and the election of Members of the Council.

Their proposals aim at abolishing the permanent seats, causing Members of the Council to be elected on a regional basis, and substituting a system of rotation for election, or combining the two.

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 *Bulgarian* Government says: "Equality between all the Members of the League of Nations being one of the fundamental principles of the Covenant, the Royal Government considers that half the non-permanent Members of the Council should be admitted by a vote of the Assembly and half by rotation in the alphabetical order of the States Members".

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 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

¹ Speech by M. Zaldumbide, October 3rd, 1936.

² Speech by M. Parra-Pérez, October 2nd, 1936.

³ Speech made in the Assembly on July 3rd, 1936, to which the French Government's communication refers.

⁴ It will be remembered that the question of the composition of the Council has already been raised in the Council and in the Assembly, and has been studied by a Committee appointed by the Council.

On October 1st, 1936, the Assembly adopted a resolution containing the following passage:

"The Assembly,

"Considering that, in the opinion of the Committee appointed to study the composition of the Council, with which the Assembly agrees, 'it would be undesirable that a definitive solution of the problems connected with the composition of the Council should be postponed longer than is necessary':

"Recommends that, so soon as circumstances permit, the Council will appoint and convene a small committee of experts to draw up proposals on the subject."

group of States Members of the League being increased or reduced according to the number of its Members".¹

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.

2. In another connection, the *Portuguese* Government observes: "The problems which are laid before the Council or the Assembly are not of equal concern to all States. Often, indeed, they interest a small number of countries only. The present organisation of the Council forces all Members to undertake responsibilities in all matters submitted for their consideration. Public opinion is sometimes uneasy as to this state of affairs."

SECTION II. — RESPECTIVE JURISDICTIONS OF THE COUNCIL AND 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 the Assembly.

Under the heading "Respective Jurisdictions of the Assembly and the Council", the delegation of *Panama* says: "Paragraph 3 of Article 3 of the Covenant, which specifies the powers of the Assembly, and paragraph 4 of Article 4 of the Covenant, which specifies the powers of the Council, are identical in their wording. This creates confusion as to the respective powers of each of those bodies. It is therefore necessary to determine with greater precision the field of competence of each of them.

"In general terms, the Council should not have the power to impose obligations of a general character on any Member State. This should come within the exclusive competence of the Assembly.

"Any resolution of the Council should be capable of being revoked by the vote of two-thirds of the Member States sitting as the Assembly, provided that any State has notified the Council within the ten days following that it will request the next Assembly to revoke such resolution.

"It should be possible for a resolution that has not been approved by the Assembly, because it has not been supported by the necessary number of votes, to remain open for six months at the Secretariat for the subsequent approval of States, if any Member State so requests. In such cases, when the necessary number of votes has been received, the Secretary-General should give notice to all Member States, and the resolution in question should be regarded as finally approved."

SECTION III. — THE SECRETARIAT.

The *Peruvian* Government states (Article 6) that: "For reasons similar to those mentioned in connection with Article 5,² 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".

¹ 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 formulae 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."

² Speech by M. Monteiro, September 30th, 1936. Reverting to the idea of equality, the speaker added: "The statute governing the Council should be rendered more flexible, in such a way that all the parties competent or concerned in a given question should have no difficulty in making known their views. We often hear the praises of democracy sung here in the League; but we cannot honestly say that the organisation and working of the Council are democratic. To my mind, decentralisation would be profitable; it might effectively contribute to a closer link between the nations and the League."

³ See Chapter V.

CHAPTER V. — 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,¹ after a critical examination of this rule, declares itself to be in favour of its maintenance, though it proposes that it be set aside in the case of Article 15.²

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 and 14) to which, in its opinion, the unanimity rule should not apply.³ 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 VI. — 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,⁴ or the relations between Article 8 and Article 16 of the Covenant.⁵

SECTION I. — PROPOSALS AIMING AT A SETTLEMENT OF THE QUESTION.

I. *Necessity for re-opening the Question.*

Even before the seventeenth ordinary session of the Assembly, the Governments of Denmark, Finland, France, Iraq, Norway and Sweden expressed the opinion that the question should be taken up again with a view to its settlement. Other Governments took the same view in their statements in the Assembly.

The *Danish* Government asked for a resumption of "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 said that it regarded "the setting of a limit to the competition in armaments which is now taking place, more especially among the great Powers, and the strict

¹ "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."

² See Chapter IX, Section III.

³ See Chapters VII and IX.

⁴ See Chapter II, Section I.

⁵ See Chapter X.

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, had urged the necessity of solving simultaneously the two problems of collective security and disarmament.¹

In his speech in the Assembly on September 26th, 1936, M. Delbos said: "In our opinion, the course to be taken is to adopt a plan of work and solve an initial difficulty. The plan may be summed up in three words, defining three successive stages—supervision, limitation, reduction."

The Government of *India* said:² "For years, we addressed ourselves directly to the problem of disarmament, and failed. If the world is to be saved from disaster, it must be tackled anew. If the time is not ripe for us to tackle military disarmament directly, it is at least ripe for us to tackle it indirectly."

The Government of *Iraq* said: "It is an urgent need that the question of disarmament should be re-examined".

The *Norwegian* Government stated: "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."

The *Swedish* Government wished "to emphasise the importance it attaches to the League of Nations making a fresh examination of the possibility of a general reduction of armaments".

The *Czechoslovak* Government said:³ "What . . . makes the minds of peoples and their leaders most inaccessible to the principles of the Covenant is the dangerous armament race we are now witnessing. The States of the *Petite Entente* therefore desire nothing more ardently than to see the League concentrate all its energies on ending this competition, and finally bringing about, among States, an agreement to limit armaments."

The *Turkish* Government said:⁴ "To abandon, or even to seem to abandon, the idea of disarmament would be to abandon our common ideal and the spirit of the Covenant".

The *United Kingdom* Government, as represented by Mr. Eden, said:⁵ "This assurance I can give. In any attempt to secure such an agreement (an agreement for the limitation and reduction of armaments), our full co-operation is assured. I must, however, add one word of caution. If disarmament is to be real, it must be not only military but mental, not only weapons but the war mentality must be laid aside. A standstill in armaments calculated to give a permanent advantage to nations which had urgently concentrated upon achieving the most intensive measure of armament within their power would be no service to peace. We could have no lot or part in that."

It will be remembered that the *Assembly*, in compliance with a request from the delegations of Denmark, Finland, the Netherlands, Norway and Sweden, decided to set up the Third Committee to make a general examination of the position. On October 10th, 1936, the Assembly approved the Third Committee's report and adopted the following resolution:

"The Assembly,

"Firmly convinced of the need of pursuing and accelerating the efforts made to bring about the reduction and limitation of armaments provided for in Article 8 of the Covenant:

"Welcomes the action initiated by the French Government with a view to the early convocation at the most opportune date of the Bureau of the Conference for the Reduction and Limitation of Armaments, and

"Requests the Council to communicate to the Bureau and to the Governments of the countries represented on the Conference the present report and the Minutes of the Third Committee's discussions."⁶

¹ Speech in the Assembly on July 1st, 1936.

² Speech by the Aga Khan, September 29th, 1936.

³ Speech by M. Krofta, September 29th, 1936.

⁴ Speech by M. Sukru Kaya, October 2nd, 1936.

⁵ Speech of September 25th, 1936.

⁶ On the same day, the Council adopted a resolution in the following terms:

"The Council,

"In view of the Council resolution of January 22nd, 1936;

"Taking into consideration the letter from the Government of the French Republic, dated September 27th, 1936, requesting that the question of an early meeting of the Bureau of the Conference for the Reduction and Limitation of Armaments should be placed on the agenda of the present session;

"Noting that, in the Assembly, the representatives of a number of countries also urged that the work of the Conference should be resumed;

"Referring to the Third Committee's report approved by the Assembly on October 10th, 1936:

"Authorises the President of the Council, after consultation with his colleagues, to settle, as soon as circumstances permit and in any case before the end of the year, the date of the meeting of the Bureau of the Conference for the Reduction and Limitation of Armaments, and to instruct the Secretary-General to proceed with its convocation;

"And decides to communicate the report and the Minutes of the Third Committee, together with the Minutes of the present meeting, to the Members of the Bureau and to all the States represented at the Conference."

2. *Publicity of Budgetary Expenditure.*

On behalf of the *United Kingdom* Government, Mr. Eden said in the Assembly: ¹ "I have seen a recent reference to the question of publicity in relation to national defence expenditure. I understand that there is already in existence a draft Convention which was drawn up by one of the Sub-Committees of the Disarmament Conference. I should like to emphasise that if a convention on these lines could be generally accepted, it would meet with the warm support and approval of His Majesty's Government."

The delegate of *France* ² also spoke in favour of publicity for military expenditure. In the Third Committee, the delegates of *Belgium*, the *Netherlands* and *Norway* adopted the same attitude.

3. *Supervision of the Manufacture of and Trade in Arms.*

This problem was touched upon in several of the communications received before the Assembly.

The *Danish* Government made 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 observed 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 pointed out "how necessary it is to render effective the plan for the supervision of the manufacture of and trade in arms".

The *Swedish* Government asked 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".

Speaking on behalf of the *French* Government, M. Delbos said in the Assembly: ³ "Reverting to the work done in Geneva with a view to a Convention on the Manufacture of and Trade in Arms, it (the French Government) has modified its own legislation, which now provides for the supervision or nationalisation of the war industries. Encouraged by the fact that its action concords with the observations sent in by several Governments to the Secretary-General, my Government now asks that the question be brought again before the Bureau of the Disarmament Conference."

