Taking into account the position of the different countries, their varying needs and particular traditional policies, and at the same time their firm intention to arrive at a solution in the near future, the speaker ventured to think that the Assembly this year might contribute to a large extent to the preparations necessary for the application of Article 8 of the Covenant.

M. Branco-Clark (Brazil) stated that Brazil was prepared to co-operate in drawing up a general scheme of mutual assistance and guarantees, in view of the fact that it was essential to establish some such agreement between the nations, whether with or without supplementary regional treaties. This was an essential preliminary to disarmament. Assistance and guarantees, however, must be based not upon continental systems, but upon a universal organisation; every nation had a sacred right to security. This right, moreover, had been recognised in Resolution XIV of 1922.

The speaker had pointed out, in the previous year, that as regards the question of security and the reduction of armaments, the Latin-American countries were in a peculiar position, as they had not arrived at the lowest point consistent with national safety mentioned in Article 8 of the Covenant. As the Treaty of Mutual Assistance was the only practical means of arriving at a reduction of armaments, Article 8 must be regarded as the keystone of any scheme of peace.

The speaker reminded the Committee of the atmosphere of security and mutual confidence which reigned between the South American States; this atmosphere was an essential condition for the moral disarmament without which there could be no material disarmament.

Events had served to confirm that view. The Treaty of Santiago of May 1923 had come into force. As the text had been distributed, he would simply point out that Brazil had been the first country to ratify that Treaty, which provided that any dispute which might arise between two or more American States must be submitted to a Commission of Enquiry, and that the States should undertake, further, not to make preparations for war before the expiry of six months following the notification of such Commission's report to the Governments concerned. This factor of delay would avert, and might even entirely obviate, the danger of war.

It had therefore been possible for M. de Mello-Franco to declare that the Treaty of Santiago rendered the Treaty of Mutual Assistance superfluous for the American States, as the danger of aggression in that continent would have to arise from the action of some American State.

On December 3rd, 1923, M. Pacheco, Brazilian Minister for Foreign Affairs, announced that Brazil had ratified that Treaty and invited all the American States to follow her example. The United States and most of the countries signatories to the Gondra Treaty had also ratified it.

The speaker added that it was unfortunately possible that this Treaty might not suffice to guarantee peace; moreover, it had been concluded simply between American States, eighteen of which were Members of the League. They must, therefore, not neglect any supplementary guarantee which kept within the provisions of the Covenant.

Moreover, the Treaty of Santiago was of the type recommended in an Assembly resolution of 1922. Thus, the American States Members of the League of Nations, although signatories to the Gondra Treaty, were answerable to the Council according to the terms of Article 15 of the Covenant; they therefore had the choice of two jurisdictions possessing equal competence. It was sufficient for one of the parties to lay the dispute directly before the Commission of Enquiry or before the Council; the other party would be obliged to accept the jurisdiction selected by the plaintiff. In case of any dispute as to competence, the matter was already settled by the Committee of Jurists.

The speaker declared that, in his view, the Gondra Treaty was in keeping with the letter and the spirit of the League and came within the general system laid down in the Covenant for the pacific settlement of international disputes, the Covenant being the fundamental law for those States which had signed it and the Gondra Treaty constituting a supplementary law for the American Members of the League.

The Brazilian delegation was glad that the principle of arbitration had been introduced by the French and British Prime Ministers as part of the system recommended for the maintenance of peace, the essential condition of which was a reduction of armaments. Brazil was pre-eminent in the country of arbitration; under its constitution the Government was authorised to declare war only if the nation were found, after arbitration or if arbitration was not successful. It was in pursuance of this policy that, in 1920, M. Fernandes had submitted to the Third Committee the draft, which later became Article 36, paragraph 2, of the Statute of the Court, according to which the recognition of the jurisdiction of the Court was optional for Members of the League. The speaker was glad that France and England had announced their intention to arrive at a solution in the near future, the speaker ventured to think that the Assembly this year might contribute to a large extent to the preparations necessary for the application of Article 8 of the Covenant.

After having shown the full bearing of Article 36 of the Statute of the Court and Articles 13 to 15 of the Covenant, the speaker said further that M. Herriot and Mr. MacDonald had endeavoured to introduce a fresh element - arbitration - in the effort to find a solution of the problems of disarmament and security. Mr. MacDonald, indeed, wanted to go even further and to establish Courts for settling both juridical and political questions; according to the Covenant, the questions admitting of arbitral decision were those referred to in Article 13 and again in Article 36 of the Statute of the Court; any other questions had to be submitted to the Council for examination.

The only case in which the Council could be declared incompetent arose under paragraph 8 of Article 15 of the Covenant, which deals with the domestic jurisdiction of the States.

The speaker thought that all disputes which might arise between two States might be classified as juridical, technical, or political. As regards the first, if Article 36 of the Statute of the Court met with general adhesion, a great step would have been made towards the reduction of armaments,
in conformity with Article 8 of the Covenant; moreover, under Article 13 of the Covenant the parties were given the right to choose between the Hague Permanent Court of Arbitration and the Permanent Court of International Justice. An amendment to the aforesaid article declared that they might choose between the Permanent Court of Justice and “any tribunal agreed on by the parties to the dispute or stipulated in any Convention existing between them”.

As regards political questions, States could choose between arbitration and examination by the Council. Brazil, which had arbitral treaties with thirty-three States, would resort as often as possible to arbitration. Should this prove impossible, Brazil, like all the Members of the League, was bound to submit the case to examination by the Council. It would keep its word, for without justice there was no security and it had every faith in justice.

The speaker at the same time recognised, in connection with compulsory arbitration, the justice of certain scruples expressed at the Assembly and more especially by Mr. MacDonald, in whom he recognised the nobility, rectitude and love of justice and of liberty which were characteristic of his great country, the Mother of Nations, as Emerson had said. The speaker understood M. Sandrals’s wish to define the matter more closely by showing that the problem was to decide up to what point and in what form arbitration might be made compulsory in the case of questions which were not strictly juridical or technical and had not hitherto appeared to be capable of solution by judicial means; moreover, he approved M. Schanzer’s criticism of part of the American Draft Treaty and shared his fear that arbitration might prevent the operation of the procedure for conciliation provided for in the Covenant; for this reason, he found himself unable to concur in Mr. MacDonald’s suggestion that one or, indeed, several courts should be set up. Such a step would deprive the Council of its functions as mediator.

Arbitration alone, however, was not sufficient to induce the nations to disarm. In exchange for their trust and confidence in justice, they desired guarantees for security. There seemed to be no way of creating such security except by a treaty of mutual guarantee, which would exist alongside of the Covenant and be, as it were, an implement of the Covenant.

The speaker hoped, however, that obligations in regard to assistance would not be confined to States of the same continent as the State attacked, for, if such were the case, the treaty would be inoperative, so far as America was concerned, owing to the abstinence of the United States, and further owing to topographical conditions which would make any help which the State attacked might be expecting from its associates on the continent purely hypothetical.

Another reason which made it impossible for the American States to accept the draft Treaty was connected with Article 18, which, for the purpose of the application of this Treaty, divided the continent into three groups; it would be better to revert to the scheme under which the American continent would be regarded as an indivisible whole in this respect.

The Latin-American States were practically disarmed: this was an additional reason for their preferring a general treaty rather than regional agreements. The distinction made by M. Paul-Boncour between the different States was therefore a matter of satisfaction to Brazil, showing as it did that the Latin-American States would be included among the group which could not give any military assistance and whose co-operation would be confined to economic assistance, although they would at the same time be entitled to military and naval assistance from their associates, the great Powers.

The speaker held that the possibility of conflict between the American States was out of the question; such being the case, there was no need for regional agreements, which would simply cause trouble between friendly neighbouring States.

The Argentine, Chile and Brazil were the only countries with any measure of military force and this purely for defensive purposes; M. Villegas, the Chilian representative, had made this clear when he recalled the friendly co-operation of the Chilian and Brazilian representatives at Rome in the solution of the problem of the limitation of naval armaments of States non-signatories to the Treaty of Washington; moreover, the Argentine observer had shown his Brazilian colleague how fully he appreciated the loyal and friendly spirit in which the latter had dealt with the question of the limitation of the navies of the three countries. Those countries, therefore, which unrestrainedly desired real naval equality would be satisfied with a general formula for mutual guarantees within the scope of the League, for no feelings of jealousy or mistrust existed between them.

The speaker, however, was prepared to recognise that regional agreements might be of use in Europe; the convincing advocacy of M. Benes and the explanations of M. Paul-Boncour, in whom he heard the voice of France and of the Revolution, the guide and inspirer of the nations in the paths of justice and of wisdom, made it clear that regional agreements might be of value in providing for the security of nations which in full good faith agreed to arbitration and the reduction of armaments; his conviction was strengthened by the French Government’s reply, which showed that it was not proposed that mutual assistance should automatically ensue in all cases of aggression, but only in certain flagrant cases, as recognised by the Council as “casus foederis,” when the defensive agreements were submitted to it.

As regards the definition of the aggressor, the speaker proposed that M. Herriot’s definition should be supplemented, in order that it might be taken in conjunction with the Covenant, by inserting after the words “the aggressor shall be the State which refuses arbitration, or which fails to execute the arbitral award” the words “or which refuses to submit the disputes for consideration by the Council in conformity with Article 15”.

All these measures, however, would be useless unless the conscience of the universe, like the spirit of peace which in biblical times moved upon the face of the waters, animated with its quickening breath the work of the fifth Assembly, which he most ardently hoped would pass down to posterity as the greatest, the sincerest effort ever made on earth towards the creation of a lasting peace.
M. JOUHAUX (France) stated that he wished to speak not only as a member of the French delegation but especially as a member of the Temporary Mixed Commission. After much hesitation he was prepared, in the interests of peace, to accept responsibility for the text of a general draft treaty of mutual assistance. Personal convictions, personal views, must be sacrificed to this end.

He protested against the idea which might arise that the Treaty of Mutual Assistance would bring about an increase in armaments. They need only remember the words uttered by M. Viviani, in July 1921, when the Temporary Mixed Commission was first set up. At the first meeting, over which he presided, M. Viviani said that the members of that Commission had met "to examine, in every aspect, this complex moral, military and naval problem, which for years past has been the object of such earnest discussion, both in cultivated circles and among the masses".

He added: "If we approach our task in the right spirit, we can render great services to humanity... I feel sure that we can achieve this object if we remain faithful to the general instructions given us, all the more so because disarmament will never be attained in a universal form except by means of international conferences; these international conferences must, so to speak, reflect the general opinion of the nations, and it must not be possible for some delegation which takes a limited view of the problem... to prevent the acceptance of proposals of a general character which may be submitted..."

The Temporary Mixed Commission set to work in this spirit and studied the various aspects of the problem: the private manufacture of munitions and war material, chemical warfare, traffic in arms and ammunition, the right of investigation, mutual control, exchange and verification of information, limitation of military budgets and military, naval and aerial disarmament.

In 1922, Resolution XIV was submitted to the Temporary Mixed Commission. The questions of disarmament and security were at that time taken together, but at the same time they had not lost sight of the real object of the Temporary Mixed Commission's work, which was the reduction of armaments.

Such being the case, the Temporary Mixed Commission could not agree to armaments being increased or even to their not being reduced. Such an idea was foreign to the spirit of the Commission and will be found nowhere in the texts of the drafts which the Governments were asked to examine. The object of the Treaty of Mutual Assistance was to interpret the articles of the Covenant and to ensure guarantees of security which should make disarmament a possibility. The draft Treaty elaborated and defined the undertakings contained in the Covenant; it gave the Council definite powers in order that the contracting parties might be prevented from failing in their undertakings. It did not exceed the provisions of the Covenant.

The Treaty had been rejected, but the undertakings contained in the Covenant (article 8) remained; and, in order that the requirements of national security might be safeguarded, the Covenant provided for collective security by means of common action which should compel any State attempting to evade its international obligations to respect them.

Under the terms of the Treaty, the contracting States would be obliged to submit to the Council any dispute which might result in war. It provided for an appeal to the Council should there be any fear of a policy of aggression or of warlike preparations. It established machinery by which any country with aggressive intentions would expose itself to collective action. The procedure for preventive action might have been perfected by the addition of compulsory arbitration, the definition of the aggressor, and certain of the principles contained in the American draft. That would surely have produced a coherent and effective scheme, and would have created a system of peace based on international solidarity.

If the Treaty of Mutual Assistance was rejected, a solution still had to be found. Even a universal system of compulsory arbitration would not preclude the possibility of joint action against any States which might refuse to comply with an arbitral award or the decision of the Council.

Rules must be accompanied by sanctions: war could not be ended simply by universal condemnation and a declaration that law was to be substituted for force. Sanctions were essential: first of all economic and financial sanctions, then military sanctions already provided for within the general scheme of the Covenant, for they were bound to come in the end to the organised scheme of compulsion which was aimed at in the Treaty of Mutual Assistance. No procedure of conciliation or arbitration could otherwise be effective.

The draft Treaty of Mutual Assistance was nothing but a means for the application of the charter of peace constituted by Articles 10, 12, 14 and 16 of the Covenant. It would enable the Council to prepare plans for the reduction of armaments.

That was the task which the Temporary Mixed Commission had endeavoured to accomplish in execution of its first mandate for disarmament.

The speaker declared that security must take the place of insecurity, that there must be a reduction of the military burdens of the nations in order that a pacific spirit might be allowed to develop.

The speaker referred to the criticism levelled against the Temporary Mixed Commission on the ground that it examined questions only from one point of view — that of the organisation of material forces.

The Temporary Mixed Commission could not act otherwise in view of the fact that it was bound to confine its action, according to the terms of the resolution, to the question of security.

Was not their Committee at that very moment examining the question from one point of view only, in that it was excluding the important economic questions by which the conditions of peace and its stability were determined.

The connection between the different aspects of the problem of peace must not be lost sight of. The solution of the various factors formed part of the solution of the whole.
The speaker emphasised the importance of the economic factors. Political relations presupposed conditions of economic peace: there could be no real peace in the scheme of political relations if economic relations were governed by principles of hostility, nor could there be peace in economic relations if political relations were unfriendly.

That had been the idea of President Wilson in drafting the third of his fourteen points: "The removal, so far as possible, of all economic barriers and the establishment of an equality of trade conditions among all the nations consenting to the peace and associating themselves for its maintenance".

The same principle underlay Article 23 of the Covenant, which declares that "provision" shall be made "to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League".

The speaker was of opinion that the wording of this article had limited the intended scope of President Wilson's economic scheme. The "equitable" treatment provided in the Treaty, however, precluded any hostile economic policy.

The speaker knew that a committee of the League was dealing with the question of unfair competition and dumping. The whole Customs policy of the various States and the question of commercial agreements should also be examined.

He reminded the Committee that, under Article 18 of the Covenant, every international engagement entered into by any Member of the League should be registered with the Secretariat and published. Failing publication, the undertaking would not be binding. This provision applied only to political treaties; it should be extended to commercial treaties and undertakings.