In the Third Committee, the delegates of *Belgium* and the *Netherlands* spoke in favour of the supervision of the manufacture of and trade in arms. The *United Kingdom* delegation said that it "was in favour of an agreement for the control of trade and manufacture, but could not accept an agreement which was not generally acceptable to the principal arms-manufacturing countries".³

4. *Institution of a Permanent Disarmament Commission.*

Three Governments make suggestions on this subject in their communications received before the ordinary session of September.

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: "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."

In the Third Committee, the delegates of *Belgium*, *China* and the *Netherlands* spoke in favour of the establishment of a permanent commission.

¹ Speech of September 25th, 1936.

² Speech by M. Delbos, September 26th, 1936.

³ Third Committee, meeting of October 5th, 1936.

The delegates of the *United Kingdom* and *France* held that a permanent commission should not be set up unless there were conventions in existence the application of which it could supervise.

5. *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".

The Government of *Liberia* considers "that the Covenant should be so reconstructed as to enable the League of Nations to have at its disposal adequate weapons of material force with a view to enabling it to effectuate its decisions, within the limits of the Covenant".

SECTION II. — PROPOSAL TO RETAIN ONLY PARAGRAPH 1 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 demonstrates 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."

The delegation of *Panama*, while formulating no proposal to amend the Covenant, makes observations on the same lines as those of the *Peruvian* Government. It says: "We have but to cast a glance at the world of to-day and to observe, even though superficially, the line of conduct followed by the Powers to be convinced that the assertion made in Article 8 of the Covenant, that 'the Members of the League recognise that the maintenance of peace requires the reduction of national armaments', is to-day a dead letter.

"The increase, development and improvement of the land, naval and air armaments of all the great Powers, and even of many small nations, is, in fact, something that goes beyond all limits hitherto known.

"In an unstable international situation, and in the face of immediate dangers or risks, and even in view of the possibility of future contingent dangers, every nation is under what might be called the biological necessity of making its preparations for the defence of its existence and security. The instinct of self-preservation applies to communities as to individuals, and, consequently, a nation that arms itself under the impulse of that instinct cannot be considered guilty of any violation of man-made laws, because those laws must give way to the ineluctable laws of nature

"The armament race cannot develop except in an international situation that is unstable and charged with ambitions and suspicions. Underlying any such situation there are always economic, political or ideological causes. Until remedies are found for those causes, all the obligations to reduce their armaments which nations may assume will be completely ineffective, whatever the form in which such obligations are expressed.

"For this reason, the League of Nations has absolutely failed in all its efforts to bring about a reduction or limitation of armaments, and, for the same reason, it will continue to fail so long as attempts are made to achieve any progress in that direction by the means hitherto employed."

CHAPTER VII. — THE PREVENTION OF WAR BY MEANS OF ARTICLE II.

SECTION I. — ARTICLE II.

1. *Reinforcement of the League's Preventive Action.*¹

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".

¹ We have already seen that some Governments have laid stress on the importance of the preventive function of the League of Nations (Chapter II, Section 1, paragraph 2).

2. League Intervention at an Early Stage.

Several Governments, with slight variations of standpoint, urge the necessity of the League's intervening at an early stage.

On behalf of the *Australian* Government, Mr. Bruce, referring to Article II, said:¹ "I desire entirely to support the views expressed . . . by the delegate of the United Kingdom² with regard to this article. It would be eminently desirable that we should so adapt the machinery of that article as to enable the League to intervene more effectively in the earlier stages of disputes. The great advantage of so doing would be that it would create the possibility of our conciliatory efforts taking place before the dispute had reached such a point that it was almost impossible for those concerned in it to retire from the positions they had taken up."

The *Belgian* Government considers "that the initial procedure under Article II should be expedited, since its effectiveness depends largely on the speed with which it is set in action".

Mr. Eden, speaking for the *United Kingdom* Government, said:³ "It seems to us all important that the members of the Council should, in any dispute, clearly express their views at an early stage and should be asked to indicate the measures that they would be prepared to take to give effect to them. Discussion of such measures would show clearly how far the Powers represented on the Council would be prepared to intervene in any given case. If at the outset, or at an early stage in the dispute, the parties are left in no doubt of the will of the Council and of the determination of Member States to enforce it, this must act as a powerful deterrent to any party contemplating aggression in violation of the Covenant. And the earlier such party is brought to realise the situation, the easier it will be for him to modify his attitude and to conform to what the Council may recommend. Delay too often means that one or both of the parties commit themselves to military preparations which become increasingly difficult to revoke, and that the other Members of the League are thus faced with a situation in which it is more difficult and more hazardous for them to intervene with effect. The best way to serve peace is to ensure, so far as possible, that Governments know where they stand. If, on the other hand, it appears that Members of the League would not be prepared, in the circumstances contemplated, to intervene effectively, then it is better that the realities of the situation should be understood."

The Government of *Liberia* recommends "that, in the event of war, or threat of war, against a Member State, the Council of the League of Nations should be summoned within three days after notification thereof to the Secretary-General".

The *Norwegian* Government⁴ 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 prompt and more effective application of Article II".

3. Measures which may be decided upon under Article II.

The *Australian* Government would like consideration to be given to:¹ "the possibility, should any circumstance likely to endanger the peace of the world be brought to the notice of the Council, of calling together the States Members of the League for the purpose of their considering their attitude towards the dispute and determining whether, in the event of a country which appeared to be embarking upon aggression persisting in its intentions, they would be prepared to take some action on a co-operative basis before the contemplated aggression had actually become an act of aggression".

The *Belgian* Government said: "It would be advisable to define the measures that the Council can take as 'effectual to safeguard the peace of nations' by eliminating threats of war.

"In this connection, the Special Committee appointed to study the application of the principles of the Covenant might usefully refer to a report adopted on March 15th, 1927, by the Committee of the Council, whose rapporteur was M. de Brouckère, dealing with the methods and regulations which would enable the Council to take such decisions as may be necessary to enforce the obligations of the Covenant as expeditiously as possible. The Assembly, at its session in September 1927, approved that report and recommended its adoption by the Council 'as a valuable guide which,

¹ Speech by Mr. Bruce, September 29th, 1936.

² See below.

³ Speech of September 25th, 1936.

⁴ M. Koht also said in his speech in the Assembly on September 26th, 1936: "The history of international politics teaches us that, once a dispute between two nations has been allowed to reach the point at which passions have been roused on one side or the other and at which the prestige of both parties is at stake, it is extremely difficult, if not impossible, to persuade the parties to submit their differences for impartial settlement.

"If, therefore, we seriously desire international conciliation, we shall have to grapple beforehand with the questions which set nations against one another, and not to wait until these disputes become actual conflicts.

"To this end, an active policy in the service of peace will be required on the part of the League, a policy of pacifism in the true sense of the word. The League must take upon itself the task of considering and examining on its own initiative all questions which, at any given moment, may threaten the peace of nations."

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'. The Council in turn, at its session in December 1927, approved the report and adopted it in the same terms as the Assembly. It contains valuable suggestions—which will no doubt be considered and may be enlarged upon by the Special Committee of Enquiry—regarding measures that the Council might recommend against a State whose attitude was endangering peace."

The *United Kingdom* Government says:¹ "It is to be observed that the framers of the Covenant were wise in that they produced an elastic document which did not exclude any form of action in an emergency".

The *Chinese* Government expresses the opinion 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".

It adds: "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".

The *French* Government points out that Article 11 of 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".²

4. *Observation on the Limits of the Efficacy of Article 11.*

On behalf of the Government of the *Union of Soviet Socialist Republics*, which "does not underestimate the importance of Article 11 of the Covenant, which has as its object to avert any threat of war by means of conciliation", M. Litvinoff said:³ "It should also be borne in mind that procedure under Article 11 can be effective only in cases when the threatening disturbance of peace is the result of a purely unexpected and accidental dispute, the elimination of which will restore equanimity. Article 11 cannot, however, avert a breach of the peace which arises from calculated aggressiveness and the pursuit of conquest, for which disputes are deliberately engineered. The League of Nations has already had occasion to deal with such cases, when Article 11 proved to be quite powerless. At all events, the Council's recommendations under Article 11 will be effective only when they are backed by a well-armed Article 16."

5. *Votes taken under Article 11.*

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.*

(a) A number of Governments are of opinion that, as a general rule, the votes of the parties should not be counted in determining unanimity for the purposes of the application of paragraph 1 of Article 11.

The *Belgian* Government said: "In order to prevent the Council's action under Article 11 from being paralysed, a special exception to the unanimity rule should be made in the application of that article; for it is unimaginable that the adoption of preventive measures by the Council should be conditional upon the acquiescence of the party who is threatening the peace".

The *United Kingdom* Government says:⁴ "The first paragraph of Article 11 . . . provides 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 the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations'. This paragraph therefore gives wide opportunity for useful action, but the activities of the Council have, in the past, been hampered by the assumption that the rule of unanimity must apply to this provision of the Covenant, and that the consent of the parties to the dispute is thus necessary before the Council can make any recommendation.

"It is for consideration, therefore, whether the Council should not be given more latitude, enabling it to make recommendations under the first paragraph of Article 11 without the consent of the States in controversy. His Majesty's Government attaches importance to this proposal. If it were to find general acceptance, then in the examination of any case that arose, and in any steps which such an examination might show to be practicable and desirable, the United Kingdom Government would be prepared to play its full part."

The *Chinese* Government is of opinion "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."

¹ Speech by Mr. Eden, September 25th, 1936. The United Kingdom Government's idea is developed in the passage of the speech quoted above (same section, 3).

² See the passages from a speech by M. Delbos quoted below (same section, 5).

³ Speech of September 28th, 1936.

⁴ Speech by Mr. Eden, September 25th, 1936.

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".¹

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. Delbos² 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 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."

(b) The *Canadian* Government agrees to the abolition of the unanimity rule, but only for certain classes of measures. It says:³ "As to the proposals regarding Article 11, we are in full sympathy with the shifting of emphasis to enquiry and mediation at an early stage in disputes, and with the view that unanimity cannot reasonably be required in any effort of the Council or the Assembly to effect conciliation. It would be a different matter if it were proposed to transform Article 11 into a second sanctions article, applicable before war had broken out, and brought into operation by action of the Council alone."

The *Danish* Government, for its part, proposes that one of the rules for the operation of Article 11 should be: "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".

M. Litvinoff, on behalf of the *Union of Soviet Socialist Republics*, said:⁴ "The Soviet delegation does not underestimate the importance of Article 11 of the Covenant, which has as its object to avert any threat of war by means of conciliation. Much may be said in favour of the abolition of the unanimity rule in some cases of this kind. We must be careful, however, not to open thereby the floodgates through which a torrent of all kinds of petty claims, unconnected with the preservation of peace, may pour into the League Council. We know from experience that it was only the unanimity rule which hitherto dammed up that flood."

B. Abolition of the Unanimity Rule in respect of the Application of Article 11.

The *Latvian* Government simply says: "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".

The *Norwegian* Government, with regard to a possible case⁵ of the application of Article 11, says that it "does not see the necessity of asking for a unanimous decision in cases in which the Council

¹ M. Carlos Lozano y Lozano said in the Assembly: "When preventive measures have to be taken under Article 11 of the Covenant, we ought not to insist upon the unanimity rule, which is the outcome solely of an exaggerated conception of sovereignty.

"It would be rash, in this extremely disturbing period through which we are passing, to continue to make the supreme importance of safeguarding peace subordinate to the obstinacy of the parties to a dispute" (speech of October 1st, 1936).

² Speech made before the Assembly on July 3rd, 1936.

³ Speech by Mr. Mackenzie King, September 29th, 1936.

⁴ Speech of September 28th, 1936.

⁵ This seems to be the case referred to above (A, (b)).

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".¹

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 it should be agreed 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".

6. 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".

7. 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".

8. Proposal to supplement Article II by Bilateral Conventions.

The *Bulgarian* Government makes the following proposal: "The provisions of Article II regarding the prevention of war could be successfully supplemented by a system of bilateral agreements of non-aggression, arbitration and conciliation, laid down and applied in strict conformity with the tenor and spirit of the said article".

SECTION II. — THE CONVENTION OF SEPTEMBER 26TH, 1931, TO IMPROVE THE MEANS OF PREVENTING WAR.

I. 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, 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".

The *Norwegian* Government 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 the text of this Convention and that of the Convention on Financial Assistance approved in 1930 "contain valuable ideas by which the Council might be guided in its action for the prevention of war", and adds that "if the above-mentioned Conventions secured general acceptance, an important step forward would be made".

¹ We have seen that the *Norwegian* Government proposes a modification of Article 5 if the Assembly is not prepared to adopt this suggestion.

2. In the Third Committee of the Assembly,¹ the *Polish* delegate made a statement on somewhat different lines, as follows: "If the Convention on the Means of preventing War were discussed, the Polish delegation would probably have to make a reserve in view of the fact that it had always made objections to this Convention, both during the course of its preparation and in the Security Committee of the Disarmament Conference".

CHAPTER VIII. — 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".

The *Haitian* Government thinks² that the Commission set up to study the application of the principles of the Covenant "should propose, either by means of amendments or interpretative texts, the adoption of proposals designed to bring into line with the principles of international equality and mutual respect on which the Covenant is based: . . . 3. Articles 12 and 13, the terms of which should be strengthened by the establishment of a compulsory rule of conduct for Member States which can no longer, which must no longer, have the possibility of resorting to any measure enabling them to take the law into their own hands, but which must, in the case of any dispute arising between them, submit it to arbitration or, when the formal text of a special agreement precludes this, to judicial settlement or examination by the Council."

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 suggested 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 advocated "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" it said, "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."

The Assembly, in its resolution of October 8th, 1936, met this proposal by adopting the following clause:

"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."

(See Chapter III, Section II, on the collaboration of the League of Nations with States non-members, where this question has already been dealt with.)

¹ Meeting of October 7th, 1936.

² Speech by M. Mayard, September 30th, 1936.

CHAPTER IX. — 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 VII; Article 19, Chapter XII).

(See also Chapter II, Section I. — The Rôle of the League, (2) Prevention of War.)

SECTION I. — DIVERS OBSERVATIONS ON 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 *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".

3. 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".

4. The delegation of *Panama* seeks to assert the right of every Member of the League to offer its good offices or its mediation independently of League procedure.¹

5. The delegation of *Panama* asks that the League of Nations should be entitled to conduct enquiries on its own initiative into circumstances from which a conflict might arise, and that any Member of the League should be entitled to ask for an enquiry.²

6. The *Canadian* Government advocates the holding of a conference as a means of restoring confidence in Europe.³

SECTION II. — ARTICLE 13.

1. 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".⁴

¹ The communication from the delegation of Panama contains the following passage:

"Action to prevent Conflicts.

"(a) Every Member State should have the right, individually or in association with other States, whether Members of the League or not, and independently of any collective action by the League itself, to perform any friendly acts that it may consider expedient with a view to dispelling or remedying, through friendly action and peaceful understandings, any tension or dispute that may arise, or may threaten to arise, between any other States whatsoever, whether Members of the League or not. Every Member State should also have the right to accept similar intervention by other States, whether Members or not, in questions which affect it. In all cases, a State that is a Member should keep the League of Nations informed."

² The communication from the delegation of Panama contains the following passage:

"Action to prevent Conflicts.

"(a)

"(b) The League should have permanent organs and departments for the official investigation of all incidents, circumstances and events, whether legal, political, economic, financial or ideological in character, which may be likely to lead, or may in fact lead, to friction between States, and which might ultimately result in a conflict. Taking account of the reports made by such organs or departments, it is the right of every Member State, and the duty of the Council, to make the necessary representations to the Governments concerned for the purpose of removing or remedying any cause of dispute.

"(c) Every Member State should have the right to request the competent organs of the League to investigate any fact or circumstance that may affect the good relations of any other States whatsoever."

³ Mr. Mackenzie King said (speech of September 29th, 1936): "Without the restoration of confidence and goodwill among the nations of Europe, and particularly among the great Powers, the League cannot possibly begin to perform its tasks. If goodwill and confidence go in Europe, the League will go with them; if they are re-established, there is no necessary readjustment in League machinery or organisation which cannot speedily be effected.

"How are confidence and goodwill to be restored between the nations of Europe, which, for the time being, appear to have suffered real impairment of both? That, as I have already said, is something which Canada believes can best be decided by the nations immediately concerned. Obviously, a necessary first step is conference. Its aim should be to bring into the comity of the other European Powers the nation or nations which lie without it."

⁴ This paragraph relates to disputes which are generally suitable for submission to arbitration or judicial settlement.

2. The *Hungarian* Government is anxious that the provision contained in Article 13, paragraph 4, should be carefully studied. General Tánczos said:¹ "Hungary's faith in the ideal of international justice, as well as her belief that respect for judicial or arbitral decisions constitutes the keystone to every system of arbitration, have led my Government to propose that the provision contained in Article 13, paragraph 4, concerning the enforcement of awards rendered in the course of arbitration or judicial settlement, should be carefully studied".

SECTION III. — THE PERMANENT COURT OF INTERNATIONAL JUSTICE (ARTICLE 14).

I. Organisation of the Court.

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.

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 says that there is no reasonable justification "for applying this rule (the unanimity rule) to the question of asking the Permanent Court of International Justice to give advisory opinions on individual disputes under Article 14".

The *Swedish* Government, referring to the provisions of Article 5, paragraph 2, of the Covenant, says that in its opinion "unanimity is not required for . . . a decision by the Council to ask, when examining a dispute, for an advisory opinion from the Permanent Court".

In the same connection, the *Hungarian* Government says:¹ "that better facilities should be available for obtaining advisory opinions, and that elastic interpretative regulations should be formulated to that effect, while the consideration of this question, begun as a result of the resolution adopted by the Assembly on September 28th, 1935, should be continued as expeditiously as possible".

3. Direct Citation before the Court.

The *Haitian* Government makes the following proposal:² "An agreement with the Permanent Court of International Justice should be reached whereby its procedure and jurisdiction, even so far as it is competent to decide these matters itself, should, in certain cases, be established in such a way as to facilitate methods of direct citation so as to compel States to adopt pacific solutions, and hence to deprive them of any excuse to judge their own case, which leads to the use of force and is fatal to the establishment of friendly relations between the nations".

SECTION IV. — 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 X. — OBLIGATIONS UNDER ARTICLES 10 AND 16.

SECTION I. — ARTICLE 10.

I. General Observations on Article 10.

(a) Article 10 and Regional Agreements for Mutual Assistance.

The *Bulgarian* Government says: "A tendency has lately been apparent in the League of Nations to supplement the collective guarantee of Article 10 by a system of limited guarantees provided by regional agreements for mutual assistance.

¹ Speech by General Tánczos, September 28th, 1936.

² Speech by M. Mayard, September 30th, 1936.

"The Royal Government considers that, far from strengthening collective security, regional pacts might in certain circumstances be harmful to it.

"Any attempt to weaken the collective guarantee laid down in this stipulation of the Covenant—a guarantee on which the whole edifice of the League of Nations is based—might have consequences incompatible with the principle of collective security.

"This fundamental guarantee, contained in Article 10, must, in the opinion of the Royal Government, be preserved in its entirety."