The speaker referred to the recent creation of the Committee on Intellectual Co-operation; there was equal need of a committee on economic collaboration. The nucleus of such an organisation already existed in the form of the Economic Committee of the League, which should be developed into a technical and economic organisation. Such a committee would consider what principles should in future govern commercial agreements and what dangers would have to be guarded against.

The speaker regarded such a committee of enquiry as the starting-point for the international economic council which had been conceived of by the working classes and would, no doubt, one day prove necessary for the definitive organisation of peaceful economic relations between the nations and which would ensue from the development of the powers of the International Labour Office in conjunction with the League.

All these questions must be dealt with, calling as they did for positive solution. They might be dealt with separately, for the questions must be approached in a certain sequence. Certain problems — security and disarmament — called for immediate solution. They must be dealt with by the League. But even when all these problems had been solved, there would be no certainty of peace in the world and they must continue their examination of those questions which called for solution before peace could be definitely established.

If the proceedings of the Assembly failed next day to result in some agreement, as M. Paul-Boncour had so emphatically stated, the world would suffer from disillusionment. The speaker, who lived among the masses, might even say that disillusionment would turn to despair.

There was a feeling nowadays that the League would offer a basis for the organisation of peace; there was a feeling that the new age had brought with it a new mentality, and this feeling was strong in every country. Those present must realise it and take it into account, and know that, over and above differences of opinion and personal preoccupations, peace called for agreement and for universal effort.

The meeting rose at 7 p.m.

FIFTH MEETING

held on September 13th, 1924, at 10.30 a.m.

M. DUCA (Roumania) in the Chair.

II. Continuation of the General Discussion on Item 6 of the Agenda.

Jonkheer LOUDON (Netherlands) said that, from the speeches made at the Assembly and in the Third Committee in regard to arbitration, security and disarmament, it was clear that there was sufficient common ground for an understanding to be reached.

The Third Committee's task, in co-operation with the First, was to endeavour to reconcile the differences of opinion which might exist by examining the available documents and the obligations contained in the Covenant regarding the pacific settlement of international disputes. Everyone was agreed that it was in the Covenant itself and in the Statute of the Permanent Court of International Justice that a solution must be sought. The Covenant stipulated the reduction of armaments to the lowest point consistent with national safety and indicated the threefold means of preventing recourse to violence as a solution of international disputes.

Until the 1924 Assembly, the problem of security and that of the pacific solution of international disputes had been placed in juxtaposition, and it was proposed to solve the former by means of a Treaty of Mutual Assistance, while for the latter reliance was placed on the Statute of the Permanent Court of International Justice.
At the present time, however, nations were ready to adopt a combination of the two, consisting of compulsory pacific settlement coupled with a definition of the aggressor as being that State which refused to submit its case to pacific settlement or to carry out the award.

In consequence, the problem of security had become inseparable from that of the pacific solution of disputes. This constituted an immense progress and nothing remained but to confirm and develop it.

This progress would remain something to the good, even if it were not possible to agree immediately on the details of application; it would involve the modification of certain articles of the Covenant and perhaps of Article 36 of the Statute of the Permanent Court of International Justice. This would be the task of the First Committee, which would have to take Article 12 as the keystone of the edifice. It would have to decide under what conditions the refusal to submit to arbitration or to carry out an award would constitute aggression, involving the application of joint measures of coercion, and it would have to eliminate from Article 15 the principle that war was permissible in the event of the Council's failure to settle the dispute, a principle which was incompatible with that of compulsory arbitration.

The Third Committee's task was to consider the means of surrounding a compulsory pacific solution with the necessary guarantees. On this point the declarations made by the French and British delegations were not widely dissimilar. Lord Parmoor had given it to be understood that he recognised the necessity of sanctions to guarantee the pacific solution of international disputes, although the British Government did not accept the draft Treaty of Mutual Assistance. M. Paul-Boncour said, in his admirable speech, that, although he linked the question of security with that of compulsory arbitration, he regarded the sole effective means of coercion to be those provided for in the draft Treaty of Mutual Assistance.

Several countries, however, including the Netherlands, were opposed to that Draft Treaty. M. Loudon had stated the reasons for this at the last Assembly and his objections had been restated in his Government's official reply. He noted M. Paul-Boncour's statement that the Treaty would only ask each country to give what it had, but, even so, he doubted whether that would make any difference to his Government's point of view.

After all, what was the good of embodying in a new draft Treaty, going beyond the Covenant and even running counter to it, means of coercion which were provided by the Covenant itself, and which would be quite adequate, as M. Branting said, provided that international solidarity really existed?

Article 16 of the Covenant provided economic and financial sanctions which the 1921 Resolution reinforced by the blockade. These sanctions would be imposed because the aggressor — who would henceforward be the party rejecting arbitration — would be regarded as having committed an act of war against all the Members of the League of Nations. Article 16 also laid down that the Council could recommend military measures as a second instrument of coercion.

Many States, among them the Netherlands, did not see the necessity of going further than Article 16 to ensure the triumph of the principle of compulsory arbitration and to render possible the reduction or restriction of armaments. While he did not wish to put spokes in the wheels of other delegates, he could legitimately claim that a Treaty of that kind would be superfluous.

The previous year, at the time of the first debate on the Cecil-Requin draft, no one had dreamed of combining the two principles which had now been adopted. It was useless to try and go beyond what was practicable, and it was dangerous to convey the impression that the Treaty of Mutual Assistance was a sine qua non of security and disarmament. Above all, it was important not to give way to discouragement if, as was probable, no agreement was reached on this draft Treaty. It would be better to prepare public opinion for such an eventuality and bring it to realise what an immense step had been made this year as regards both international solidarity and security.

General TANČZOS (Hungary) desired to place before the Committee briefly the main points of the Hungarian view of the problem of the reduction of armaments. He thought it necessary to do so because Hungary had been placed in a very special military position by the Treaty of Peace.

Hungary had loyally based her policy on the Treaty of Peace and had consistently remained faithful to her undertakings. She had disarmed completely and possessed no army in the modern sense of the term. The military instrument she had been allowed to retain was quite inadequate even for the bare defence of the country.

On the other hand, while some of the other European States had reduced their armaments to a certain extent, the majority had maintained them. In fact, very much the same warlike activities prevailed in Europe as before the war.

If Hungary's juridical position were now examined, it would be found that both the Treaty of Trianon and the Covenant of the League of Nations, which was an integral part of this Treaty, contained provisions on disarmament. Both these international instruments had been signed by Hungary.

Part V of the Treaty of Trianon, containing the military, naval and air clauses, began with the following preamble: "In order to render possible the initiation of a general limitation of the armaments of all nations, Hungary undertakes strictly to observe the military, naval and air clauses which follow". Moreover, Article 8 of the Covenant contained the following passage: "The Members of the League recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety".

Hungary had already disarmed far beyond the limits prescribed in that article of the Covenant. Military security was, after all, a relative term, and an army of the size allowed to Hungary by the
Treaty of Trianon might perhaps have been sufficient to protect a small State in the Middle Ages but it was undoubtedly quite inadequate in present-day conditions.

That state of affairs was incompatible with the principle of the "security of the nations of the world" proclaimed by the resolution of September 6th. Hungary was therefore placed in a position of inferiority which was seriously depressing to her national moral.

Happily, this resolution, in conjunction with the speeches of the French and British Prime Ministers, indicated a path which would restore military security to Hungary if it were followed. His Government hoped that the promise contained in the preamble of the Treaty of Trianon would be fulfilled by means of general disarmament which, by restoring equality, would ensure the security of every nation, including Hungary. For that reason Hungary hailed with the greatest satisfaction the new policy initiated on September 6th, a policy which she regarded as of vital importance to herself, and to ensure the success of which she would do all that lay in her power.

Count Skrzynski (Poland) wished to put before the Committee the attitude taken up by Poland regarding security, disarmament and arbitration.

He would confine himself to indicating a few of the most vital points of the question of the pacific settlement of disputes.

Was disarmament to precede security or was security to be assured before disarmament could be carried out? The answer must inevitably be dictated by circumstances. A country encircled by the sea would reply that the risk of disarming could first be taken, while countries surrounded by States Members of the League of Nations which had disarmed morally might also be willing to take the risk. But a country which had neither of these privileges would have to put security first and insist on maintaining a force sufficient to safeguard this security and to enforce international obligations by action in common with other States placed in the same position and obliged to take into account their geographical situation and the special circumstances which forced them to exercise prudence. This he took to be the true meaning of Article 8 of the Covenant.

Poland had not rejected the Treaty of Mutual Assistance because she considered it to be in conformity with the guiding principles of the Covenant. Now that the majority of States were no longer favourable to this treaty, and as there was insufficient time to embark on the discussion of new projects, the only thing to do was to go back to the first principles upon which all were agreed, viz., those embodied in the Covenant. It would be necessary, however, to fill certain blanks, to make some of the provisions of the Covenant more elastic and others more stringent.

Above all, aggression must be defined and provision must be made for the application of common sanctions. To define aggression it was not enough to have recourse to the Permanent Court of Justice; some authority was needed which could not only judge the immediate act of aggression but all the stages which had preceded it.

Count Skrzynski submitted that the only possible authority was the League of Nations, i.e., the Council or some organ appointed by the Assembly and rendering decisions subject to confirmation by the Council.

Arbitration, to be operative, must be compulsory. This involved a certain renunciation of sovereignty and no State could consent to renounce it in favour of any other body than the League of Nations. Even so, it must have in exchange the certainty that it was submitting its peaceful intentions to the judgment of the community and not its national dignity.

When aggression had been defined, the next step was to define sanctions. They were provided for in Article 16 of the Covenant, which offered very valuable moral guarantees together with economic sanctions and military and naval sanctions. The latter might never be necessary if universal solidarity succeeded in dominating all the fields of human activity. But until this gigantic task had been accomplished by humanity the last sanction provided in Article 16 was indispensable. Far from constituting a danger, it would be a guarantee during the initial period of evolution.

The Polish delegate considered that the task of furnishing these military sanctions must fall on the States which were threatened. Those States must provide for their security, since the States which did not feel themselves exposed to any danger and which were protected by nature could not be asked to maintain forces merely to defend other countries. It was therefore in the general interest that those countries which felt that they could dispense with the assistance of others should be freed from all military or naval obligations and be allowed to disarm completely. On the other hand, those which were not in this happy position must be prepared to lend each other mutual assistance.

Such were the views of the Polish delegation in regard to the stages through which disarmament must pass before it should become general, before security was universally assured and before peace was established for all time. Peace could only be ensured by equality, solidarity and the establishment of justice as a living and dominant force in international affairs.

Mr. Fitzgerald (Irish Free State) said that he naturally spoke there with some diffidence. His country was a very young Member of the League. He felt that some of those who represented the smaller nations were present somewhat in the capacity of lookers-on, and that the real difficulty lay between the two great Powers of France and England. As an Irishman, he was anxious that there should be harmony between their very old friend France and their very recent friend England. Last year, prior to his country's admission to the League, he attended a Commission at which he was requested to make a statement with regard to his country's armament. He then pointed out that they had raised an army of some fifty thousand men, that an army of such dimensions had been created for a specific reason, that that reason had now ceased to exist and that therefore they were already beginning to demobilise. Since then, they had reduced their army to something less than twenty thousand men.
He recalled that fact because he thought that the workings of all Governments were much alike. They budgeted for a large army when they were threatened with a definite danger; they reduced their army when that danger was removed. In the same way, he thought that no Government would be represented.

When it came to doing business, he thought that they would get on better if they considered insecurity rather than security. Instead of speaking of security and arbitration, they might speak of security by arbitration. There had been great frankness in the Committee. He wondered if that frankness could be extended to the point when each Government would say: “We maintain such or such an armament because we feel that our duty to our people demands it as a protection against such a danger from such a Government”.

Then arbitration could work and the arbitrators could say: “Such a danger is real and Government A must take steps to remove this threat to the country of Government B, or, failing that, Government B may retain its present armament”, or they could say: “This alleged danger has no reality and therefore there is no justification for an armament of such a standard and it must be reduced”. If they all stood for right and justice, if they were all willing to give up that which satisfies and she was ready to help the League to the best of her ability towards the attainment of the noble aims it had set before it.

Like the countries which had suffered most severely from the horrors of war, his own country ardently desired the permanent establishment of peace, and it was in this spirit that Paraguay had unhesitatingly responded to the League’s first appeal. The ideals of President Wilson had won the support of Paraguay and, although that country was far removed from Europe and although the Treaty of Assistance would have no practical application for her, she felt she could not remain indifferent to the grave problems of the present day. Paraguay was bound to Europe by an increasing number of intellectual and commercial ties and she was ready to help the League to the best of her ability towards the attainment of the noble aims it had set before it.

M. de PALACIOS (Spain) said that Spain was determined to continue to co-operate wholeheartedly with the League in the organisation of peace, without other reservation than that of her vital interests as guaranteed by the Covenant.

Spain was of the opinion that guarantees should not be exclusively of a military character. In fact, she earnestly hoped that it would never be necessary to have recourse to such means of coercion. The foundation of the organisation of peace principally consisted in the development of universal brotherhood, both in the moral and in the legal sense, and in the development of respect for the obligations of States towards one another.

To do so, it was unnecessary to go beyond the Covenant, which contained the principle of all the guarantees which could be required. The Spanish delegation had, therefore, been gratified to hear M. Paul-Boncour say that, if the authors of the draft Treaty had gone outside the scope of the Covenant and laid down obligations which, in principle at least, were not in the Covenant, these provisions could not be recognised as valid in so far as they ran counter to the Covenant.

Spain was of the opinion that guarantees should not be exclusively of a military character, and recommendations unanimously agreed upon by the Council (Article 15).
There were certain omissions in the Covenant but they did not affect those principles. Those omissions could be made good by interpretative resolutions. But the principles themselves must not be touched, otherwise the same serious objections would be raised as in the case of the draft Treaty of Mutual Assistance.

A proposal had been made that certain classes of questions should be excluded from the scope of compulsory arbitration. This would undoubtedly facilitate the acceptance of compulsory arbitration by certain Powers. Such reservations would therefore be effective as a temporary solution which would admit of some progress being made, but it was to be hoped that they would be restricted as much as possible, otherwise the hopes raised by the unanimity with which the Assembly had approved its resolution would be disappointed.

The Spanish delegate wished to emphasise the general approval with which the definition of the aggressor State had been greeted; he hoped that the Sub-Committee would be able to find a formula which would satisfactorily meet the requirements referred to by several delegates. He would like to remind the Committee of the declaration suggested to the Temporary Mixed Commission by Admiral Marquis de Magaz, proposing that the aggressor should be presumed to be any State refusing to submit to the Permanent Court of International Justice or to the Council a dispute involving a threat of war, and any State refusing to take the precautions stipulated above, once they had been recommended by the Council.

This definition covered not only cases in which a State refused to submit a dispute to the Council, but also the question of demilitarised frontier zones, since the precautions referred to in the Spanish proposal might include measures such as the withdrawal of troops to a certain distance from the frontiers.

As regards partial agreements, the Spanish delegate had listened with great interest to the views expressed by several delegates, but he could not conceal the apprehension felt by his Government on this point. The League of Nations was universal in principle, and would become more and more universal in practice. It was on this basis that peace must be organised.