(b) *Maintenance of Article 10.*

The Government of *Liberia* "recommends that Articles 10, 11 and 16 of the Covenant, which constitute the security articles, should undergo no drastic revision, and that, in all cases of war or threats of war against a Member State, they should be enforced without regard to the geographical situation of the particular conflict or threat of war, thereby fulfilling our obligations in a collective manner under the provisions of the Covenant."

(c) *Opinion concerning the "Emptiness of the Absolute Guarantee of Protection contained in Article 10".*

The delegation of *Panama* says: "The existence of the League of Nations has as its necessary logical basis the existence of the Member States of which it is composed. It has accordingly been said, and rightly, that Article 10 is the corner-stone of the Covenant, because by it 'the Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League'.

"Nevertheless, although this article, which is so categorical, is the very foundation of the Covenant, two cases have occurred in which the article has proved completely ineffective. The first was the Sino-Japanese conflict, as a result of which the 'territorial integrity' of China was destroyed. The second case was the Italo-Ethiopian conflict, as a result of which the 'territorial integrity and political independence' of Ethiopia were reduced to mere simulacra.

"In the Sino-Japanese case, as soon as the League gave judgment against Japan, the latter left the League and placed herself beyond the League's reach, thus proving that the League is ineffective as a protection for a Member State against another State outside the League.

"In the Italo-Ethiopian case, although the League gave judgment against Italy, that country has not withdrawn from the League. This has shown that Article 10 of the Covenant is no less ineffective as a defence for a Member State against another and a powerful Member State.

"In practice, therefore, the guarantees of Article 10 of the Covenant have been completely ineffective.

"It might perhaps have been better to limit Article 10 to an explicit and clear declaration of the principle of the territorial integrity and political independence of Member States, without embodying in the same article an absolute obligation of protection in terms which have proved to be vain words. The dignity and moral force of the enunciation of the principle itself would thus have been preserved. The guarantees of protection should not have been mentioned in Article 10, but should have been developed only in the later articles, the object of which is to lay down in precise terms such measures as are best calculated to make those guarantees a more or less effective reality."

(d) *The Canadian Government's Opinion of Article 10.*

Mr. Mackenzie King, speaking of Canada, said: ¹ "There is general concurrence in the view, which has been expressed by leaders of all political parties since the beginning of the League, that automatic commitment to the application of force is not a practical policy. Successive Canadian Governments have opposed the view that the League's central purpose should be to guarantee the territorial *status quo* and to rely upon force for the maintenance of peace. Canadian public men, irrespective of party, opposed or sought to remove the *status quo* guarantees of Article 10."

2. *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".

The *Chinese* Government says: "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. *Relations between Article 10 and Article 19.*

The *Canadian* Government says: ¹ "The provisions for the revision of treaties 'which have become inapplicable', contained in Article 19, and which were in form and fact an essential complement to the provisions of Article 10 for the maintenance of the territorial *status quo*, have not yet been applied".

4. *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".

¹ Speech by Mr. Mackenzie King, September 29th, 1936.

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".

5. *Non-recognition of Territorial Acquisitions brought about in Violation 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 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".¹

6. *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, Liberia, Lithuania and the Union of Soviet Socialist Republics (see Chapter II, Section I, 1).

"With regard to the repressive action of the Covenant", the *Bulgarian* Government considers "(a) that the general obligation under Article 16 must be maintained".

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, in varying degrees, 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."

¹ 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."

" 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 II, Section I, 2), wishes the " repressive clauses of the Covenant to be brought into equilibrium with the provisions of Articles 11, 13 and 19 "

The delegate of the *New Zealand* Government said:¹ " We believe that, if the automatic application of sanctions is to be effective or generally acceptable, there must be a definite method of rectifying international injustices, whether economic or political, as soon as, and as far as, they can be rectified "

(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, 1936,² 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

" 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. " ³

The *Canadian* Government observes:⁴ " It is a fact, as has been indicated by representatives of the Scandinavian countries and other Members of the League, that many provisions of the Covenant have not been observed, or have been applied unequally or ineffectively. The pledges of reduction of armaments in Article 8 have not been honoured."

3. Several Governments—those of the *Argentine, Canada, Ecuador, Panama, Peru* and *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 " ⁵

The delegate of *Canada* referred ⁴ to a statement made by the Canadian Government in 1928, according to which: " It is plain that the full realisation of the ideal of joint economic or military pressure upon an outlaw Power, upon which some of the founders of the League set great store, will require either an approach to the universality of the League contemplated when the Covenant was being drawn up, or an adjustment of the old rules of neutrality to meet the new conditions of co-operative defence "

He added: " What I have said and quoted does not mean that in no circumstances would the Canadian people be prepared to share in action against an aggressor; there have been no absolute commitments either for or against participation in war or other forms of force. It does mean that any decision on the part of Canada to participate in war will have to be taken by the Parliament or

¹ Speech by Mr. Jordan, September 29th, 1936.

² Denmark, Finland, Netherlands, Norway, Spain, Sweden, Switzerland.

³ 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."

⁴ Speech by Mr. Mackenzie King, September 29th, 1936.

⁵ 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."

people of Canada in the light of all existing circumstances: circumstances of the day as they exist in Canada, as well as in the areas involved."

The delegate of *Ecuador* said:¹ " More particularly in the case of a small and distant country like mine, the reform hoped for must always be on the lines of the one I had the honour to propose to the previous Assembly. Such a reform would make it easier and more normal for us to use our right of abstention in conflicts to which we are doubly strangers, the causes of which do not concern us, and which lie beyond our pale in the intricacies of their political developments, yet in which we are involved through the wide range of their repercussions and their consequences."

The delegation of *Panama* says: " Article 16 of the Covenant—punitive action in the case of war involving violation of the undertakings of the Covenant.

" The only case in which the League has decided to apply Article 16, and has taken steps to enforce it, was the case of the Italo-Ethiopian conflict, and, in consequence of the complete ineffectiveness of the measures decided upon, the League found itself compelled to recognise explicitly and openly that this provision of the Covenant had proved completely inoperative for the purposes its definite application was intended to serve.

" In other words, a Member State was declared to be an ' aggressor ' by the League, and the latter decided to apply ' sanctions ' against that State in order to put an end to the aggression. The ' sanctions ' were ineffective in restraining the ' aggressor ', who continued his enterprise to the end. Thereupon the League itself raised the ' sanctions ' and tacitly accepted the accomplished facts, and continues to carry on as if nothing had happened. There is only this paradoxical difference, that the ' aggressor ' State, whose international personality and influence have been strengthened as a result of the ' aggression ', continues to be a Member of the League, but refrains from taking part in its proceedings—proceedings which the State in question regards with a certain disdain—whereas the State ' victim of aggression ', whose international personality has been reduced to a mere shadow, continues to take an active part in the work of the League.

" Article 16 has proved completely ineffective because the ' sanctions ' for which it makes provision cannot operate effectively against the ' aggressor ' unless they are applied universally, and this universality in application cannot be achieved so long as there are countries outside the League.

" The most important lesson that we have learnt from the Italo-Ethiopian conflict, however, is that, even if the League were universal, it would still be impossible to apply Article 16 in the form in which an attempt was made to apply it to this conflict. The reason is that it is not certain that a local conflict will equally affect and concern all the countries of the world, and, consequently, it is also not certain that ' sanctions ' of a general character, to be applied by all nations simultaneously, will have the same internal effects in all the countries which apply them and will, in each of those countries, be received with the same interest, the same spirit of decision, the same goodwill or even the same comprehension."

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 ".*

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,

¹ Speech by M. Zaldumbide, October 3rd, 1936.

* 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."

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."

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".¹

(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. Should the Economic and Financial Sanctions provided for in Article 16, Paragraph 1, be automatic?

The question of automatic sanctions is dealt with by various Governments.

It is only superficially a plain question, and, in order to grasp it clearly, we must understand by automatic sanctions sanctions which come into operation immediately and completely when the hypothesis of a resort to war in breach of the articles of the Covenant, as contemplated in Article 16, paragraph 1, is realised.

The establishment of the breach of the Covenant which gives rise to the application of economic and financial sanctions is a different question, and should, for the sake of clear statement, be carefully distinguished from the previous question, although it is in practice closely linked with it. This second question will be dealt with later under VI in the present section.

(a) Opinions in favour of Automatic Sanctions.

The *Chinese* Government says: "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."

The Government of *Colombia* makes the following proposal: "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".²

¹ 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".

² The *Colombian* Government, however, makes the application of sanctions conditional upon a decision by the appropriate organs of the League. This point will be discussed later under VI.

The *Estonian* Government thinks that the application of sanctions should, "so far as possible, be automatic".

The Government of *New Zealand* says: "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".¹

(b) *Opinions against Automatic Sanctions.*

These opinions show considerable divergencies.

The *Australian* Government says: ² "At the moment, the automatic provisions with regard to financial and economic sanctions are not being operated. All my Government desires is that there should be a full recognition that that is the system, that before action there is consultation, and that action is taken on a co-operative basis.

"There are those who would say that unless the present practice is abandoned and the full obligatory and automatic operation of sanctions is maintained, we are abandoning the principles of collective security and doing something to weaken the prestige of the League. With that view, I entirely disagree. To endeavour in a non-universal League to operate the strict letter of the Covenant would be a menace to the League, for I believe it would drive some Members out of the League, and it would certainly act as a deterrent to the entry of those Powers outside whose co-operation is so desirable.

"It is also suggested that without automatic compulsion the nations will not play a worthy part and will take advantage of that freedom to refuse co-operation. With that view, I cannot agree. Such a view takes no account of what is potentially the greatest force in the world to-day—namely, the will to peace of the great mass of ordinary men and women in practically every country . . . I believe that force of public opinion to-day demands that the League shall not fail, and that temporary failure—and that we have to admit—however severe, shall merely be used as an opportunity for the readaptation of League machinery so that it may serve the purpose of promoting the peace of the world to the maximum extent. I believe that that very potent force will ensure that nations will behave with righteousness and that no statesman in future representing his country here will be able, or will be permitted, to play a part which does not assist in the maintenance of the peace of the world whenever it is at issue."

The *Canadian* Government, whose views on Article 10 have already been recorded,³ is against automatic sanctions. In its view, "automatic commitment to the application of force is not a practical policy".

The *Latvian* Government remarks: "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."

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 (of the Soviet proposals), 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".⁴

4. *Various Conditions for the Application of Economic and Financial Sanctions.*

(a) *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."

¹ The same Government says: "We are prepared to take our collective share in the application, against any future aggressor, of the full economic sanctions contemplated by Article 16".

² Speech by Mr. Bruce, September 29th, 1936.

³ See same chapter, Section I.

⁴ The Government of the *Union of Soviet Socialist Republics* adds: "and such decisions shall be binding upon all States Members" (see below under VI).

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".

(b) *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".

(c) *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".

5. *Economic and Financial Relations not to be broken off as an Individual Measure.*

The *Haitian* Government is anxious¹ that Members of the League should refrain from severing commercial and financial relations with other Members of the League except in the event of sanctions' being applied.²

III. DIRECT NON-MILITARY ASSISTANCE TO THE VICTIM OF AGGRESSION.

I. *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

¹ Speech by M. Mayard, September 30th, 1936.

² The Haitian delegate advocates "the adoption of proposals designed to bring into line with the principles of international equality and mutual respect on which the Covenant is based:

"Articles 15 and 16, the full force of which should be compulsorily restored by national diplomacy and Governments, which should, in particular, prohibit in every case the severance of commercial and financial relations with another State Member of the League, as this measure should be employed solely as a collective weapon, of which the League has all too few, for use against an aggressor. If moral disarmament is a necessity of international life to-day, it should first of all be put into practice by the Members of the League."

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. SANCTIONS OF SPECIAL KINDS.

The delegation of *Panama* makes various proposals:

1. Diplomatic and moral sanctions.—The delegation contemplates " diplomatic and moral sanctions . . . obligatory for all Member States if they are approved by two-thirds of the Members of the League sitting as the Assembly ".

2. Compensation for damage caused by the aggressor.—The delegation of *Panama* says: " Any State, whether a Member or not, that is declared to be an ' aggressor ' shall be responsible for compensation for damage occasioned by its ' aggression ' to the State or States victims of the ' aggression ', and also to all States that may take part in any common action undertaken in fulfilment of obligations deriving from the Covenant ".

V. MILITARY SANCTIONS.

i. *The Provisions of the Covenant regarding Military Sanctions.*

A. *The Utility of Military Sanctions.*

Two Governments emphasise the value they attach to military sanctions.

The *Chinese* Government says: " 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."

On behalf of the *Portuguese* Government, M. Monteiro said: ¹ " The system of sanctions also calls for profound consideration if we are to make a reality of collective security. This question is of special moment: our strength depends on our potentialities in the matter of sanctions. Experience shows the weakness of our means of constraint. I need hardly repeat a view which I expressed from this platform some months ago:

" We have seen clearly that collective security can be guaranteed by military sanctions alone. As in personal affairs, the time always comes when right must be supported by might . . . Abandon once and for all the use of military sanctions, and you will have abandoned international order."

" I still hold this view to be the most just and to be that which serves our highest interests. To abandon the study of the system of sanctions would perhaps be a mistake. Each State should take specific responsibilities in the matter, in order that there may be no doubt when the moment to act comes."

B. *The View that Military Sanctions should not be Universally 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.²

¹ Speech of September 30th, 1936.

² 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."

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.

(d) The delegation of *Panama* says: "In no case shall a Member State be obliged to apply military sanctions to which it has not freely consented".

C. *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 sanctions in general, 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".

D. *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".

E. *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 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."

F. *States to which the Council's Recommendations (Article 16, Paragraph 2) should be addressed.*

The *Bulgarian* Government wishes "that, whenever the Council decides, as a result of a breach of the Covenant, to recommend to the States Members the adoption of sanctions against an aggressor, it will designate the States which are to apply these measures, without taking into consideration the fact that they are parties to a regional agreement of mutual assistance".

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".¹

¹ In his speech before the Assembly on July 3rd, 1936, 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."

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.*

I. A number of Governments are in favour of regional pacts of mutual assistance. Some of them add that such pacts should comply with certain conditions (see under C., I, below).

On behalf of *Australia*, Mr. Bruce said:¹ " I would like . . . to express my Government's concurrence in the attitude of the Government of the United Kingdom towards regional pacts. We share the views of the Government of the United Kingdom as to the utility of these pacts."

Mr. Eden, on behalf of the *United Kingdom*, had said:² " In the view of His Majesty's Government in the United Kingdom, there is every advantage in the negotiation of regional pacts devised to strengthen general security. One of the great advantages of regional pacts is that their terms are known in advance, as are the conditions in which they will apply. The value of agreements for collective action, as a deterrent to an aggressor, depends largely on the certainty that they will be applied. The uncertainty of the operation of wider and more ambitious schemes may tempt an aggressor to hazard the risk that they will not be operated."

On behalf of the Government of the *Dominican Republic*, M. Henriquez Ureña said:³ " Regional pacts of mutual assistance, entailing regional limitation of political responsibilities and obligations, open up for the future a path which may lead us to practical results. It is no paradox to say that regional pacts afford perhaps the best guarantee that the League's work will be made worldwide."

The *Estonian* Government states that: " 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 . . . "

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 *Czechoslovak* Government, speaking for the Little Entente States, says:⁴ " Events have shown that measures of an economic and financial nature are insufficient, and that nations are not always prepared to take part in military measures when their vital interests are not at stake.

" If that is so, the application of the provisions of Article 16 concerning military measures must be adjusted to this situation by ensuring in advance, with a view to their application in all cases that may arise, collaboration between States whose vital interests may be threatened by a violation of the undertakings entered into under the Covenant. It is by means of regional agreements and the organisation of new understandings that we can most surely succeed.

" I may say this with sincerity, because it is a cherished idea of the Little Entente, an idea embodied in the well-known proposal of President Beneš that Article 21 of the Covenant should

¹ Speech of September 29th, 1936.

² Speech of September 25th, 1936.

³ Speech of October 1st, 1936.

⁴ Speech by M. Krofta, September 29th, 1936.

be completed, and its fulfilment has been actively pursued by the States of the Little Entente both within and without the League.

"These regional agreements, these pacts of geographical solidarity or solidarity of interests, should of course embrace all cases which might give rise to conflicts, so that no State should be checked in rendering mutual assistance by the fear of weakening its own means of defence in the event of its not receiving aid as well.

"If the League were on the one hand to encourage, with a view to the application of the military obligations under Article 16, the organisation of regional agreements, it should at the same time make every effort to develop its preventive action in order that these agreements may never have to be enforced. Hence we should study forthwith the possibilities of encouraging and improving such action."

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 . . ."

2. 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, 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."

3. 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.

4. The *Canadian* Government does not condemn the system of pacts of mutual assistance, but makes various observations:¹ "Proposals have been made for regional agreements to ensure immediate and definite military assistance against an aggressor. These proposals show a closer approach to reality by linking the obligation with a definite contingency and a direct interest. The danger that such agreements might develop in practice into old-fashioned military alliances will doubtless be given careful consideration. It is essential to recognise that the areas in which regional agreements could be worked out are, under present conditions, restricted, almost wholly, to parts of Europe. League Members in other parts of the world where this device is impracticable cannot reasonably object to the formation of such agreements by countries which consider them essential to their own security and the stability of their neighbourhood. If, however, it is proposed that they should undertake to apply automatically economic sanctions to supplement the military action of the regional group, it must be observed that such an arrangement would strengthen and perpetuate the existing one-way tendency in the application of sanctions; it would impose on the adherents to European regional pacts no obligations in Asia or America, while calling for action in the European pact areas by outside members."

5. Several Governments, for various reasons, are not in favour of pacts of mutual assistance.

The *Bulgarian* and *Liberian* Governments think that such pacts would weaken collective security. The *Hungarian* Government maintains that they would destroy confidence and give too much weight to the principle of collective security.

The *Bulgarian* Government is anxious that "the collective guarantee of Article 10" should be "preserved in its entirety", and considers that: "Far from strengthening collective security, regional pacts might, in certain circumstances, be harmful to it.

"Any attempt to weaken the collective guarantee laid down in this stipulation of the Covenant (Article 10)—a guarantee on which the whole edifice of the League of Nations is based—might have consequences incompatible with the principle of collective security."

The *Bulgarian* Government also thinks that, for the purposes of the application of Article 16, paragraph 2, the Council should designate the States which are to apply sanctions, "without taking into consideration the fact that they are parties to a regional agreement of mutual assistance".

The *Hungarian* Government, referring to "the proposals to conclude regional pacts of mutual assistance", says:² "The *Hungarian* Government has already had occasion to state its view in connection with proposals, made along these lines in the past, by pointing out that attempts to organise peace in Europe by a network of regional pacts, instead of by creating an atmosphere of confidence, will necessarily lead back to the old system of military alliances, which was incompatible with the principles of the League Covenant and would constitute a menace to peace in general.

"The following considerations may be added to these objections. The chief purpose of such regional pacts should be simply to strengthen Article 16 of the Covenant by making more

¹ Speech by Mr. Mackenzie King, September 29th, 1936.