The CHAIRMAN closed the general discussion and said that its results could be summed up as follows:

The speakers had been practically unanimous in recognising the close connection existing between arbitration, security and disarmament.

Little stress had been laid on arbitration, which belonged more particularly to the sphere of the First Committee, but on this point there seemed to be a desire for collaboration between the First and Third Committees. This would be ensured by the Sub-Committee which was going to be appointed.

As regards security, a distinction had to be made. There seemed to be general agreement as regards economic sanctions; but there was still a difference of opinion as regards military sanctions. It would be the task of the Sub-Committee to find common ground for agreement in the views which had been expressed.

Another definite conclusion which could be drawn from the debate was that the basis of all discussions must be the Covenant.

Very little had been said about disarmament, as it seemed to be the general opinion that disarmament could not take place until after arbitration and security had been organised.

The Chairman then proposed that the Committee should proceed to the appointment of the Sub-Committee.

12. Appointment of the Fourth Sub-Committee.

On the proposal of M. LOUDON (Netherlands), the Committee appointed the following members to serve on the Fourth Sub-Committee:

M. Poulette (Belgium);
Lord Parmoor (British Empire);
Mr. Henderson (British Empire);
M. Villegas (Chile);
M. Benes (Czechoslovakia);
M. Paul-Boncour (France);
M. Schanz (Italy);
M. Matsuda (Japan);
M. Lange (Norway);
M. Skrzyzynski (Poland);
M. Titulesco (Roumania);
M. Branting (Sweden).

M. Benes (Czechoslovakia), Rapporteur, presented a detailed report of the work of the Fourth Sub-Committee. He pointed out that the latter had been instructed to prepare a complete system of arbitration, security and disarmament. It had met for the first time on September 13th, and had requested its Chairman to prepare a preparatory draft, on which it had worked during the whole week. After protracted discussions, the members of the Sub-Committee had agreed upon the text now laid before the Committee (Annex 9).

The Rapporteur reminded the Committee that, in accordance with the Assembly resolution, the work had to be divided between the First and Third Committees, the First dealing more especially with arbitration, and the Third with security and disarmament. This division of the work was obviously somewhat artificial, in view of the close connection between these three great problems; the Fourth Sub-Committee of the Third Committee had, however, been able to coordinate its work with that of the Sub-Committee of the First Committee, with the result that they had been able to submit a joint scheme.

The Third Committee, of course, was competent more particularly as regards security and disarmament, but, in view of the political character of both these problems, it had to take into account the whole question of the reduction of armaments, while leaving to the First Committee the task of dealing with the legal aspect of the question and of drawing up a complete system of arbitration. Of course, the two Committees would have to co-operate at a later stage in order to bring these two texts into line, since amendments might be introduced at the plenary meetings.

Turning to the text drawn up by the Fourth Sub-Committee, the speaker first referred to the preamble. He thought that its wording would need further consideration, and pointed out that it constituted, as it were, a synthesis of the whole system.

The system of arbitration drawn up by the First Committee was based upon modifications of certain articles of the Covenant. One article, Article 10, laid down that the provisions contained in the various draft amendments to the Covenant would become binding as from the date of the coming into force of the Protocol. That had appeared to be the simplest plan and the First Committee was unanimous on the subject.

Going on to examine the articles, M. Benes showed that the terms of Article 1 involved an essential modification of Article 12 of the Covenant, according to which certain wars of aggression might still be legitimate. Article 1 of the Committee's Draft, on the contrary, laid down as a principle that all wars of aggression were unlawful, and in consequence imposed upon Members of the League an obligation never to resort to such wars. In compensation for this undertaking, the parties must, of course, be enabled to submit their disputes to a body specially competent to decide them. That was the object of Article 3, which provided for the introduction of amendments to Article 15 of the Covenant.

The speaker pointed out that a special article, Article 9, had been provided to deal with the position of States non-Members of the League.

After reading Articles 4 and 5 of the Draft, the speaker directed special attention to the importance of Article 8 which defined the aggressor. The problem was a particularly difficult one; it was to set up a system for the pacific settlement of all disputes which might ever arise. That meant that the system of arbitration contemplated should be so framed that no international dispute, whether juridical or political, could be exempt from it. The speaker was of opinion that the scheme submitted to the Committee fulfilled this requirement and provided for the pacific settlement of all disputes. It was obvious that one single flaw, the slightest defect in the system, would involve the collapse of the whole structure. They must ensure, therefore, that nothing was omitted and that it should be possible for the pacific procedure to be applied automatically in every case of violation. The difficulty appeared to be an insurmountable one, for the declaration of the aggressor must appear as a simple statement of a self-evident fact, so that the Council should be in no doubt whatsoever.

The text of Article 8 as submitted to the Committee defined the aggressor in the first place as any party guilty of acts of war, force or violence which could be readily established; but further definitions were given. Any party was declared to be an aggressor which refused to comply with decisions of the Council ordering it to arrest the movement of its land, sea or air forces, as also any party that committed an act of war in violation of provisional measures enjoined by the Council during the course of the proceedings.
This, however, was not all; there remained the case in which two parties might each accuse one another of having committed acts of aggression. It had at first been proposed that the aggressor should be decided by a majority vote, but this proposal had been dropped, as a certain number of members had pointed out that this would place too much responsibility on the Council, and held that unanimity was absolutely essential. It was at this point that there was danger of the flaw which might wreck the whole scheme. It might happen that the Council would not succeed in obtaining the necessary unanimity without some delay. Such cases would be extremely serious, but fortunately, in the opinion of the speaker, extremely rare; they must trust the Council, as their Chairman, M. Politis, had declared in the course of the discussion. Moreover the existence of the provisional measures would lessen the likelihood of this possibility to a very considerable extent, and would make the declaration of the aggressor practically automatic and mechanical. Thus, even in the case of a dispute as to the aggressor, it might be said that a party acting in bad faith would have very little chance of escape.

In Article 8, which dealt with aggression, and in one of the following articles of the Draft, violation of the act establishing a demilitarised zone was also described as an act of war. It had been the desire of the Sub-Committee to direct the attention of the States to such zones, which might be regarded, on the one hand, as providing a means of preventing precipitate action by either party and, on the other, as facilitating the declaration of the aggressor.

They next had to deal with the articles which came within the exclusive competence of the Third Committee. These were the articles dealing with security and sanctions, which were two aspects of the same question.

The Sub-Committee had been of opinion that a necessary corollary to the system of compulsory arbitration must be a system of sanctions to be directed against any States which might violate the provisions laid down. The Sub-Committee had agreed, moreover, that the reduction of armaments could not be realised unless the States were given some assurance of general security.

The provisions relating to the sanctions constituted the most important part of the structure, especially from the political point of view.

Never, in all history, had so many States assembled to work for the abolition of war or to declare so categorically their desire to create a regular system of mutual assistance. Without, however, exulting too soon, it might be said that there had been a considerable change in the political atmosphere of Europe since the Prime Ministers of the two greatest Powers in the world had declared before the Assembly of the League that the countries which they represented had decided to put an end to the obstacles which stood in the way of the definite establishment of peace.

Article 12 laid down as a principle that the signatories to the Protocol should not be asked to incur any wider obligations than those assumed under the Covenant, so far as concerned economic, financial, military, naval or air sanctions. The application of such sanctions was now more clearly defined and would thus prove more efficacious. The signatories to the Protocol were compelled to apply the sanctions laid down by the Council as soon as the aggressor was officially declared. This provision meant that the States must be prepared to apply the sanctions.

The Covenant provided only for the application of financial and economic sanctions; it made military, naval and air sanctions contingent on recommendations of the Council, which did not constitute strictly legal obligations for Members of the League. This was the great defect in the Covenant, especially as recommendations in regard to military sanctions must be passed by unanimous vote, and the States became free to act as they saw fit if the Council did not reach a unanimous decision.

In future, directly the Council had declared officially which State was the aggressor the States would be obliged to apply the sanctions at once. This represented considerable progress.

The question arose as to whether the particular position of certain States should not be taken into account, with a view to limiting their obligations. The Sub-Committee had been of opinion that all exceptions should in principle be excluded as they would constitute defects which might involve the disintegration of the whole system. Article 14 provided simply that "The Council shall be entitled to receive undertakings on the part of States, determining in advance what armaments might be regarded, on the one hand, as providing a means of preventing precipitate action by either party and, on the other, as facilitating the declaration of the aggressor." The Sub-Committee had agreed, moreover, that the reduction of armaments could not be realised unless the States were given some assurance of general security.

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Article 15 prohibited the annexation of territory belonging to the aggressor State, and, further, made the aggressor responsible for the reparation of all material damage caused.

In Article 16, the signatories agreed to take part in the Conference for the Reduction of Armaments convened for June 15th, 1925. Should the Conference prove abortive or the plan adopted not be put into effect, the Protocol would lapse. If the signatories failed to execute the decisions of the Conference they could not benefit by the provisions of the Protocol.

Some delegates had considered that the ratification and entry into force of the Protocol should precede the International Conference for the Reduction of Armaments, in order that the latter might open in an atmosphere of confidence which would be propitious for disarmament.

They thought, moreover, that this procedure would have the advantage of drawing public attention to the importance of the scheme evolved at Geneva.

These reasons, strong as they were, had to yield to those advanced in favour of the other view, namely, that the reduction of armaments should not follow on measures of security and the establishment of arbitration, but should proceed concurrently with the latter.

After lengthy discussion, a compromise had been agreed upon. The entry into force of the Protocol and of the plan for the reduction of armaments were to be simultaneous. It was decided, further, that the Protocol should be ratified before the Conference, in order to increase the chances of success of the Conference.

Such were the essential principles of the Protocol and the fundamental aims which the Sub-Committee had had in view. The work had been exceedingly strenuous. The members of the Sub-Committee therefore asked the Committee to accord them the indulgence generally shown to those who undertook high enterprises.

The system was not perfect, but it was impossible to produce better results in the short time allowed for preparation. Those responsible for it did not under estimate the dangers to which it was exposed. They simply hoped that the discussions of the Third Committee and the Assembly and subsequently the Governments which would be asked to sign the Protocol would not disillusions the millions of human beings now looking towards Geneva with one word on their lips: “Peace”.

Mr. Henderson (British Empire) said that, in rising to address the Committee at that stage, he felt it to be his duty, and also his pleasure, in the name of the British delegation, to express their sincere appreciation of the valuable and devoted services which Dr. Benes had rendered to the Fourth Sub-Committee. That the Sub-Committee had been able to present a plan to them that day was entirely due, in his opinion, to the spirit which M. Benes, their Chairman and Rapporteur, had always managed to keep amongst the members of his Sub-Committee, and it must be a cause of great satisfaction to all the members of the Sub-Committee, as he was sure it must be to the members of that Committee also, that he had so guided all their deliberations as to be now able to come to the Committee with the scheme which he (M. Benes) had just outlined.

His object was to try to put before them what he conceived to be the position of the British delegation, and to say how, in the short time that they had had since the scheme was brought to a stage which permitted it being presented, the British delegation regarded the situation which the scheme represented. In stating the position of his delegation, he desired to make the following statement:

The present Assembly has had many important tasks, but it is safe to predict that it will be remembered for the work which it has done on the problem of disarmament. On this problem the Third Committee and the First Committee have been working side by side to carry out the duties imposed upon them by the Assembly resolution of September 6th. They have been working side by side, and each of them endeavoured with much success not to encroach upon the subjects entrusted to the other. But it is necessary to recognise that the work of each of them is part of one whole. The Third Committee was charged by the Assembly with the consideration of security and disarmament; but security and disarmament cannot be separated from arbitration, and they have not been separated in the scheme of the draft Protocol which Dr. Benes has laid before the Committee to-day. The scheme covers all three. Without action on all, we can do nothing on any one. That proposition is so evident that it needs no arguing. War hitherto has been accepted as a method — though it has always been the worst conceivable method — of settling international disputes. Armaments are the machinery of war. Their existence and their appalling development and increase in the last half-century have created a sense of insecurity from which the whole of Europe is suffering to-day. Therefore, to deal with war, to get rid of it root and branch, as by this Protocol we propose to do, requires a scheme by which arbitration takes the place of war for the settlement of disputes; by which armaments, the machinery of war, are limited and cut down to the lowest level on which we can agree; by which the sense of insecurity is removed through mutual undertakings to support a State which is the victim of unlawful aggression. Such is the scheme which Dr. Benes has laid before you.

Let me deal first with that part of the threefold problem which, in our view, is the first and perhaps the most important part of all arbitration. There is no need to remind the Committee of the reference which it received from the Assembly. It was instructed to consider, with a view to improvement and amendment, the articles of the Covenant relating to the settlement of disputes, and also Article 36 of the Statute establishing the Permanent Court of International Justice, which confers on that Court obligatory jurisdiction in legal disputes. The purpose of this task was defined in the closing words of the resolution presented to the Assembly on September 6th by the French and British Prime Ministers. It is "to settle by pacific means all disputes which may arise between States". That is the first essential step if we are to get rid of war. We must provide, and we believe that this new Protocol will provide, satisfactory means by which international disputes of every kind and every description can be peaceably dealt with and decided.
The provisions of the Protocol in regard to arbitration fall into two parts — those which concern the Permanent Court of International Justice and those which concern the settlement of disputes by the Council of the League or by arbitration. So far as the Permanent Court of International Justice is concerned, the suggestions put forward are very simple. It is proposed that States should adhere, with or without reservations, to the Article 36 to which I have referred. This article has been very carefully examined by the jurists of the First Commission, who have come to the conclusion that no change in its clauses is required, and that they are, as they stand, sufficiently elastic to allow the reservations which may be necessary to enable Governments to adhere to it at once. This result is particularly satisfactory to the British Government, for the reason that we desire, and desire ardently, to adhere to Article 36, but we cannot do so without making a reservation of considerable importance. This reservation, to which I will return, does not, in our view, in any way diminish the importance of the adhesion to the article by the British Government and by the Governments of other great Powers. We believe it will be a decisive turning-point in the process by which international jurisprudence is being built up, and by which legal justice among the nations of the world will become a practical reality.

But this matter of the compulsory jurisdiction of the Permanent Court, important though it be, is yet less important than the arrangements which are proposed in the new version of Articles 12, 13 and 15 of the Covenant which are put forward in the draft Protocol. These arrangements are the keystone of the whole system which we are hoping to create. It is not for us here to enter into a detailed examination of the new proposals, but it is necessary to point out that they complete the Covenant as it stands to-day, by removing the cases in which recourse to war is allowed. The State which resorts to war is outlawed, not by resounding declarations only, but by the co-operative effort of the nations of the world. Every dispute which is not taken under Article 36 of the Statute of the Court, or by the agreement of the parties, for judicial settlement by the Permanent Court, is to be settled by arbitration. Such disputes as do not go to the Court will be, in the first instance, dealt with as before, by the Council. The Council is to persuade the parties, if it can, to agree on an arbitral tribunal. If their efforts are successful, but if, nevertheless, one of the parties demands an arbitration, an arbitral tribunal is to be set up, either by agreement between the parties or by the Council itself. If none of the parties desires arbitration, the Council is to continue to deal with the matter itself by investigation and conciliation, as it now does, and to draw up a report. If this report is adopted unanimously, then the Members of the League are to agree that they will accept and carry out the settlement which it proposes. But if the Council cannot arrive at a report which it unanimously approves, it is then obliged, under this draft Protocol, to submit the matter to an arbitral tribunal which it is itself to nominate. In this case again, the Members of the League will undertake, in accordance with this scheme, to accept and to execute whatever decision or award may be given by the arbitral tribunal.

We thus provide in this draft Protocol a system by which a pacific settlement can be found for every international dispute and which will impose upon those who accept it the obligation to accept and in good faith to carry out such settlements. In our view, this is a step forward of the first importance. We do not attempt to disguise from ourselves that it involves a certain sacrifice and we are ready to advise our Government and our Parliament to make the sacrifice. We believe in arbitration because it is just; we believe in it still more because it will help us to get rid of war.

There is one other point which I should mention. I have said that those who accept this Protocol will bind themselves to carry out judicial or arbitral decisions that may be given. But if it should occur that such decisions are not carried out, we do not propose that they should be imposed by force of arms unless the failure is accompanied by a resort to war. We do not propose to let loose the terrible machinery of the sanctions which in cases of true aggression may be required. On this head we merely propose that the provisions of Article 13 of the Covenant should be extended, and that the Council should propose the means by which faithful execution of an arbitral decision may be obtained. We believe that the Council, by exerting in the first place the immense moral pressure of the League as a whole, will not fail to secure the faithful execution of such decisions.

I come now to the question of the reservations which the British Government will feel themselves obliged to make in accepting the obligatory jurisdiction of the Permanent Court and this new procedure of compulsory arbitration. These reservations relate to disputes arising out of warlike operations in which the British Empire may in the future be involved. Let there be no misunderstanding. In the view of the British Government, it is not conceivable that the British Empire should be at war against the Covenant or against the stipulations of this new Protocol. We therefore only envisage the case in which we are engaged in warlike operations on behalf of the Covenant and with the approval of the Council or the Assembly of the League. We are sure that in such a case as this it would be necessary and desirable in the general interest, as well as in the particular interest of Great Britain, that the British fleet should be able to operate with the freedom that may be obtained. We thus provide in this draft Protocol a system by which a pacific settlement can be found for every international dispute and which will impose upon those who accept it the obligation to accept and in good faith to carry out such settlements. In our view, this is a step forward of the first importance. We do not attempt to disguise from ourselves that it involves a certain sacrifice and we are ready to advise our Government and our Parliament to make the sacrifice. We believe in arbitration because it is just; we believe in it still more because it will help us to get rid of war.

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May I now turn to the question of security?

If real security is to be afforded, provisions such as those contained in the additional article referring to provisional measures are a necessity. States will not resort to arbitration until efforts to settle differences through the usual diplomatic channel have failed; the arbitration proceedings may last for many months. During all this time the tension may become more and more acute and the temptation to increase armaments and proceed, to use the words of the article to which I am referring, "to industrial or economic mobilisation" may become very difficult, if not impossible, to resist. While human nature remains the same, suspicion is bound in such circumstances to exist and to grow, and suspicion is a fertile soil for the evil growths which it is our object to eradicate.

To establish the facts beyond doubt and thus either to allay suspicions or, if they are well founded, to remove their cause, the Council is empowered to make investigations. The necessary machinery will be ready to the Council's hand since inevitably there must be some organisation to make sure that the decisions of the Disarmament Conference are being effectively carried out. This organisation will be quite appropriate to carry out the investigations to which I am referring.

It is perhaps upon Article 12 that the attention of the world will be more closely focussed than upon any other article of the Protocol, and it cannot be too strongly emphasised that everything in Article 12 is already stated or implied in Article 16 of the Covenant. We are remaining within the terms of the Covenant and we are undertaking no new obligations. We do not see how any Power which has signed the Covenant and which intends to carry out honourably the pledges it has so given can hesitate to subscribe to Article 12. Surely "loyal and effective co-operation" in support of the Covenant is what may confidently be expected from every Member of the League of Nations. Otherwise their Membership is a fraud and delusion. We ardently hope that our present labours will sound the death-knell to war, but we cannot be absolutely certain, and what we wish to proclaim to the world is that we are determined to join hands and assist each other "loyally and effectively" in punishing the aggressor. It is obviously altogether impossible to foresee the exact contingency which may arise. The extent of the co-operation must depend on the actual circumstances, not only as regards the aggression but also as regards the geographical position and the resources of all kinds of individual States. It would be no use to bind oneself to do a variety of things which may not be required. We must and we can rely on the good faith of the Members of the League to decide themselves how their effective co-operation can best be given if and when the necessity arises.

We desire to call very special attention to the exact wording of paragraph 3 of Article 12 and particularly to two points, namely, the reference therein to paragraph 3 of Article 16 of the Covenant and the words "for this purpose" to take measures, etc. The reference to the Covenant and the words quoted make it perfectly clear that we are dealing here with economic sanctions and with economic sanctions alone. We learnt from the last war, if we did not know it before, the supreme value of supplies of raw materials and foodstuffs, and, conversely, the enormous effect of a blockade. If we are going to assist the victim of aggression, which is implied in every line of the Covenant, there can be no more effective way of so doing than by taking measures to ensure the safety of its communications and enabling it to receive raw materials and supplies of all kinds.

The provision in Article 14 whereby a State may notify to the Council beforehand the forces it is prepared to play if unfortunately it proves necessary to enforce the sanctions. The certain knowledge of the forces to be arrayed against it may well prove a valuable deterrent to a would-be aggressor State; and at the same time the certain knowledge of the forces which will come to their assistance when the crisis arrives will help States to decide on a larger measure of disarmament than otherwise. It must be emphasised that such notification is purely optional — there is no obligation on any State to make it, and many States may not be in a position to do so.

We incline to think there is considerable misconception as to the part which the Council will be called upon to play if unfortunately it proves necessary to enforce the sanctions. When once aggression has been established, the Council will call upon the Members of the League to enforce the sanctions and will make recommendations as laid down in Article 16 of the Covenant. But there is no idea and never has been any idea of placing troops or ships at the free disposal of the Council to use as they think fit. In other words, there is no intention whatever of converting the Council of the League into a Council of War and imposing upon it the burden of conducting military campaigns or naval operations.

The second and third paragraphs of Article 14 call for some detailed comments. It may be objected that, although partial or regional agreements for mutual assistance must be registered by the League and published to the world, and may indeed be joined by other States, the whole system of such agreements is contrary to the spirit of the Covenant and the Protocol, in that it tends to perpetuate the old groupings and alliances. We ourselves consider that the objection is not devoid of foundation and we should have preferred to prohibit such agreements altogether and rely on the League acting together as a whole. We must not forget, however, that an entirely new situation is created by the provisions for compulsory arbitration. It cannot be denied that the automatic definition of aggression and the absolute prohibition of the enforcement of sanctions unless and until the Council has so decided lessens to a very large extent the objections referred to. One can indeed imagine circumstances in which a binding and publicly announced obligation to bring considerable forces to bear against an aggressor may be of great value. Any objection that the existence of large military and naval forces will be encouraged by such agreements falls to the ground when it is remembered that the forces of any State will, if our scheme comes to realisation, be regulated by the decisions of the Disarmament Conference.

Before leaving this section of the Protocol, I may make a passing reference to the encourage-ment given in Article 8 to the establishment of demilitarised zones between countries. It is greatly
to be hoped that the idea will be widely taken up. With the provision in Article 15 that the aggressor would pay reparations to the extreme limit of his financial capacity, no one will quarrel. I think that general approval will also be given to the principle of maintaining in all circumstances the territorial integrity and political independence of the aggressor. We aim at removing all temptation to territorial aggrandisement.

Our scheme stands as an indivisible whole—arbitration, security and disarmament, and the words which ensure this are contained in Article 16: "The entry into force of the present Protocol shall be suspended until a scheme for the reduction of armaments has been adopted by the Conference". We were faced here by a great problem, namely, whether it was possible to define more closely the exact meaning of adoption of the scheme by the Conference. We have decided—in our view, very wisely—not to make the attempt and not to limit or prejudice in any way the independence of the Conference itself. We have left it to the Conference not only to draw up a scheme but also to fix the conditions in which the Council may declare that the scheme has not been carried out and that the Protocol has consequently lapsed. We do not see how any better plan could be devised to safeguard the general interests.

Let me say, in conclusion, that this Protocol—which I hope is going to meet with the universal approval of the Assembly—is only the beginning of the great work which still has to be carried through. It is only a Draft which Governments will have to consider and which Parliaments will have to approve before ratification. And even when approved and ratified, it is still, let me repeat, no more than a beginning. It will only come into effect when the nations of the world have agreed on a common plan for the reduction of their military strength. Let us have no illusions. Disarmament is incomparably the most difficult task to which any Assembly of the nations can set its hand. Even when we have brought this Protocol into force, there will still be difficulties of every kind to overcome.

But this Protocol creates the conditions of success. It does so because it will give justice to all peoples, great and small; because it will restrain aggressors by making greater the deterrent power of the obligations already enshrined in the Covenant of the League; because it holds out to the peoples of the world for the first time a tangible prospect of a diminution of the burden of armaments under which they groan. We believe that, when the nations of the world have adopted this Protocol, we shall open a new vista to all civilised peoples, a vista of social progress unequalled in the history of mankind. We shall do so by cutting away from international society the disease of military power which for countless centuries has afflicted Europe and the world.

M. Schanzer (Italy) wished to pay a tribute to the remarkable work of M. Benes, who, in spite of the short time at his disposal, had shown such skill and wisdom in drafting the document submitted that day to the Committee. He wished further to state that the Italian delegation, true to its feelings of solidarity, had gladly and earnestly co-operated in the preparation of the text before them, which endeavoured to apply the principles laid down in the resolution of September 6th. The Italian delegation had been all the more pleased to co-operate in this joint work because, in regard to many points, the Sub-Committee had given full satisfaction to the views which it expressed in the Plenary Committee.

The chief contention of the speaker had been that they must keep within the limits of the Covenant and not create other separate juridical organisations to deal with the same matters as the League. This point of view had been fully taken into account in the work of the Sub-Committee. The latter had now laid before the Committee a Protocol which defined and interpreted the Covenant, thus adopting the wisest procedure and recognising the value of the system laid down in the Covenant.

The Sub-Committee had given the widest possible extension to the system of arbitration, a system in accord with the ancient traditions of Italy and the Italian Government. It had recognised that the provisions of Article 36 of the Statute of the Permanent Court of International Justice adequately covered such extension. It had also endeavoured to fill in certain gaps in the Covenant. Articles 12 and 13 of the Covenant already allowed parties the option of submitting disputes either to arbitration or to enquiry by the Council and that was the starting-point of the principles which had been developed. It must be admitted, however, that the provisions of Article 15 of the Covenant allowed of what might be called legitimate wars, or wars sanctioned by the League, for, when the Council was unable to arrive at a unanimous decision, the States were free to act, which meant that in certain cases the Covenant actually admitted the right to resort to war.

In this respect a very important step had been taken, for an attempt had been made to prevent all possibility of war. It had been laid down that, when the Council could not arrive at a unanimous decision, the question should be submitted to arbitration.

The Protocol, further, defined aggression. There again the Covenant had adumbrated a solution, for Article 16 indicated, to some extent, the juridical factors which determine aggression by declaring that any State which resorted to war, without having previously submitted the disputes to arbitration or examination by the Council, and thus violated the provisions of Articles 12, 13 and 15, should be deemed to have committed an act of war against all the other Members of the League.

All the various schemes of mutual assistance and guarantees had hitherto been blocked by what appeared to be the insurmountable difficulty of defining the aggressor. The Temporary Mixed Commission had worked on this problem for a year, without coming to any satisfactory conclusion.
They had adopted the idea, so pregnant with possibilities, which was contained in the Covenant. They had developed it, and based upon it the definition of aggression and of the aggressor to be found in the present Protocol.

As regards sanctions, the Italian delegation asked for nothing better than that they should be defined and rendered more effective. It had declared from the start that Italy regarded herself as bound by the Covenant, which was itself nothing but a treaty of mutual assistance. The Committee, from this point of view, had had the full support of the Italian delegation.

The Italian delegation was glad that its views in regard to partial agreements had also been taken into account. It had never rejected the principle of partial agreements, but had always held that every State should be free to conclude them, if it thought them necessary from the point of view of its security or the development of its foreign policy. It felt, however, that such agreements should not become a part of the mechanism of the League, but should be contracted on the responsibility of the various States. This view had found expression in an article according to which partial agreements would be registered by the Council and would remain open to all States, a procedure which would accentuate their defensive character and eliminate any features which they might appear to have in common with the old alliances.

It was a further source of satisfaction to the Italian delegation that the so-called “automatic” application of sanctions had been abandoned. Article 14 provided that action might be taken under partial agreements only after the declaration of the aggressor had been made, so that all the States, whether parties or not to the agreements, would be placed on a footing of perfect equality.

The speaker said that he had criticised the Treaty of Mutual Assistance on the ground that it aimed at providing guarantees of security, but postponed the question of disarmament to a later date. In conformity with the principle laid down by the Assembly, which declared that the questions of security, arbitration and disarmament were interdependent and indivisible, they had made mutual assistance and disarmament conditional on one another, as shown in Article 16.

They were convinced, therefore, that if their proposals, after having been approved by the Assembly and recommended to the Governments, were accepted by the Governments, an important and decisive step would have been taken towards the realisation of guarantees for peace. The speaker most earnestly hoped that their proposals would meet with the approval of the Assembly and the Governments. Then it might be said that the structure of the League had been reinforced and that the League would be enabled more efficaciously to carry out its great task, which was to ensure justice for the nations and to promote the maintenance of peace — the essential condition for the development of human progress and civilisation.

M. PAUL-BONCOUR (France) stated that he ought not to prolong the discussion but he felt it his duty to associate himself with his Italian and British colleagues in emphasising the essential feature of the discussion, namely, the agreement at which the Committee had arrived.

His first duty, and a duty which he was glad to perform, was to pay a tribute to M. Benes for the manner in which he had enabled them to bring their work to a successful issue.

The value of the text which was the outcome of their deliberations lay in the fact that it gave expression in the form of definite proposals to the opinions uttered by the various delegations when the work of the Third Committee first began.

It had obviously been impossible for them to do anything outside the provisions of the Covenant; they could not propose any measures of which the principle, at all events, was not already laid down in the Covenant. The speaker heartily supported the statement just made by his Italian colleague, who had declared that the Protocol was simply a development of the principles contained in the Covenant; but, Mr. Henderson had especially emphasised this point, whereas the Covenant was content to give expression to most admirable and enlightened principles, permitting of great hopes, the Protocol went further, and provided the necessary measures for their execution.