² Speech by General Tanczos, September 28th, 1936.

efficacious, in the event of their application, the coercive sanctions for which it provides. The pacts in question aim only at perpetuating the present state of affairs. Consequently, their conclusion, and, in so far as they already exist, their strengthening, will perforce run counter to the dynamic view of the League taken by the Hungarian Government."

The Government of *Liberia* says: "Discussions have been had in certain quarters to the effect that if collective security is not immediately possible, regional pacts should be entered into by individual groups of States for the purpose of defending particular regions. Having regard to this suggestion, the Government of the Republic of Liberia would observe that, while admitting that certain benefits may be derived from such pacts, it is also obvious that the adoption of such a course by the League of Nations would be tantamount to a negation of the collective idea inherent in the Covenant, and for which the League was originally founded. As has been appropriately observed, 'under this system every great Power would, perhaps, pledge itself to use force in defence of the League only over certain limited areas coincident with its own national interests. In all other areas it would merely pledge itself to render to the League moral and economic support.'

"If indeed the League is to undergo reconstruction, each member should live for all and all for each. Thus alone can this international organisation survive, and collective security be recreated."

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.

1. *Agreements to be Open to the Accession of Other States.* — The *Iraqi* Government observes: "These agreements as initially concluded should be open to accession by other States".

2. *Conclusion of Pacts in conformity with League Principles, and Supervision of them by the League.* — The *Australian* Government says:¹ "I feel that there is a great deal in the statement of the delegate of Canada . . . that we must safeguard ourselves against these regional pacts becoming mere military alliances, which were such a menace to the world in days gone by. I think the suggestion of the delegate of the United Kingdom that consideration should be given to the possibility of making these regional pacts subject to the approval of the Council or of the Assembly is one which is worthy of examination by the Committee."

On behalf of the *United Kingdom* Government, Mr. Eden had said: "His Majesty's Government is . . . in favour of regional pacts, provided that they are consistent with the Covenant. It is for consideration whether such regional pacts should be submitted to the Council or the Assembly for approval. The approval of the Council or Assembly might even perhaps be dependent on compliance with certain conditions to be defined. Under such regional pacts, those who were parties to them would, of course, be free to assume definite obligations beyond those at present embodied in the Covenant. His Majesty's Government is resolved to endeavour to negotiate such a pact in respect of Western Europe."

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 quâ 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".²

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;

¹ Speech by Mr. Bruce, September 29th, 1936.

² 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."

"(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."

3. *Regional Pacts should supplement, but not weaken, the Covenant.* — 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".

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, VI.)

VI. APPLICATION OF ARTICLE 16 AND OF THE PACTS OF MUTUAL ASSISTANCE.

I. *General Rôle of the Organs of the League.*

A. Most of the proposals made would increase the part played by the organs of the League in determining the aggressor and in applying sanctions.

In regard to the respective powers of the Council and the Assembly, the following may be noted:

(a) *Duties of the Council.*

The *Bulgarian* Government considers "that the Council of the League of Nations must preserve, with regard to repressive action, the full authority and complete initiative conferred on it by paragraph 2 of Article 16. It is for the Council to decide whether there has or has not been a breach of the Covenant, and to designate the aggressor and apply the coercive action which may ensue."

(b) *Duties of the Assembly.*

The delegation of *Panama* wishes the Assembly and the Council to have equal powers to designate the aggressor. It says: "The declaration of 'aggression' must be made by the Assembly by a majority of two-thirds of the Member States, or by the Council unanimously. In the latter case, however, the Assembly may, by a vote of two-thirds of its Members, revoke the declaration made by the Council."¹

The Assembly alone would decide upon the application of sanctions.²

B. The *Australian* delegation, on the other hand, seeks to safeguard every Government's individual power of decision. Mr. Bruce said:³ "While the Commonwealth Government does not press for any amendment, there are some amendments it would like to see embodied in the Covenant, one, in particular, being the embodiment of paragraph 4 of the Assembly resolution of October 4th, 1921, dealing with the economic weapon."⁴

¹ The delegation of Panama also says: "Economic and financial sanctions shall not be obligatory for any Member State unless they have been approved by two-thirds of the Member States that make up the *regional group* to which the State in question belongs".

² "In the event of war", says the delegation of Panama, "no sanctions other than those expressly announced by the League Assembly shall be employed against a State declared to be the 'aggressor'."

³ Speech by Mr. Bruce, September 29th, 1936.

⁴ This paragraph reads as follows: "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 from Members of the League by the express terms of the Covenant, and they cannot neglect them without breach of their Treaty obligations."

2. Procedure of the Council.

The *Portuguese* Government says: ¹ "The Council procedure for the application of sanctions must be reformed. With the present system, surprises of all kinds are possible. No guarantees in fact exist. So long as the existing state of things is that which we all know and which has been brought into prominence through the painful experience of these last months, we cannot blame anyone for lack of confidence in League action. The future of collective security hinges on the organisation of a rapid system of applying our means of coercion. We must admit that all the forms of action prescribed in the Covenant are vague, imprecise, and nebulous."

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 Government of *Liberia* says: "After the Council has convened . . . its decisions with regard to the application of Article 16 of the Covenant against the covenant-breaking State should . . . be conclusive and final upon obtaining a vote of three-fourths of the members present".

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."

3. 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 *Chinese* Government says: "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

¹ Speech by M. Monteiro, September 30th, 1936.

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."

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 delegation of *Panama* says: "Any State that commits an act which creates a 'state of war' should be considered an 'aggressor' if by its action it violates an international undertaking".

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".

4. *Effect of the Designation of the Aggressor.*

The *Colombian* Government wishes the designation of the aggressor to have the effect of automatically putting economic and financial sanctions into operation. It says: "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.

"The military sanctions would be obligatory only for the States situated in the same continent as the aggressor."

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."

5. *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."

6. *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."

7. *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 XI. — REGISTRATION OF TREATIES (ARTICLE 18).

The *Bulgarian* Government considers that " it is important, in order to safeguard general peace and the authority of the League of Nations, to co-ordinate the effects of Articles 18 and 20. The agreements, treaties or Conventions submitted to the League for registration and publication should not be registered and published before the Council has decided that they are compatible with the principles and all the provisions of the Covenant."

CHAPTER XII. — REVISION OF TREATIES (ARTICLE 19).

SECTION I. — GENERAL DECLARATIONS.

I. A number of Governments declare themselves in varying degrees in favour of the principle of Article 19.

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 "

Mr. Bruce said, on behalf of the *Australian* Government: ¹ " My Government also endorses the views of the Government of the United Kingdom with regard to Article 19. We feel that this article, which is an article for the remedying of grievances—one of the fundamental objects of the League—should be made operative. The League cannot succeed if it is to be turned into an instrument for the maintenance of the *status quo* at any given time. We must stand by the principle that the rule of law must also be the rule of equity."

Mr. Eden said, on behalf of the *United Kingdom* Government: ² " If nations are to be prepared to co-operate fully and loyally for the maintenance of peace, that peace must rest on a basis that appears to them desirable or at least acceptable. They will only strive to maintain a *status quo* that has won general acceptance, or to prevent forcible change of that *status quo*, if they are convinced that there exist peaceful methods whereby just changes can be effected.

" That is, let us admit it, in the judgment of some, a principal failing of the League: it has come to be regarded, rightly or wrongly, as an attempt to stereotype a state of things that can hardly be expected to endure for all time. It is true that Article 19 of the Covenant recognises the impracticability of a rigid maintenance of the *status quo*. Moreover, there is, in the view of His Majesty's Government, nothing to prevent the Assembly, should it think fit, from entering upon the discussion of matters arising under that article, though, of course, the powers of the Assembly do not extend to decisions on the substance of such matters. It would plainly be impracticable, for example, to seek to give the Assembly power to impose changes against the wish of the parties concerned. Human life, however, is not static, but a changing thing; and it would be a mistake to try to encase world affairs in a rigid mould of a particular date. A frank discussion of grievances may go some way towards removing misconceptions, and a clear expression of opinion on the part of a great majority of the Assembly would undoubtedly exert moral pressure on the side of remedy of injustice. The ideal, I suggest to the Assembly, for which we should strive is a balanced system wherein justice is done to all and where none should have a sense of hurt or grievance. Therefore, our peace-preserving machinery would lose something of its point and of its efficacy unless we are sure that the peace which we aim to preserve is one that by its justice commends itself generally to the nations of the world."

¹ Speech of September 29th, 1936.

² Speech of September 25th, 1936.

We have seen¹ 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".

On the same subject, General Tánczos also said:² "My Government fully realises that the mere application of the procedures provided for by the provisions of the Covenant which I have just mentioned would never suffice to give entirely satisfactory results for the maintenance of peace, if Article 19 of the Covenant, as a means of security for the same end, is to remain indefinitely outside the scope of application. If there is one provision of the Covenant which is based primarily on the idea of prevention in international politics, it is without doubt Article 19, which provides the League and the States belonging to it with a pacific remedy in the case of treaties which have become inapplicable and international conditions whose continuance might endanger the peace of the world.

"Since the mechanism of Article 19 offers great scope for readapting to new circumstances, without the use of force, any system of inter-State relations, the Hungarian Government still holds to the belief that its application would, if called for, prevent war more effectively than could be done by the enforcement of any system of sanctions. Moreover, everyone knows—and I need not labour the point—that, in connection with Article 19, it has already been said during this discussion that human life is not static, but dynamic, and that it would be a mistake to attempt to force world affairs into the rigid mould existing at any given date."