As M. Schanzer had said, should the Council not succeed in effecting a settlement of the dispute, the parties might, under the terms of the Covenant, still resort to force; the Protocol effectively barred the way to such action, and laid down that, should the Council not succeed by conciliatory means in preventing war, the dispute must be submitted to arbitration, the parties only remaining free as to the choice of arbitrators. Doubt as to the aggressor had been followed by certainty beyond dispute and their appeal was no longer to force but to justice; and because doubt no longer existed as to the aggressor, it had been possible, in the Protocol, to define the sanctions and their employment more clearly than ever had been done under the terms of the Covenant.

Now that there was no longer any doubt as to the aggressor, formerly bound by scruple to desist and to peacefully resort to war, if ever a State did propose to take this course, it would find itself opposed by all the contracting States with their united forces. If it were asked what these forces were, there again they would find one of those skilful formulae which reconciled all divergences and were yet so elastic as to respond to the varying requirements of reality. And since no two nations were alike, since European conditions and world conditions produced States varying in size, in power, in history and in geographical position, the Protocol, either by means of specific articles or by the combination of certain provisions of these articles, succeeded in formulating a principle which the speaker had ventured to advance, and which had met with their approval — the principle that every
State should give “what it had, no more than what it had, but all that it had”. All States had, at all events, certain economic and financial resources, and the Protocol laid down that directly the aggressor had been declared, as a result of the arbitral procedure, such resources should be brought to bear against the aggressor, and on the side of the party attacked. In addition to economic and financial measures, the Protocol provided further for naval action which should safeguard that essential condition of success, the freedom of the seas.

Other nations owing to their history and their geographical position were bound to one another not by closer feelings of solidarity, for the solidarity of the Covenant was open to all, but by the common danger of a war being launched against them in defiance of arbitration, a danger which touched them the more closely by reason of its suddenness and of its purpose. The Protocol had therefore provided for the maintenance of partial agreements between such States but had at the same time removed from these agreements all traces of those aggressive and egoistic alliances which were legacies of the past, and had sanctified them — if he might use that word which exactly expressed his idea, and which, he imagined, no one present would scoff at — because it had enshrined them in a general scheme of mutual protection within the provisions of the Covenant. As a result of this elasticity which represented neither the arbitrary action of the League nor the egoistic action of the parties concerned, but agreement in regard to plans of co-operation determined in advance, it really seemed as if the Protocol had allayed legitimate fears and had fulfilled the hopes of those who looked to the Covenant to afford them the security which was essential for the reduction of armaments. As regards the reduction of armaments, that was the last point upon which an understanding had been arrived at.

Agreement had already been reached at the meetings of what was known as the Committee of Twelve, the twelve apostles of peace, agreement had been reached in the sense that the principles had been made interdependent, indissoluble. The speaker thought that the formula laid down in the Protocol would more readily meet with the unanimous approval of the members of the Committee in that it represented a common ground in what had at times been a hotly debated question. The Protocol of security and arbitration, or more correctly of security by means of arbitration, would not come into force before the Conference on the Reduction of Armaments, which was to prepare the way for it, had met and brought its proceedings to a successful issue, but it would be something accomplished, it would be complete, and — the eminent Chairman of that Committee would appreciate the comparison — it would be as it were a “good contract” in private law; and it would be a “good contract” in public law because it would have been ratified by the Parliaments and registered with the League. There would, however, remain one suspensive condition. The only requirement to be fulfilled before this perfect contract (which had now been concluded, and which each one of the nations present at the Armaments Conference would take with it as a guarantee of security) could come into force would be a satisfactory outcome to that Conference; but the contract had actually been concluded and the legitimate objections which had arisen at certain points in the discussions had both been met.

The speaker apologised for making any addition to the very scientific and at the same time very reassuring analysis which they had heard of the provisions drawn up by the Sub-Committee and now submitted to the Committee for their decision.

M. Pouillet (Belgium) was glad to state that Belgium would accept the scheme drawn up by the Sub-Committee, although his delegation had not expressed any opinion during the first part of the general discussion. The success which had crowned the efforts of the Sub-Committee was due in the first place, as several speakers had already shown, to the eminent qualities of the Chairman, M. Benes. It was due, further, to the agreement existing between Great Britain, France, and Italy and to the conciliatory spirit and goodwill of the smaller States.

The task of the Committee had been primarily to reproduce in the form of a text the generally accepted principles which had been stated during the general discussion and which in turn reflected principles already enunciated at the Assembly. These common principles might be described as adherence to the Covenant, the adaptation of the obligations of the various States (as M. Paul-Boncour had so happily phrased it) to their capacities, a point which the Sub-Committee had not lost sight of, and the necessity of finding some system which should allow of the automatic determination of the aggressor so that there might be no possible dispute as to that point.

The Sub-Committee had found means to give full expression to those great common principles. Belgium would certainly have preferred that the Protocol should come into force at once; she was of opinion that the easing of the tension in Europe, which had been partially effected as the result of the London agreements, had been still further promoted by means of the principle, enunciated at this fifth Assembly, that the solution of international disputes must be sought through arbitration and juridical decisions. This tendency might have been carried still further if they had been able, when they left the fifth Assembly, to declare that the system of arbitration and sanctions would come immediately into force. They could not, however, deny that the work of the Sub-Committee represented considerable progress and only those who had been present at the first four Assemblies could realise the immensity of the progress that had been made. There were still difficulties, but the speaker felt that, great as these difficulties were, they could overcome them if they remained faithful to the two great principles which had throughout inspired the work of the Committee: solidarity and conciliation.

The Chairman declared the general discussion closed. He wished, on behalf of the Committee, to congratulate the members of the Sub-Committee on the work which they had done as a result of which it might be said that a definitive agreement had been arrived at. The document which the Rapporteur had expounded during their sitting would be distributed before the next
meeting. Discussion would be confined at that meeting to the articles coming within the competence of the Third Committee, namely Articles 6 and onwards, the first five articles being within the competence of the First Committee.

The meeting ended at 7.15 p.m.

SEVENTH MEETING

held on September 24th, 1924, at 10 a.m.

M. POLITIS (Greece) in the Chair.


The CHAIRMAN reminded the meeting that the general discussion had been closed at the end of the last meeting and that the Committee had decided to pass on to the discussion of the articles. He observed that, as the first five articles and Articles 8 and 9 of the draft Protocol came within the purview of the First Committee, the only articles under discussion were Nos. 6, 7, 10 and those which followed. The preamble had been examined by the First and Third Committees. Several texts had been proposed and amendments had been inserted in those texts. The preamble would be discussed after the articles had been adopted.


"Article 6. — The signatory States undertake to abstain from any act which might constitute a threat of aggression against another State.

"If one of the signatory States is of opinion that another State is making preparations for war, it shall have the right to bring the matter to the notice of the Council.

"The Council, if it ascertains that the facts are as alleged, shall proceed as provided in paragraphs 2, 4 and 5 of Article 7."

M. KOUMANOUDE (Kingdom of the Serbs, Croats and Slovenes) said that Article 6 of the Protocol, which laid down that the signatories should not undertake any action that might constitute a threat of aggression against another State, did not clearly indicate what were the factors and signs that determined and characterised an act which contained in itself the essence of aggression. That clearly was a matter which it was not easy to define and the Council should be left to examine each instance separately, having all the elements of the case before it, and bearing in mind the circumstances and facts which had been established. But he thought that there were certain acts which should be declared beforehand to constitute obvious threats of aggression because they were premeditated and prepared with a view to future attack. He considered that the Protocol should definitely mention such acts because by expressly forbidding them they would at the same time prevent aggression taking place. Unless they did so, an attack, which would certainly disturb the peace, would become all the more inevitable because the aggressor would have had time to make his preparations quietly and without hindrance under the impression that he was acting within his rights.

On that account he thought that they should forthwith proclaim as a constant threat of aggression all preparations for action or any armed action organised and countenanced in the territory of one State for the purpose of violating the frontiers of another State, or disturbing its internal peace and public order by tolerating the existence of committees controlling armed bands and allowing them to conduct operations for this purpose.

The general principles of international law laid down that acts of that kind were contrary to the rights of nations.

He would request the Third Committee, if it decided not to make this addition to the proposed text, to include these considerations in its report as an interpretation of Article 6 of the Protocol.
Article 6 was adopted.


"Article 7. — In the event of a dispute arising between two or more signatory States, these States agree that they will not, either before the dispute is submitted to proceedings for pacific settlement or during such proceedings, make any increase of their armaments or effectives which might modify the position established by the Conference for the Reduction of Armaments nor will they take any measure of military, naval, air, industrial or economic mobilisation, nor, in general, any action of a nature likely to extend the dispute or render it more acute.

"It shall be the duty of the Council, in accordance with the provisions of Article 11 of the Covenant, to take under consideration any complaint as to infraction of the above undertakings which is made to it by one or more of the States parties to the dispute. Should the Council be of opinion that the complaint requires investigation, it shall, if it deems it expedient, arrange for enquiries and investigations in one or more of the countries concerned. Such enquiries and investigations shall be carried out with the utmost possible despatch and the signatory States undertake to afford every facility for carrying them out.

"The sole object of measures taken by the Council as above provided is to facilitate the pacific settlement of disputes and they shall in no way prejudice the actual settlement.

"If the result of such enquiries and investigations is to establish an infraction of the provisions of the first paragraph of the present article, it shall be the duty of the Council to summon the State or States guilty of the infraction to put an end thereto. Should the State or States in question fail to comply with such summons, the Council shall declare them to be guilty of a violation of the Covenant or of the present Protocol, and shall decide upon the measures to be taken with a view to end as soon as possible a situation of a nature to threaten the peace of the world.

"For the purposes of the present article decisions of the Council may be taken by a two-thirds majority of the members entitled to vote, the vote of the representatives of the parties concerned not being reckoned for the purposes of this majority."

General de Marinis (Italy) recognised that the original text of Article 7 of the Protocol had been greatly improved by the Fourth Sub-Committee and he paid a tribute to his colleagues for the conciliatory spirit which they had shown. He thought, however, that Article 7 should be further amended.

The second paragraph of this article, which said that an organ of investigation should be set up, might, in his opinion, be interpreted in various ways. Was it to be a permanent organ whose work would be continuous, or were they setting up an organ for the purpose of ensuring during the period of arbitration proceedings only that the States signatory should in no way modify their military situation? If they intended to provide for the formation of a permanent organisation of enquiry he would venture to suggest that such a provision would be out of place in the Protocol.

The decision to create a permanent organ of enquiry and investigation must be left to the Conference which was to draw up the plan for the reduction of armaments and they ought not to prejudice its decisions. It was not the first time that this question had arisen. It had been discussed by the Permanent Advisory Commission, and he thought it would perhaps be well to remind them that all the delegates of the States represented on that Commission, i.e., all the delegates of the States represented on the Council, were unanimously of opinion that it would be difficult if not impossible to set up a permanent organ of investigation, and that this course was not to be recommended.

Besides, the setting up of such an organ was not in conformity with the spirit of Article 8 of the Covenant, which said: "The Council, taking account of the geographical situation and circumstances of each State, shall formulate plans for such reduction for the consideration and action of the several Governments." And, after providing for the adoption of these plans for the reduction of armaments by the several Governments, Article 8 laid down that "the Members of the League undertake to interchange the fullest and frankest information as to the scale of their armaments". This article, therefore, did not provide for the setting up of an organ of investigation.

Moreover, General de Marinis thought it would not be wise to tie the hands of the Conference which was to deal with this delicate problem.

By way of amendment, he proposed replacing the wording in Article 7:

"... by the organisation set up by the Conference for the Reduction of Armaments to ensure respect for the decisions of that Conference"
by the words:

"and the Conference shall decide on the means requisite for that purpose."

If that amendment were adopted, the final text of the second paragraph of Article 7 would read as follows:

"These enquiries and investigations shall be carried out in the shortest possible time, and the Disarmament Conference shall decide on the means requisite for that purpose."

The CHAIRMAN observed that, if the amendment were adopted, there would be grounds for modifying the wording from the beginning of the second paragraph of Article 7.

M. PAUL-BONCOUR (France) wished to know whether this amendment should be regarded as constituting a formal amendment to the Sub-Committee’s text.

The CHAIRMAN answered that that was how he understood it.

M. PAUL-BONCOUR (France) said that in that case he would be obliged to make certain reservations. He pointed out that the whole of this passage in Article 7 had been discussed in great detail by the Sub-Committee.

Moreover the principle of this provision was not disputed by General de Marinis. During the whole arbitration proceedings and as soon as a dispute between two States arose, very definite measures should be taken to make it impossible for an unscrupulous State to continue, during the whole period of the arbitration proceedings, to build up its armaments, and thus, when the arbitral award was given, be in a better position than a scrupulous State which had maintained the position existing when the dispute was first referred to the arbitrator.

That principle could not be questioned and he therefore failed to see the significance of General de Marinis’ amendment.

The Sub-Committee’s text, adopted on the motion of Mr. Henderson, said:

“These enquiries and investigations shall be carried out in the shortest possible time by the organisation set up by the Conference for the Reduction of Armaments, to ensure respect for the decisions of that Conference.”

It was this clause which General de Marinis had proposed should be replaced by the sentence: “and the Conference shall decide on the means requisite for that purpose”.

As, in any case, the question of organising this control depended on the decisions of the Conference, and if, he desired to emphasise the word “if”, that was what the amendment actually meant, then personally he could see no objection. He desired however to state most categorically, and to have his statement recorded in the Minutes, that the amendment must not be allowed to reopen the question of the obligation of all States signatories of the Protocol to agree to those measures of control which were intended to ensure that arbitration should not benefit an unscrupulous State, availing itself of the inevitably long-drawn-out proceedings in order to arm, while another State was loyally awaiting the arbitral award. Otherwise, if sufficiently definite means were not provided for obviating this danger arbitration might become a dead letter.

He would not hesitate to add on behalf of his country that, although France had agreed to an arbitration procedure the object of which was to substitute, for mere violence, the decisions of justice, she would most emphatically refuse to accept an arbitration procedure that might constitute a trap for States acting in good faith.

In conclusion, therefore he did not see any objection to adopting the text proposed by General de Marinis on behalf of the Italian delegation, provided they were all agreed that there must be no ambiguity, and provided all States undertook to conform to measures of control so strict that arbitration proceedings could never be utilised by an unscrupulous State in order to increase its armaments.

M. BENES (Czechoslovakia), Rapporteur, said he thought that there was no real difference of principle between General de Marinis and M. Paul-Boncour in regard to the interpretation of the Sub-Committee’s text. In the circumstances, he preferred that the text should be retained as drafted by the Sub-Committee, especially as it was always possible to give expression to members’ views in the report.

General de Marinis said that he would like to define his point of view. He had submitted his amendment for two reasons: first, because he had understood on reading the text submitted to the Committee that the organ of investigation would be of a permanent nature, i.e., it would not only act during arbitration proceedings, but would be permanently maintained to ensure by means of control and investigation that States should respect the undertakings which they would assume on signing the plan for a reduction of armaments.

From M. Paul-Boncour’s remarks it was clear that this was not the case; the organisation was not to be a permanent one. In this matter, therefore, he was in agreement with M. Paul-Boncour and also, he believed, with the Rapporteur.

M. BENES (Czechoslovakia), Rapporteur, said that General de Marinis’ point of view did not entirely coincide with his own.

General de Marinis (Italy), continuing, said that if this organisation were to act permanently he would be obliged to make every reservation, and he could not take the responsibility of accepting the proposal.
Secondly, even if they agreed that the organ of investigation should only act during the arbitration proceedings, he could not undertake to agree in advance to the formation of such an organisation; he preferred the more indeterminate formula which allowed the Conference full liberty to study all possible means of instituting enquiries and investigations. He did not wish to open a discussion in order to demonstrate the disadvantages which might ensue and the practical difficulties with which the organ of investigation in question would have to contend. The magnitude of these difficulties would be realised directly attention were drawn to them.

Lord Parmoor (British Empire) entirely agreed with what was said by the Rapporteur, that what was really being discussed, namely a question of words, had not much materiality. He did not think there was any substantial difference between the words as they stood and the words suggested, and therefore proposed to retain the words as they stood. There was no doubt that the general questions which had been referred to by M. Paul-Boncour and by the Italian representative were in the minds of them all; they were matters which had already been decided on and discussed when dealing with general principles.

The two particular points which had been brought to their notice were these. First of all, the representative of Italy had suggested that he did not desire what he called a permanent organisation. There were no words whatever which suggested a permanent organisation; it was neither suggested in the text nor, he thought, implied in the spirit of the text at all. That was a matter for subsequent consideration but certainly the question was left entirely open, and in his view the idea that the suggestion of a permanent organisation was enshrined in the text was not quite an accurate representation of what the text really said. On that point therefore he did not think there need be any fear of the words as they stood.

As to another matter, he had heard with great interest from the Italian representative that he thought the question should be left open for the Conference, and that there should be no direction from us to the Conference as regards this point. It appeared to the speaker that that was so. They were talking of an organisation set up by the Conference. That left the whole matter, in his view, in the discretion and in the hands of the Conference itself and it appeared to him that on those two points the fears of the representative of Italy were groundless; there was no reason for them in the wording as it stood, words which had been carefully selected and which, he thought, covered both matters.

He was therefore not at all in controversy with the representative of Italy in any sense, but he hoped the Committee would maintain the words which, as he had said, were carefully selected and which did not go contrary to the whole principle of arbitration to which M. Boncour had so eloquently referred, and which really safeguard the two points raised by the Italian representative. The question of permanency was not determined; the matter was really left to the discretion and determination of the Conference. He hoped the Committee would support the Rapporteur and adopt the words as they stood.

M. Paul-Boncour (France) supported the views of the British delegation.

With a view to meeting General de Marinis' wishes as far as possible, he desired to draw particular attention to the fact that they quite agreed that Article 7 only referred to measures to be taken when arbitration was in progress. They were provisional measures, but were nevertheless extremely serious, and it was important that there should be no ambiguity in this matter. They could not, when they were about to sign their acceptance of arbitration, run the risk of undertaking to agree to proposals which might be regarded as extremely dangerous because they had not been settled at the same time as the provisional measures in question.

General de Marinis had probably been misled by the proposal, made on Mr. Henderson's suggestion and at the instance of the British delegate, that they should leave these provisional measures to be adopted by the indeterminate organisation which Mr. Henderson had in view, in execution of the decisions of the Conference for the Reduction of Armaments. Mr. Henderson had reasoned as follows: if they wished the Conference on the Reduction of Armaments to lead to some permanent result, some organisation must be entrusted, in each State, with the task of ensuring that the scale of armaments which had been set up should never be exceeded. He had added that it would be much simpler when arbitration proceedings were instituted to entrust this task to organisations already in existence for controlling the reduction of armaments. It would be for Mr. Henderson to defend his suggestion if he so desired.

He (M. Paul-Boncour) would emphasise the fact that they were confronted by two different sets of ideas which Mr. Henderson had combined merely for the sake of convenience. The question which they had to decide immediately, without waiting for the decisions of the future Conference, was what measures were to be adopted during the arbitration proceedings.

The combination of ideas had only arisen as a result of Mr. Henderson's suggestion that the application of these measures should be entrusted to the indeterminate organisation which might be set up after the Conference on the Reduction of Armaments. Whether the Conference decided to set up this organisation, or not, was of little importance. The important point was that they should clearly show in this article in unmistakeable terms that they quite agreed that Article 7 only referred to measures to be taken during arbitration proceedings; but they had adopted Article 6 providing for the same measures, the third paragraph of which said: "The latter [the Council], after verification of the facts, shall proceed as indicated in paragraphs 2, 4 and 5 of Article 7" It was therefore not merely a question of arbitration proceedings but of all war measures.
Sir James Allen (New Zealand) said that the more he read the article the more was he convinced that it had been extremely carefully drafted. He was not sure, however, that he quite agreed with M. Paul-Boncour as to the interpretation put upon it. He understood M. Paul-Boncour to indicate to the Committee that this investigation was only to proceed whilst the arbitration was going on, but surely the article said more than that? It said that the States undertake that, before the dispute is referred to arbitration or conciliation, and during the time involved by the procedure of arbitration—that is, during the arbitration itself—the article was to come into force. He was convinced that if a dispute arose between two States and had not yet been referred to arbitration, that was the very period of danger—when they may be increasing their armaments or instituting economic measures to bring to bear against their opponents. He thought it essential, therefore, that some provision should be made to enable the Council to make a careful enquiry after a dispute has arisen, both before the arbitration and whilst the arbitration is taking place.

The Disarmament Conference, an absolutely independent body, was, according to the provisions they were making, to set up some machinery for the Council to use. It did not say whether the machinery was to be permanent or not. In his view, it must be either permanent or be available at a moment's notice. He thought it very wise, therefore, to leave the Disarmament Conference a perfectly free hand to devise the machinery which the Council must have if it was to make a careful enquiry, even during the time between the occurrence of a dispute and the institution of arbitration, as well as during the arbitral proceedings.

Mr. Henderson (British Empire) said that he would have been quite content to leave the position with the statement of Lord Parmoor, but the references made by M. Paul-Boncour made it necessary for him to give a brief explanation of the position which existed in the Sub-Committee when they were dealing with the proposal. It was brought to the notice of the Sub-Committee that there might be complaints that, during the period of arbitration, one or other of the States concerned might be making preparations for war. They had a proposal before them which would necessitate the setting up of separate machinery to deal with that question once a complaint had been lodged with the Council. He looked into the matter, and came to the conclusion that if they had a scheme of disarmament there might possibly be complaints that some State was not adhering loyally to the scheme of disarmament presented by the Conference, and therefore that complaint might have to be investigated. He therefore put forward the proposal that, instead of having two distinct pieces of machinery doing a class of work that was practically the same in character, it would be very much better for the Committee to agree to leave the question to the International Disarmament Conference to set up a piece of machinery or organisation to see that the decisions of the International Conference were carried loyally into effect by the respective States. If the Conference did create such a piece of machinery, one of its duties should be to enquire or investigate, when the Council required it, into a further departure from the scheme which the International Conference lays down—a departure under very serious conditions, namely, during the progress of arbitration proceedings, or even a departure, as Sir James Allen had pointed out, before the actual arbitration proceedings had begun, during the time that the difference might be in the hands of the diplomats. It was thought that one piece of machinery, watching, as it were, from the moment that the Scheme of Disarmament was set up, watching right through until the arbitration proceedings were terminated—would be much more effective than having two distinct pieces of machinery doing a piece of work which really linked together, the one part of it being ancillary to the other. He eventually persuaded the Sub-Committee to adopt that course, and members were unanimous in saying that that was the recommendation which should be put before the Committee. He therefore hoped, with Lord Parmoor, that they would adhere to the language of the text.

It would not bind the hands of the Conference in any way, which, if it thought the work was of such magnitude as to demand the attention of a piece of permanent machinery, was entitled to make that permanent machinery. If it believed it could be done by having something in the nature of a League of Nations representative in the State—a sort of League of Nations attache—just to see that the work of the Disarmament Conference was loyally carried out, then it could be done in that way. If it thought it could be done by appointing a Commission that would be called upon by the Council from a pre-arranged panel of representatives to go into the State against which any complaint that might come out of a departure from the work of the Disarmament Conference during the progress of diplomatic negotiations or during the progress of arbitration proceedings.

The Chairman thought that the explanations which had just been furnished were calculated to allay any doubts which the Italian delegation might entertain. If that were so, he would ask General de Marinis whether he wished to maintain his amendment.

General de Marinis (Italy) said he had thought, after listening to Lord Parmoor's speech, that they were all agreed that the organ of investigation in question would only become operative during arbitration proceedings, but, after hearing the statements of the other speakers, he thought that they were not even agreed on this point.

Moreover, he had heard Mr. Henderson allude to the possibility of establishing this organ of investigation on a permanent basis.
He was absolutely opposed to such an idea, and he wished to say so quite frankly. The heart-felt desire to reach a successful conclusion which animated the whole Committee should not induce them to hide their differences, especially when they held such opposite views.

He reminded them that the Advisory Committee had unanimously recognised the impossibility of this control and that certain delegations — those of Great Britain, Italy and Japan — had been careful to make their views on this point very clear.

In any case, in view of the differences which the discussion had shown to exist, and as it did, not appear possible to agree on the modifications which the Italian delegation had proposed to the text as submitted, he considered himself obliged to state, on behalf of his colleague, M. Schanzzer, that “the Italian delegation made every reservation as to the eventual constitution of an organisation of control by the future Conference. It further declared that in its opinion the text submitted to them should in no way prejudice any decisions which might be taken on this question by the future Conference”.

He asked that this declaration should appear in the Minutes.

M. de Jouvenel (France) confessed that the French delegation did not find it easy to make up its mind. The divergence of views caused them some surprise, first because, as the text was a result of the discussions of the Committee of twelve, he supposed that the Italian delegation had shared in its drafting, and secondly because he did not quite understand the reasons for General de Marinis’ opposition. He thought that there must be some misunderstanding between the Italian delegate and the rest of the Committee. That misunderstanding should be removed. Was not General de Marinis adhering to the attitude which had long characterised the discussions of the Temporary Mixed Commission, and was he not forgetting that the Conference on Disarmament would create a new situation for all States concerned?Personally, he would have been ready to agree to General de Marinis’ amendment if its meaning were clearly defined. As soon as a dispute arose, as Sir James Allen had rightly pointed out, the Council would be called upon to adopt measures of supervision. Secondly, it would be in the interest of a State acting in good faith to give immediate proof of this good faith and to show that it did not desire to increase its armaments; it was quite natural that a State which intended to appeal for help to the League of Nations and was a Member of the great alliance of security represented by the League, would immediately say to the League of Nations: “Come at once and verify the honesty of my intentions. You are soon to be my guarantor, so be my witness now.”

He did not understand why General de Marinis opposed such a system which provided a guarantee for all States. Nations ad no other means of proving their good faith. Their unsupported assurances would be suspect, but as soon as they appealed to the League to come and verify the situation in their country they would be assured of the support of all peoples.

By acting thus they would be conforming to the true spirit of the Covenant, and that was why he was rather dismayed at General de Marinis’ opposition. He did not think that the latter realised the full significance of that opposition.

M. Schanzzer (Italy) thought that with a little goodwill, by displaying a spirit of conciliation, it would be possible to reach agreement. Fundamentally the Italian delegation was in agreement with the French delegation. But he felt that he must first make a declaration as to principle: he did not think that a Plenary Committee could refuse to hear a member of any delegation symply because that member had not served on the Sub-Committe appointed by the Committee.

He was particularly anxious to make this preliminary statement because the question was a technical one with which General de Marinis was particularly competent to deal.

Having said this, he was ready to agree with the French delegation on a formula that should not include any mention of the Conference on Disarmament. He was not prepared to approve in advance a measure which ought to be reserved for the future; he did not think they should prejudge the action of the Conference on Disarmament, and refer to an organisation set up by this Conference as if it were something already established. He strongly appealed to M. Henderson to take this view and consent to the omission of the following words in Article 7:

“By the organisation set up by the Conference for the Reduction of Armaments to ensure respect for the decisions of that Conference”.

With a view to bringing the matter to a conclusion, he proposed the following wording:

“These enquiries and investigations shall be carried out in the shortest possible time. The signatory States undertake to give every facility for carrying out these enquiries and investigations.”

M. Paul-Boncour (France) said that this wording quite satisfied him. It really meant first that the Council was fully qualified to organise the necessary investigations as soon as the need arose, even prior to any arbitration proceedings; and second, that the States signatories to the Protocol undertook to facilitate these investigations. He added that the French delegation would not of course presume to influence Mr. Henderson’s decision in regard to the practical organisation he had in view.

Mr. Henderson (British Empire) said he would be quite prepared to accept the suggestion made by M. Schanzzer, on the clear understanding that the work that had to be done, as laid down in the draft by the Council would not in any way prejudice the decision of the Disarmament
Conference if it wanted to establish some form of machinery. If it did desire to establish some form of machinery, he hoped there would be no objection to the Council passing the work on to such machinery. With that understanding, he was quite prepared to agree, on behalf of the British delegation, with the proposed amendment.

M. Benes (Czecho-Slovakia), Rapporteur, also supported the Italian delegation’s proposal.

The Chairman declared that the amendment of the Italian delegation was adopted. He pointed out that they would therefore have to modify paragraph 4 of Article 7, which should read:

“If as the result of these enquiries and investigations any infraction of the provisions of the first paragraph of this article be established, it shall be the duty”, etc.

General Freire d’Andrade (Portugal) observed that the wording was extremely vague. If the Council considered that the complaint was well founded, it should “authorise the enquiry if it thought fit”. But to whom would it give that authorisation? With the old wording they knew that it was the organisation set up by the Conference on Armaments. With the new wording they were left in the dark.

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“should the Council consider the complaint worthy of consideration”?

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The Chairman declared that they would therefore have to modify paragraph 4 of Article 7, which should read:

“If as the result of these enquiries and investigations any infraction of the provisions of the first paragraph of this article be established, it shall be the duty”, etc.
The Chairman then declared the debate closed and considered as adopted Article 7, with the modifications which had been approved, the drafting Committee being instructed to draw up the definitive text.


"Article 11. — The existence of demilitarised zones being of a nature to prevent aggressions or to facilitate the official and authoritative declaration mentioned in Article 8, their establishment between States equally consenting thereto is recommended as a means of avoiding a violation of the present protocol.

"The demilitarised zones already existing under the terms of certain treaties or conventions or which may be established in future between States equally consenting thereto may be subject to temporary or permanent supervision organised by the Council of the League of Nations, at the request and at the expense of one or all of the conterminous States."

Article 11 was adopted without discussion.


"Article 12. — As soon as the declaration of aggression has been made and the outlawry of the aggressor has been effected by this declaration, the obligations of the contracting Powers in regard to the sanctions of all kinds mentioned in paragraphs 1 and 2 of Article 16 of the Covenant will immediately become operative in order that such sanctions may forthwith be employed against the aggressor.

"These obligations shall be interpreted as obliging each of the Members of the League to co-operate loyally and effectively in support of the Covenant of the League and in resistance to any act of aggression.