The delegate of *India* had Article 19 in mind when he said:³ "We have stressed far too much those elements in the Covenant which make for, or seemed to make for, the crystallisation of the world as it stood sixteen years ago. But change is the very essence of life. If the League is to be a living organism, it, too, must change, or, like all living organisms, perish. But the seeds of life are present in the Covenant itself. Let them at long last fructify."

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. Several Governments advise caution in regard to the application of Article 19, and urge the necessity of the free consent of the parties affected.

On behalf of the *Portuguese* Government, M. Monteiro said:⁴ "A policy of repression is obviously not enough. A preventive policy is necessary. Punishment of the aggressor and prevention of the aggression are good; but elimination of the causes of aggression is even better. A preventive policy will call forth more loyal and more active co-operation from all. Mr. Eden made from this platform a statement which seems to me to constitute the bulwark of the most constructive of policies: 'We must also', he said, 'seek to encourage and facilitate the use of the League's machinery for adapting situations to changing circumstances and for the remedy of what may be recognised to be legitimate grievances'.

"Obviously we must not, in our efforts to remove the causes of dispute, create fresh injustices. The remedy would be worse than the disease; but the Assembly would never have power to impose changes without the consent of the parties concerned.

"The revision of some existing circumstances can be advocated in so far as such a step helps to restore international co-operation. But no one can fail to realise that rapid or hasty revision may engender fresh causes of disagreement perhaps even keener than those we know to-day.

"We must nevertheless recognise that there are injustices which we can mitigate. The task is not easy, for we are bound to meet with dogged and often understandable resistance.

"The problems must be studied at leisure; and the idea of satisfying the ambitions of the powerful at the expense of the lesser nations must never be allowed to constitute a decisive factor. For the League was not set up to realise or to stimulate political ambitions."

Speaking for the *Czechoslovak* Government and on behalf of the other Members of the Little Entente, M. Krofta said:⁵ "With regard to Article 19, the doctrine of the Little Entente is so well known that I need not recapitulate it in detail. We hold, in particular, that no change is possible without the free and formal consent of the parties concerned. Moreover, we consider that to lay before the Assembly any territorial question, irrespective of the countries concerned, so far

¹ Chapter II, Section I.

² Speech of September 28th, 1936.

³ Speech by the Aga Khan, September 29th, 1936.

⁴ Speech of September 30th, 1936.

⁵ Speech of September 29th, 1936.

from serving the cause of peace, will seriously disturb good international understanding, on which peace depends."

On behalf of the *Union of Soviet Socialist Republics*, M. Litvinoff said: ¹

"Some speakers here have been placing great hopes on an increase in League activities under Article 19, which provides for the reconsideration of international treaties. Such reconsideration is possible and desirable, in the opinion of the Soviet delegation, only if the consent of all interested parties has been secured. A striking example is the recent revision of the Straits Convention, which was successful precisely because the preliminary consent of the signatories to the Convention was obtained. Without such consent, to raise the issue of revision—for which even those who have spoken recognise the necessity of unanimity—will not only fail to produce positive results, but will make relations between the interested parties still more acute, and thereby still further worsen the international situation. Hardly any of the countries are absolutely satisfied with existing international agreements, whether concluded in the recent, or in the more remote, past, and I question whether any beneficial results are to be expected from burdening the League with such claims. Is it not rather to be feared that the moral support which even a minority of the Assembly may afford to some claim will encourage the aggressor to a breach of the particular treaty involving acts of violence?"

SECTION II. — PROPOSALS ADVANCED.

1. *Adoption of More Practical or More Precise Formulae.*

The *Bulgarian* Government says: "Article 19 must . . . be given a more flexible form to facilitate its application".

On behalf of the *Hungarian* Government, General Tánczos said: ²

"Although Article 19 may . . . be considered the strongest pillar in the structure of international peace, the Hungarian Government greatly regrets that hitherto the practice followed at Geneva has not promoted the carrying-out of this provision of the Covenant to the extent which might have been hoped. In particular, we are without any indications as to the subsequent procedure to be followed by the Assembly, in the event of Article 19 being invoked. It is notorious that this very lack of precision regarding the procedure to be followed, and the total absence of interpretative resolutions on the subject, might greatly hinder the application of the mechanism provided by Article 19, should that be necessary.

"For all these reasons, the Hungarian Government hopes that Article 19 will be carefully examined by the organs of the League, as regards the practical application of the principles it lays down. The especial object of this study should be to define the conditions under which the Assembly, being duly requested to advise the Members of the League as specified by Article 19, should formulate the said advice."

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."

2. *The Unanimity Rule.*

The *Bulgarian* Government says: "It would be necessary to replace the unanimity rule in the decisions of the Assembly to advise the reconsideration by Members of the League of treaties which have become inapplicable by a qualified majority, or by a unanimous vote of the Members of the Council, excluding the parties concerned".

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."

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."

3. *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".

¹ Speech of September 28th, 1936.

² Speech of September 28th, 1936.

CHAPTER XIII. — REGIONAL UNDERSTANDINGS (ARTICLE 21).

References. — 1. Chapter III (Universality), Section III (Continental or Regional Organisation of the League of Nations), contained proposals for changing the structure of the League.
2. Chapter X, Section II (V, 2), dealt with the question of regional pacts of mutual assistance.

Several Governments make observations or proposals relating to Article 21.

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 delegation of *Haiti* advocates¹ the adoption, "either by means of amendments or interpretative texts, . . . of proposals designed to bring into line with the principles of international equality and mutual respect on which the Covenant is based . . . those of its articles, such as Articles 10 and 21, which appear each to alter the significance and scope of the other, to the detriment of the underlying principle of the collective defence of the political independence and territorial integrity of States".

The delegation of *Panama* says: "Article 21 was introduced into the Covenant with the sole object of facilitating the ratification of the Covenant by the United States Senate. It was thought, in fact, that by explicitly safeguarding the 'Monroe Doctrine', at the very time when the Government of that country had carried the international policy of the 'big stick' to its extreme point, it would be possible to prevent opinion in the United States from turning against the ratification of the Covenant. Obviously, there could have been no other reason for adopting this article, since post-war mentality was resolutely opposed to anything that might give rise to new alliances or offensive and defensive pacts, and any tendency to permit the formation of groups of nations would at that time have been interpreted in that sense.

"The United States did not ratify the Covenant, but Article 21 remained, though no one was ever able clearly to understand its real significance in the organisation and constitution of the newly founded League.

"In this connection, the Italo-Ethiopian conflict has been a veritable revelation, for, when an attempt was made to universalise the application of 'sanctions', it became clear that, even though all States have, or should have, the same interests in, and the same desire for, the clear definition of the principles of law, the rule of justice, and the ever more effective development of peaceful means of settlement for disputes, it is by no means certain that a local conflict affects all nations equally, or that all nations are able to intervene with equal effect in the settlement of each individual conflict. Hence arose the theory, which is very accurate, just, and reasonable, that, in any common international action to prevent or settle a conflict, the extent of the intervention of each State should be proportionate to the extent to which that conflict affects that State, and also to the extent to which that State could reasonably exercise an effective influence in the appropriate settlement of the dispute.

"The experience of the Italo-Ethiopian conflict has thus brought out the real importance of Article 21 of the Covenant. Nevertheless, as that article was drawn up without regard to the entirely new circumstances that have arisen to-day, its text does not clearly meet the needs imposed by those circumstances. It is therefore necessary to modify, clarify, or explain its text, if this article is to make its full potential contribution to the better regulation of relations among all the nations of the world."

The Government of *Peru* 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 XIV. — MANDATES (ARTICLE 22).

The delegation of *Haiti* advocates¹ the adoption, "either by means of amendments or interpretative texts, . . . of proposals designed to bring into line with the principles of international equality and mutual respect on which the Covenant is based . . . those of its

¹ Speech by M. Mayard, September 30th, 1936.

articles, such as Articles 4 and 22, certain provisions of which are held to have divided the Members into different categories based, in particular, on the aftermath of the war from which the League originated ”.

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 XV. — 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.

A. *Opinions of Governments.*

Various questions connected with this form of co-operation were raised both in the communications received prior to the seventeenth ordinary session of the Assembly and in the statements made in the Assembly itself.

I. *The General Question of International Trade.*

On behalf of the *Austrian* Government, M. Schmidt said: ¹ “ The significant reports of the Economic and Financial Committees have been followed by events in the financial world which are at present the subject of discussion in all international circles. These monetary measures have opened the way in the economic field to fruitful collaboration which should lead very shortly to the abolition of the systems of exchange control and of clearing agreements, and to a progressive relaxation of the quota system. May I express the hope that the work of the present Assembly will form an effective contribution to progress along these lines ? Thereby, the League of Nations will once more prove that its activity in the economic and social fields is one of the most important and positive elements of the work it is accomplishing in the cause of progress, prosperity and hence of world peace.”

On behalf of the *United Kingdom* Government, Mr. Eden said: ² “ Economic considerations are matters, of course, of the deepest concern to the people of the United Kingdom, not only because of their commercial and industrial activities, but also because they realise how profound an influence economic factors exercise upon the peace of the world. I therefore wish to confirm the desire of His Majesty’s Government in the United Kingdom to assist, so far as it possibly can, in dealing with this aspect of the situation.”

The *Danish* Government, in referring to bilateral commercial agreements, made 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 said: “ 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 delegation of *India* said: ³ “ Our present task is rather to tackle the many great problems that cry out for solution. There are problems of regional pacts, of peace, and of disarmament; and to my mind no problem is more immediately pressing, or more hopeful of possible immediate success, than that of breaking through the chains of economic nationalism which are impeding the natural course of trade between nations, and are crippling their economic life . . . And let us see whether we cannot break down the barriers of economic nationalism before they become veritable barrages of war.”

The Government of *Iraq* said: “ 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.”

¹ Speech of September 29th, 1936.