"In accordance with paragraph 3 of Article 16 of the Covenant, the signatories give a joint and several undertaking to come to the assistance of the State attacked or threatened and to give each other mutual support by means of facilities and reciprocal exchanges as regards supplies of raw materials and foodstuffs of every kind, openings of credits, transports and transit and for this purpose to take all measures in their power to preserve the safety of communications by land and by sea of the attacked or threatened State.

"If both parties to the dispute have been declared aggressors according to the above provisions, the economic sanctions will be applied to both of them."

M. LOUDON (Netherlands) said that he would like to obtain from the Rapporteur some further information on this article. He had first of all thought when he read the first paragraph that the change introduced into the text of Article 16 of the Covenant was not very important, but, after hearing the Rapporteur of the Committee two days previously, he wondered whether there might not be some misunderstanding. He had not been a member of the Committee of Twelve but the Chairman of this Committee had, after its first meetings, been good enough to allow him to be present at the others. He had not been present at the meeting in which Article 12 had been discussed, but had read the Minutes of the meeting. When, therefore, two days previously, he had listened to the statements made by the Rapporteur, M. Benes, the idea had occurred to him that these Minutes might perhaps not entirely correspond to what had been said in the Sub-Committee and did not reflect the unanimous opinion of its members. In view of the statements made by Mr. Henderson in his speech two days ago, he felt that this was indeed the case.

He read part of these statements and then recapitulated those made by M. Paul-Boncour. He pointed out the fact that the latter had made special reference to the different characteristics of various countries and the varying geographical and topographical situations, which might render it desirable to apply economic sanctions only. In any case, the several States still remained the sole judges of the ultimate measure in which they were to participate in the armed suppression of aggression in violation of the Covenant. These few observations to the Committee were intended to serve a constructive, rather than a destructive purpose, by rendering the discussions clearer and by removing misunderstandings.

He therefore asked the Rapporteur to state definitely whether in view of Mr. Henderson’s and M. Paul-Boncour’s declarations to which he had just referred, Article 12, as at present drafted, indeed possessed the signification which he attached to it, and what was its exact meaning. The question was of special importance to him in view of the interpretation that the Netherlands Government had, from the beginning, put upon Article 16 of the Covenant. It was important that all Governments should be exactly informed as to the precise meaning of this provision.

The meeting rose at 12.45 p.m.
EIGHTH MEETING

held on September 24th, 1924, at 5 p.m.

M. Politis (Greece) in the chair.


Dr. Benes (Czechoslovakia), Rapporteur, in response to a request by M. Loudon, proposed to give the Committee a few explanations regarding the scope of Article 12 concerning sanctions, as it was important that the Committee should not disperse until its members were in full agreement on the Protocol and had a clear idea of their obligations.

Under Article 10 of the Covenant, Members of the League of Nations had undertaken to preserve as against external aggression the territorial integrity and existing political independence of all the Members of the League. In case of aggression, the Council had to advise upon the means by which this obligation should be fulfilled.

Under Article 16 of the Covenant, should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, all the other Members of the League undertook immediately to apply economic sanctions; it was, further, the duty of the Council to recommend to the several Governments concerned what effective military, naval or air force the Members of the League should severally contribute to the armed forces to be used to protect the covenants of the League.

When these articles were drafted at the Peace Conference at Paris in 1919, acute controversies had arisen as to the exact scope of the undertakings involved by these provisions, i.e., as to the nature and extent of the obligations mentioned in Article 10 and the moment when they would become effective, and as to the legal consequences of the recommendations of the Council mentioned in Article 16, paragraph 2. These controversies were continued in the United States Senate in 1920 and at Geneva.

Article 12 of the present Protocol was intended to put an end to these controversies. As soon as the Council had declared that a case of aggression had occurred (Article 8, paragraphs 1 and 2) and had thereby authorised the signatory States to apply forthwith the sanctions referred to in Article 12 (Article 8, paragraph 3), the signatories of the present Protocol incurred the strictly legal obligation of applying in the manner outlined below the sanctions of all kinds provided in the Covenant, viz., the economic, financial, and military, naval or air sanctions against the aggressor. If they did not do so, they failed in their obligations. It was true that, as regards their nature and extent, these obligations were not so clearly defined as was habitually the case in questions of private law. Nevertheless, sufficient precision was given to these obligations by paragraph 2 of Article 12.

An objective test of whether the State had carried out its obligations was, according to this paragraph, whether it had loyally and effectively co-operated in resisting the act of aggression in question.

It would be quite erroneous to interpret Article 12 as meaning that the nature and extent of the obligations imposed by the Covenant and defined by Article 7 were left to the sole judgment of the State obliged to come to the assistance of the victim of an aggression. It was quite true that each State remained the master of its own forces and that they were controlled by the State and never came under the control of the Council. But paragraph 2 of Article 7 furnished a criterion to judge whether these obligations had been carried out or not in a particular case — he was alluding once more to the words “loyally and effectively”.

A certain elasticity characterised the obligations laid down in Article 7 and made it possible, in considering whether the State had carried out its obligations regarding sanctions in a particular case, to take into account the general situation of each of the signatories to the present Protocol. This point had been emphasised to the general satisfaction by M. Paul-Boncour.

The signatory States obviously did not all possess equal resources when it came to applying sanctions. Everything depended on the geographical, economic and social position of the State, the character of its population and of its institutions, etc.

Article 14, which would be dealt with later, gave the States an opportunity of informing the Council in advance of these special considerations.

The Rapporteur added that the obligations of which he spoke were incomplete in the sense that no sanctions were provided against a State which failed to co-operate loyally and effectively in support of the Covenant and in resistance to any act of aggression. Nevertheless, the fact should be emphasised that such a State would have failed in the accomplishment of its duties and would be guilty of a breach of its pledged undertakings. The result was that each State remained the sole judge of what it would actually do but it was not the judge of what it was under the obligation to do.
The indications given in the present Protocol regarding the origin, nature and extent of the obligations incurred in virtue of the Covenant had defined and rendered more explicit the functions of the Council laid down in Articles 10 and 16, especially as regards arbitration.

As soon as the Council had called upon the signatories of the Protocol to apply forthwith the sanctions referred to in Article 12, it no longer had executive powers, and its duty was merely to co-ordinate and advise.

As the cases of aggression might differ very widely, the methods of dealing with them must also vary. There would often be no need to have recourse to all the measures which, under paragraphs 1 and 2 of Article 12, were, so to speak, available to resist aggression. There was even the risk that some States would take unnecessary action for fear of failing in their obligations. It would be the duty of the Council, which, according to Article 14, would be in possession of the necessary data, to give its opinion, if required, as to the best method of carrying out the obligations arising the moment the declaration of aggression had been made.

The actual application of sanctions would always be a matter exclusively for the Governments concerned and the actual co-operation would always be ensured by direct contact between the Governments, through diplomatic channels, conferences, or contact between the general staffs, as was the case during the recent war. The Council would follow developments, would be consulted, would give its opinion and would make recommendations.

The difference between the old system and the new was as follows:

Under the system of the Covenant:
1. A dispute arose;
2. The Council met, discussed the dispute and endeavoured to settle it by conciliation or mediation.

If it failed, war broke out. The Council then had to decide unanimously which was the guilty party and economic sanctions were immediately applied.
3. The Council had the duty of unanimously recommending military sanctions.
4. In the absence of unanimity, the Council did nothing, and each of the signatories of the Covenant resumed full liberty of action.

Under the new Protocol, the situation was as follows:
1. The dispute arose;
2. The system of arbitration came into play;
3. The Council intervened and if any of the parties had recourse to war and refused arbitration, or if they failed to observe the provisional measures, the Council declared which was the aggressor;
4. This declaration implied that sanctions of every kind, economic, financial, military, naval and air, must be applied without delay and without any further recommendation or decision.

Accordingly, under the new system, the obligation to apply sanctions of all kinds, including military, naval and air sanctions, arose out of the declaration of the aggressor.

The case of all States being free to abstain from any action could therefore not arise, as the declaration of the aggressor always followed as a result of the introduction of the system of arbitration or of provisional measures, which left no loophole. The Council was, in every case, obliged to declare which was the aggressor. It was for this reason that he had said that a great gap in the Covenant had been filled. The uncertainty which the Covenant had allowed to subsist had been dispelled and could not arise again. On this point the Rapporteur was in agreement with Mr. Henderson and M. Paul-Boncour and all the members of the Sub-Committee whose comments on the Protocol had been similar to his own.

No one would be asked to do more than was in the Covenant, but under the former system everyone could hope for two eventualities or avenues of escape, namely:
1. That the Council would make recommendations which might not be carried into effect.
2. That there would be one Member of the Council who would refuse to recognise some State as guilty of aggression, with the result that the obligation to take military sanctions would not arise, and all parties would resume their freedom of action.

The new Protocol had abolished the system of recommendations and had put the Council under the necessity of declaring in all cases and immediately which was the aggressor.

Accordingly, as a result of the declaration of the aggressor:
1. Each State incurred the obligation of applying the sanctions of every description (economic, financial, military, naval and air) provided for in Article 16 of the Covenant, paragraphs 1 and 2.
2. These sanctions would be applied in consideration of the practical exigencies of the case, in conformity with the Council's opinion and by agreement between the Governments.
3. No exact figures and quantities were given, but an impartial standard of obligation was set up, namely, that all Members must give loyal and effective assistance in punishing the aggressor.
4. States could indicate in advance the action they would take and their special historical, political and moral situation must be taken into account.

These were the exact implications of Article 12. The Rapporteur trusted that he had faithfully rendered the views of the members of the Sub-Committee and accurately stated the result of its protracted discussions.

M. BRANCO-CLARK (Brazil) said that, after Dr. Benes' clear and lucid statement, he had nothing to say as regards the subject-matter, but wished to submit a few observations about the wording.
The first point referred to paragraph 1 of Article 12, which said: "obligations will immediately come into force". He did not think this wording was very well chosen. An obligation came into operation or became operative. The amendments proposed by the Belgian delegation (Annex 10), however, fully satisfied him in this respect.

The second point referred to the paragraph which said: "These obligations shall be interpreted as obliging......". This was a tautology to which the speaker wished to draw the Drafting Committee's attention. He suggested that the wording should be: "These obligations shall be interpreted as meaning that each of the Members shall....">

M. KOU MANOUDI (Kingdom of the Serbs, Croats and Slovenes) wished to emphasise the point that, under the first paragraph of Article 12, the aggressor was automatically outlawed by the fact that he was pronounced an aggressor. The sanctions in connection with this outlawry consisted in the obligations of every description provided for in Article 16 of the Covenant, but Article 12 of the Protocol only quoted the first three paragraphs of Article 16.

The question then arose whether a State declared to be the aggressor and consequently outlawed should cease, ipso facto, to be a Member of the League of Nations.

According to the Covenant, the answer must be in the negative, since paragraph 4 of Article 16 of the Covenant, to which Article 12 of the present Protocol made no reference, provided that exclusion from the League—a measure which there is no obligation to employ—should be pronounced by a special unanimous vote of the Council.

The situation resulting from the fact that such exclusion would not be automatically pronounced was that an aggressor State, although outlawed and declared a malefactor, would remain a Member of the League of Nations and would continue to enjoy all its privileges and rights, i.e., if it were a permanent Member, it would retain its seat on the Council of the League and in that capacity could pass judgment on other countries and assist in voting resolutions.

Should the aggressor State be insolvent or in a very difficult financial position, it would not, after all, have to bear the cost of the repression of the aggression, since, according to Article 15 of the present Protocol, it could only be made to do so up to the extreme limit of its financial resources.

Moreover, according to the same Article 15, the territorial integrity and political independence of the aggressor were absolutely and in every case guaranteed; the result might be that the penalties which it would have to incur might be very light and might be confined to a few trivial measures of an economic nature, or a military demonstration.

As the keystone of the system established by the Covenant and by the present Protocol was the repression of aggression with a view to preventing it from degenerating into war, the aggressor, i.e., the State which deliberately disturbed the peace and exposed humanity to the horrors of war, must be punished with the utmost severity and expelled from the international community. A State contemplating aggression must not be allowed to hope that it would not be greatly the loser either in dignity, territory or material assets. It must know in advance that aggression was a crime against the League of Nations which rendered it liable not only to punishment of some kind but to the most severe punishment possible.

The Serb-Croat-Slovene delegate therefore proposed that, as soon as aggression had been declared and the aggressor State outlawed, it should automatically cease to be a Member of the League. He wished this to be stipulated explicitly in Article 12 of the Protocol as an automatic consequence of the declaration of the aggressor.

Article 12 should therefore begin with the words: "As soon as a declaration of aggression has been made and the outlawry of the aggressor and his expulsion from the League has been effected by this declaration....".

In the last paragraph the words "economic sanctions" should be replaced by the words "economic and financial sanctions".

M. MUNCH (Denmark) said that the Danish delegation had welcomed with great pleasure the progress made this year with regard to the principle of compulsory arbitration, a principle which for many years Denmark had considered one of the most effective means of safeguarding peace and justice.

The Danish delegation was also anxious to recommend the provisions in the draft Treaty providing for sanctions with a view to creating a feeling of security, and it would do so provided these provisions were interpreted in the sense in which the Danish delegation had understood them when it first saw the Draft produced by the Sub-Committee. It was important to obviate all possibility of a misunderstanding. In Dr. Benes' lucid and interesting report, however, there was a passage which might give rise to misapprehension.

The Rapporteur had spoken in terms which might give the impression that he regarded Article 12 as making essential modifications in the principle laid down in Article 16 of the Covenant.

M. Munch regretted that the explanations Dr. Benes had just given had done nothing to remove that impression.

He was obliged to state that, if Article 12 of the Protocol was intended to alter the system of Article 16 of the Covenant, the Danish delegation would find it impossible to vote for the Protocol and, furthermore, that the Danish Government would be unable to sign it.

The Danish delegation understood Article 12 in the same sense as Mr. Henderson when he said:

"It cannot be too strongly emphasised that everything in Article 12 is already stated or implied in Article 16 of the Covenant. We are remaining within the terms of the Covenant and we are undertaking no new obligations. It would be no use to apply a series of measures
which might not be required. We must and we can rely on the good faith of the Members of the League to decide themselves how their effective co-operation can best be given if and when the necessity arises. The British delegation desires to call special attention to the exact wording of paragraph 3 of Article 12 and particularly to two points, namely, the reference therein to paragraph 3 of Article 16 of the Covenant and the words 'for this purpose to take measures...'.

The Danish delegation entirely shared this view of Article 12, which it believed was also that put forward by M. Paul-Boncour.

In the Danish delegate's opinion the adoption of this article would not modify the stipulations of Article 16 of the Covenant. The distinction between military sanctions and economic sanctions would be maintained. The Council would always be entitled to make recommendations to the various States in regard to military sanctions; but the States concerned would be invited to send representatives to the Council, the rule of unanimity would remain in force, and the States would continue, as in the past, to be free to decide for themselves whether they could take part in military sanctions — provided, naturally, that they had not entered into special undertakings under Article 14 of the Protocol. Naturally, States which had entered into such special undertakings would have to abide by them.

The innovation in Article 12 of the Protocol was that, in future, there would be no room for discussion whether or not a situation had arisen involving the obligation to apply the sanctions provided for in Article 16 of the Covenant.