² Speech of September 25th, 1936.

³ Speech by the Aga Khan, September 29th, 1936.

The *Norwegian* Government was in favour of conferences dealing with various economic questions. It said: "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 said: "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".

2. *Raw Materials.*

On behalf of the *United Kingdom* Government, Mr. Eden said:¹ "I now mention one subject in particular on which there may be some misconception, and which appears now ripe for discussion and enquiry. This is the question of access to certain raw materials, in regard to which some observations were made by the United Kingdom delegate in his speech at the last Assembly. This is a matter which seems suitable for discussion at Geneva, and, indeed, for impartial expert enquiry under the auspices of the League on the lines suggested by the United Kingdom delegate last year. His Majesty's Government would be prepared to support the taking of steps in this direction by this Assembly."

The *Danish* Government made 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".

On behalf of *India*, the Aga Khan said:² "Let us promote the suggested enquiry into the accessibility of raw materials and see whether certain misgivings on this subject can be removed".

The Government of *Iraq* mentioned "raw materials" among the questions which should be urgently examined.

The *Norwegian* Government said: "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."

On behalf of the *Portuguese* Government, M. Monteiro said:³ "Too many illusions perhaps exist as to the possibility of solving certain problems by the method of simple international agreements. A typical case seems to me that of granting facilities in the matter of access to colonial raw materials to the countries which express their need of them.

"This question raises one difficulty only: that of payment. Raw materials are plentiful, and the producers ask nothing better than to sell their stocks and develop their production. It is the purchasers who are lacking, not the goods."

3. *Surplus Populations and Colonial Possessions.*

The Government of *Iraq* mentioned these two questions among those which should be urgently examined.

B. *Assembly Resolutions of October 10th, 1936* (see under B, Section II).

SECTION II. — CO-OPERATION IN THE FINANCIAL SPHERE.

A. *Opinions of Governments.*

The *Danish* Government made 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."

¹ Speech of September 25th, 1936.

² Speech of September 27th, 1936.

³ Speech of September 30th, 1936.

The *Norwegian* Government said: "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."

B. *Assembly Resolutions of October 10th, 1936.*

All these questions were considered by the Second Committee of the Assembly, and on October 10th, 1936, the Assembly, on the proposal of that Committee, adopted four resolutions. According to the first of these:

"The Assembly,

"Noting with satisfaction the joint declaration issued by the Governments of France, the United States of America and the United Kingdom on September 26th, 1936, and the adhesions thereto immediately given by several States;

"Recognising that this declaration harmonises with the recommendations made by the Economic Committee of the League of Nations in its recent report on the Present Phase of International Economic Relations (document C.378.M.249.1936.II.B);

"Considering that a concordant policy designed to re-establish a durable equilibrium between the economies of the various countries, to lay more solid foundations for the stability of economic relations and to promote international trade would effectively contribute to the consolidation of peace, the restoration of international order, the growth of world prosperity and the improvement of the standard of living of peoples:

"Affirms the general desire of the States Members of the League to pursue the realisation of these objects and invites all States, whether Members of the League or not, to co-operate fully to that end;

"Urgently recommends all States, as an essential condition to final success, to organise without any delay determined and continuous action to ensure the application of the policy indicated above, to reduce excessive obstacles to international trade and communications, and in particular to relax and, as soon as possible, to abolish the present systems of quotas and exchange controls."

The second resolution institutes a procedure for the investigation of "the question of equal commercial access for all nations to certain raw materials".

The third resolution "requests the Fiscal Committee to pursue vigorously its work for the avoidance of double taxation as far as possible, and also its work on the subject of international fiscal assistance, in order to promote practical arrangements calculated as far as possible to put down fiscal fraud".

By the fourth resolution, the Assembly decided to place the question of emigration on the agenda of its next ordinary session. The Council was also requested to follow the work of the Migration Commission set up by the International Labour Organisation, and to remain in touch in that connection with the Organisation, so that the appropriate organs of the League may, should occasion arise, contribute to that work.

SECTION III. — CO-OPERATION IN BRINGING ABOUT A CLOSER UNDERSTANDING BETWEEN PEOPLES.

A. *Opinions of Governments.*

Various questions connected with this form of co-operation were raised both in the communications received prior to the seventeenth ordinary session of the Assembly and in the statements made in the Assembly itself.

Speaking for the *United Kingdom* Government, Mr. Eden said, on the subject of disarmament:¹ "If disarmament is to be real, it must be not only military but mental; not only weapons but the war mentality must be laid aside".

The *Danish* Government said: "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;²

"(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."

¹ Speech of September 25th, 1936.

² It will be remembered that a Convention on the Use of Broadcasting in the Cause of Peace was concluded under the auspices of the League on September 23rd, 1936.

The *New Zealand* Government said: "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 observed: "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."

On behalf of *Czechoslovakia*, M. Krofta said:¹ "It would . . . be useful for the League once again to direct its attention to the question of moral disarmament, on which it has already concentrated so much effort".

B. *Assembly Resolutions of October 10th, 1936.*

These various questions were brought up in the Sixth Committee in connection with intellectual co-operation, and several of the resolutions adopted in consequence aim at bringing about a closer understanding between peoples.

CHAPTER XVI. — SEPARATION OF THE COVENANT FROM THE PEACE TREATIES.

On behalf of *Australia*, Mr. Bruce said:² "My Government is also in favour of the separation of the Covenant from the Peace Treaties, and we sincerely hope that the Assembly will be prepared to agree to that modification".

On behalf of *Austria*, M. Schmidt said:³ "The Austrian Government is firmly convinced that one of the shortcomings of the Geneva institution which detracts most from the popularity and, indeed, the authority which it should enjoy among the nations consists, in the view of many States—including some of the most important ones—in the fact that the Covenant still forms part of the treaties which put an end to the disastrous world war . . .

"While on this subject, I cannot refrain from mentioning, by way of illustration, a small detail which strikes a curious note, especially nowadays: Article 4 of the League Covenant, that fundamental charter of peace, contains an expression borrowed from the terminology of the war: 'The Principal Allied and Associated Powers'! In the Austrian delegation's opinion, therefore, it would be most desirable to separate the Covenant from the 1919 treaties, and to make of it a charter signed freely and on a footing of perfect equality by all the Members of the League."

On behalf of the *United Kingdom* Government, Mr. Eden said:⁴ "It might be thought desirable and calculated to remove a cause of misgiving if the Covenant could be separated from the treaties of peace in which it now remains incorporated, and were to take the form of a self-contained convention. His Majesty's Government in the United Kingdom would favour such a course."

On behalf of the *Canadian* Government, Mr. Mackenzie King said:⁵ "The condition of successful conciliation is the substitution of confidence and good faith for mistrust and suspicion in the mutual relations of nations. For this reason, we welcome and approve the suggestion that the Covenant of the League should be detached from the Treaty of Versailles."

On behalf of the Government of *Haiti*, M. Mayard said:⁶ "There is, to my mind, one extremely important point to be noted in this general discussion. For the first time, if I am not mistaken, the head of one of the most influential delegations to this Assembly has not hesitated to say that his Government is in favour of formally separating the Covenant from the Peace Treaties in order to eliminate one cause of misunderstanding.

"It can no longer be denied that the link between our peace organisation and the treaties which put an end to the war, following upon the defeat of one of the two groups of belligerents, was bound to exert an unfortunate influence on the Covenant itself."

The Government of *Iraq* said: "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."

¹ Speech of September 29th, 1936.

² Speech of September 29th, 1936.

³ Speech of September 29th, 1936.

⁴ Speech of September 25th, 1936.

⁵ Speech of September 29th, 1936.

⁶ Speech of September 30th, 1936.

The *New Zealand* Government said: "We are prepared to agree to a proposal that the Covenant of the League should be separated from these peace treaties".

The delegation of *Panama* said: "In order to avoid the pernicious influences on the development and interpretation of the Covenant which result from the linking of the latter with the Versailles Treaty of Peace, the Covenant should be completely separated from that Treaty, so that it may not continue to be bound up with the consequences of a past war".

CHAPTER XVII. — INTERPRETATION OF THE COVENANT.

The *Colombian* Government made 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".

Annex.

COMMUNICATION FROM THE GOVERNMENT OF ECUADOR.¹

Memorandum.

1. It is urgently necessary to reform the Covenant of the League of Nations by means of a fundamental transformation of its present structure.

In our view the reason for this need is the fact that a League of Peace cannot represent itself as the direct consequence of a treaty which has retained in a latent state discrimination between victors and vanquished.

2. The Government of Ecuador further expresses the desire that "regional leagues" or "continental leagues" should be formed and should have a representative at Geneva for the purpose of avoiding all sorts of difficulties which might arise when countries endeavoured by their own actions to weaken the decisions taken by the League, or even to make them inoperative, as was found to be the case when the sanctions adopted against Italy were applied.

3. Countries should be given the possibility of declaring themselves neutral in a specified case.

4. Suitable means should be sought to induce every country to form part of the League, in order that none should be able to weaken from outside the full efficacy of its decisions.

5. The Council and the Secretariat of the League should contain a larger number of Latin-American representatives.

6. Sanctions should be confined to the moral effect of the rupture of diplomatic relations, while excluding any purely vexatious measures which might detract from the dignity of peoples or unnecessarily disturb economic life.

7. A Judicial Court of Appeal, similar to that now functioning at The Hague, should be established in each continent.

¹ This communication was transmitted to the Secretary-General by the Permanent Delegation of Ecuador on November 25th, at which date the present Special Supplement to the *Official Journal* had already gone to press. It was therefore not possible to include the proposals of Ecuador in the study of proposals and statements by Governments which constitutes Part IV of this Supplement.

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