The Danish delegation was of the opinion that the adoption of this Protocol in no way modified the authentic interpretation of Article 16 of the Covenant given by the second Assembly; and it hoped that, after the adoption of this Protocol, the amendments to Article 16 of the Covenant adopted by the second Assembly would soon be ratified by a sufficient number of Members.

M. Munch hoped that the Rapporteur would be able to accept this view of Article 7 of the Protocol and that he would agree to amend the text of Article 7 in such a way that it should be quite clear that there was no intention of modifying Article 16 of the Covenant.

He had been obliged to lay stress on this question because it was of vital importance in the view of the Danish Government. He hoped that the Rapporteur would join with the Danish delegation in removing this difficulty and in finding a text for Article 7 which would allow all the Members of the League to accept it.

The Danish delegation had submitted an amendment modifying the second paragraph of Article 12 as follows:

"These obligations shall be interpreted as obliging each of the Members of the League to co-operate loyally and effectively in the carrying out of the obligations provided for in Article 16 of the Covenant."

In the view of the Danish delegation, the important point was the reference to Article 16 of the Covenant.

The Danish delegation had noted with great interest the proposals of the Belgian delegation (Annex 10). These proposals contained two amendments which would make the text more acceptable to the Danish delegation. But he would like terms corresponding to those proposed by the Danish delegation to be inserted in the Belgian proposals.

The Danish delegation had no wish to create difficulties; on the contrary, it sincerely hoped that a solution of the question could be laid before the Assembly. But these questions were of such vital importance that there must not be the slightest danger of a misunderstanding. This was the sole purpose of his intervention.

M. Poulett (Belgium) said that the Belgian delegation had ventured to propose a new text for Article 12 and the following articles because the changes in the definition of aggression proposed by the First Committee and the admirable amendments it had adopted in this respect rendered a modification of Article 12 indispensable.

The amendments proposed by the Belgian delegation were entirely of a verbal nature. They had neither the immediate nor the ulterior motive of adding something to the obligations of the Members of the League, as laid down in the text drawn up by the Committee of Twelve.

He had been very glad to hear both the Brazilian and Danish delegates interpret the Belgian text in the sense which it was intended to convey before any commentary on the part of the Belgian delegation.

If the amendments were merely matters of drafting, why, it might be asked, had the Belgian delegation brought the question before the Plenary Committee? The reason was that the Belgian delegation had taken the opportunity of these drafting changes to group the obligations decided on by the Committee of Twelve somewhat differently, and it considered that transfers from one article to another would perhaps exceed the competence of a drafting committee.

The rearrangement proposed by the Belgian delegation was as follows: In Article 12, as adopted by the Committee of Twelve, there were four paragraphs. The first two enunciated general principles, first, as regards the effective application and the executive character of the obligations of Article 16, and, secondly, as regards the duty of all the Members of the League to co-operate loyally in carrying out these obligations.

After these two general principles, Article 12 went on in the third paragraph to quite a different subject, namely, the application of some of the economic and financial measures provided for in Article 16.

Lastly, the fourth paragraph of Article 12 came back to a general principle. It defined the situation which would result from the fact that two parties to a dispute had both been declared aggressors.
The Belgian delegation considered it would be more logical to confine Article 12 to general principles. Article 13 would deal with economic sanctions and Article 14 with military sanctions. Such was the purpose of the drafting changes submitted to the Committee by the Belgian delegation.

M. Schanzer (Italy) had followed Dr. Benes' statement with close attention and he thought that, after the explanations which had been made during the present meeting, there was very little divergence of opinion between the Rapporteur and the Italian delegation. As, however, the question was of such vital importance, he thought it would be as well for him to give his view of the principles of the agreement which was going to be drawn up, in order to obviate all possibility of a misunderstanding.

Dr. Benes had frequently said in his statement that they must keep within the scope of the Covenant, i.e., within the limits of Article 16, and this principle had also been energetically affirmed by M. Munch and Mr. Henderson. The Italian delegation entirely shared this view. It had been quite willing to interpret the provisions of the Covenant as regards sanctions, but not to modify them. After a protracted discussion, a formula had been found reconciling the different points of view. Nevertheless the Italian delegation had noted a phrase in Dr. Benes' statement which it would like to have cleared up.

Dr. Benes had said that each State remained the sole judge of what it would actually do, but it was not the judge of what it was under the obligation to do.

M. Schanzer interpreted this sentence as meaning that each State remained the judge of what it would do, but that clearly it could not call in question the obligation it incurred in virtue of the Covenant.

It was quite true, as Dr. Benes had also said, that the obligation was rendered operative by the declaration of the aggressor. This was a point which deserved to be emphasised. There could be no question of doing nothing.

With regard to the part played by the Council, it was of essential importance, as the Council would have to organise mutual assistance by immediately getting into touch with the different States. It would not always be necessary, however, to apply military sanctions immediately, and the Council would have to come to an understanding on this point with the different States. Everyone was agreed that the obligation of assistance must be loyally and effectively carried out by the States and could not be called in question, but that each State must be allowed to determine the extent of its assistance on the basis of its geographical situation and of special circumstances of which it remained the sole judge, at the same time retaining control of its own military forces. It would be admitted that, even when coming to the assistance of other States, a country still had to think of its own security.

As regards the Belgian delegation's amendments, the Italian delegate quite agreed that they constituted an improvement on the original arrangement and that their adoption could be recommended. The wording submitted by M. Poulet corresponded in general with the views of the Italian delegation. M. Schanzer, however, could not accept that part of the text which said "aggression is manifest within the meaning of paragraphs 1 and 2 of Article 6" of the text of the First Committee (now Article 10 of the Protocol). As Dr. Benes had said, there must be a declaration of aggression before the sanctions could become operative. The wording proposed by M. Poulet essentially modified this principle and introduced into the text of Article 12 an idea which corresponded to no definite legal conception. What was a "manifest aggression"?

This question could not be satisfactorily answered from a legal point of view. The Italian delegation could therefore not accept this modification any more than they could accept the Belgian delegation's new wording of Article 14.

One of the reasons for which the Italian delegation had adhered to Article 14 was that the possibility of what had been termed "automatic application" had been eliminated. It had been made quite clear that in all cases a declaration of aggression was required. The system proposed by the Belgian delegation would do away with this fundamental principle, which, after long discussion, the Italian delegation had accepted in a spirit of conciliation.

To sum up, M. Schanzer accepted the amendments submitted by the Belgian delegation with the exception of the two points he had indicated.

The Chairman wished, before the debate went any further, to clear up a misunderstanding regarding the first sentence of Article 12 as amended by the Belgian delegation. This Belgian amendment was intended to clear up a point which had been discussed at length in the Sub-Committee of the First Committee. Article 6 (Article 10 of the Protocol) concerned a whole series of cases in which the declaration of aggression was automatic without the intervention of any authority, but, in addition to these cases, there were various eventualities in which the Council had to intervene to determine the aggressor. It was therefore necessary, having regard to the said Article 6, to employ a phrase indicating that the declaration was sometimes automatic and sometimes consequent on a decision of the Council.

The Chairman drew the special attention of the Committee to the wording adopted by the Sub-Committee of the First Committee. This question had been the stumbling-block of all the work of the First Committee. It was clear that, in the most serious and in the most frequent cases, a decision of the Council would be necessary to determine the aggressor; but it was feared that the necessity for taking a unanimous decision might deprive the victims of aggression of the guarantees to which they were entitled, since a single adverse vote in the Council destroyed this unanimity. On the other hand, a decision taken only by a majority was unacceptable to certain States, which considered that they could not assume the obligation of taking part in the common sanctions of the League of Nations if they were not themselves convinced that the State regarded by the majority as the aggressor really was the aggressor.
A complete deadlock was thus reached and, after long and intricate discussions, it was decided that the only solution was for the aggressor in certain eventualities to be automatically determined without any decision on the part of the Council. In this way it was unnecessary to settle the question whether the decision should be taken by a majority or unanimously.

The Chairman hoped that these explanations would lead M. Schanzer to reconsider his objections to the Belgian amendments to Article 12 and to take into account the new text of Article 6 as adopted by the Sub-Committee of the First Committee.

M. Branting (Sweden) said that he had already had occasion several times to state his point of view regarding sanctions during the discussions of the Sub-Committee. He had declared that the Swedish Government could not undertake in advance to take part in military sanctions. He had been told, however, that this attitude was quite reconcilable with the draft Protocol, which did not aim at creating new obligations of a military nature. After hearing the various opinions which had been put forward in the Committee regarding the interpretation to be given to Article 12, he felt he must frankly renew his declaration, which was in conformity with the views of M. Loudon, Mr. Henderson and M. Munch. He interpreted Article 12 as meaning that acceptance of the Protocol by Sweden would not impose on her the obligation of taking part in military sanctions. Sweden fully intended, however, to co-operate loyally with the other nations in supporting the Covenant by means of economic and financial pressure. He thought that, on the basis of the Belgian and Danish proposals, a new wording could be found which would give greater precision to the views on which all the members of the Committee were agreed.

Mr. Henderson (British Empire) wished to thank those who had reminded the Committee that it was getting into some misunderstanding of the position. For this he did not think that the Committee itself was entirely to blame. They were working under very difficult circumstances. For instance, they had two amendments already—or two sets of amendments, to be strictly accurate—before the Committee. He was not sure whether they were going to dispose of them or to ask the Sub-Committee that was responsible for preparing these articles to again consider them. These amendments were moved in order to give effect to the decisions of the First Committee. It seemed to him that that was a mistaken method of procedure. He understood that they had a joint Drafting Committee, and it would be very much better, if the First Committee desired to make an alteration in any of the articles decided upon by the Sub-Committee of this Committee, that such alteration should be sent to the joint Drafting Committee, and should be presented to the Third Committee, not in the name of a delegation, but in the name of the joint Drafting Committee. The British delegation was extremely anxious to abide by the decisions of the Sub-Committee unless it could be shown to them that the changes desired were merely for drafting purposes.

He would now proceed to notice one of the amendments—the amendment proposed by M. Munch in the name of the Danish delegation. It might appear at first sight to be a simple amendment. But really it was nothing of the kind. There was something in the amendment that all of that Committee should try thoroughly to realise. If they failed to grasp the significance of that amendment, they would be in danger of making a very serious blunder. What were the exact words of the amendment? The words were the same as those in the proposition before them almost down to the last line—“to co-operate loyally and effectively in carrying out the obligations provided for in Article 16 of the Covenant”.

When they read those words and compared them with the words in the article sent up by the Sub-Committee, they would find that there was very little difference. The difference was that, in Article 12 as proposed by Dr. Benes, the words were “...in support of the Covenant of the League and in resistance to any act of aggression”. The mover of the amendment thought that his position was more in accord with Article 16 (1 and 2) and he reminded the Committee of the resolution passed at the Assembly in 1921. We have turned to that resolution, and we cannot find anything in the resolution to support the argument that M. Munch had put before this Committee. But we can find these words in one of the resolutions, which are worth quoting, having regard to the discussion that took place on his amendment: “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 was required from Members of the League by the express terms of the Covenant, and they could not neglect them without breach of their Treaty obligation. To turn to Article 16. The last words in the amendment were provided for in Article 16 of the Covenant. If the mover of the amendment seriously intended to give effect to Article 16 he ought to be present supporting the new language in the article sent to them by the Mixed Committee.

He had just read to them that language and he would read it again: “Those obligations shall be interpreted as obliging each of the Members of the League to co-operate loyally and effectively in support of the Covenant of the League and in resistance to any act of aggression”. The words at the end of the clause were practically the only new words, and why were they put there? Because they had decided to extend the principle and process of arbitration, and, having decided as Members of the League to stand for arbitration, then if they transgressed against the arbitrators’ award they put themselves in the position of being declared the aggressor. The other words, “in support of the Covenant of the League”, meant Article 16 if they meant anything at all.

He was afraid that there were delegations present who wanted to read into Article 16 something which it did not contain. In fact, an altogether erroneous interpretation had been placed upon Article 16, and, if he might give his explanation, he thought such delegations would realise that there was no divergence between Dr. Benes and himself. To turn to Article 16 (2): “It shall be
the duty of the Council in such case to recommend to the several Governments concerned" — what had they to recommend? Let him tell them in the language of the article itself — "what effective military, naval or air force the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League". If his friend M. Munch was prepared to say: "Yes, that has got to be carried out", then there was no need to move his (M. Munch's) amendment to the words of the Sub-Committee, which were more clear, precise, and definite. The speaker thought, in view of the misunderstanding that had already arisen whist regard to this word "recommend" they had better, before sending out the Protocol, realise what Article 16 meant and the implications devolving upon all of them. But the position that some of their colleagues took up was as follows: they pointed out that the article says that the Council can only recommend, and he had heard it said; "Yes, the Council can recommend, but we can please ourselves; we have a discretionary power". They might imagine that trouble had arisen between a large and a small country and that the large country was the aggressor. He hoped that would never be the case—he could not imagine it being the case—but supposing, for the sake of argument, that it was, and that some small country in the League had been trusting to Article 16 (2). Oh, but all the States in the League, except the aggressor State, which is one of the large States, would say: "Yes, we have a great deal of sympathy with your country in this most unfortunate position. We are going to send you some economic and financial sanctions." What was going to become of the small State? That was the way they had to face up to this proposition, and it was essential they should face up to it because of the misunderstanding he had referred to. When the British delegation, along with their colleagues of the French delegation, joined hands in that Committee in determining loyally to co-operate in order effectively to punish an aggressor, they realised that they were taking upon themselves a responsibility, and as he said in his speech a few days previously, the British delegation were prepared to advise their Government to take that responsibility and their Parliament to give authority to take that responsibility, because they believe that they were starting out on an entirely new plan based upon almost, he would like to say altogether, universal compulsory arbitration.

If they could not get to that stage it seemed to him there is a flaw somewhere in the scheme. When they had limited to the lowest possible point the danger of sanctions being called upon, they ought to be more willing to give the assistance that was required to make the sanctions effective for putting down the aggressor. In his opinion, to take out the words of the article as sent up by the Sub-Committee and to insert the words suggested meant leaving the position involved, indefinite and not sufficiently precise, and he sincerely hoped that all of them would refuse the amendment or, at any rate, convince M. Munch not to press his amendment to refer back to the Drafting Committee but to leave the position as now defined.

To make one more observation, with regard to the set of amendments in the name of the Belgian delegation, he understood that these amendments were intended to put the article of their Committee in line with some of the decisions of the First Committee. He did not think the first amendment standing in the name of the Belgian delegation was entirely satisfactory in its wording. To quote the first line: "As soon as an aggression is manifest". He would be very much surprised if the lawyers on the First Committee sent them that draft. He himself was not a lawyer, but he knew lawyers, and he thought they worked a little differently from that. If he could be shown that it was lawyer's language, he would, as he had only commonsense to guide him, withdraw his remark. But he would read the words which he desired to propose, and he hoped his Belgian colleagues would be prepared to accept them. He moved to insert at the beginning of Article 12 (Sub-Committee's text): "When the Council has called upon the contracting parties to apply sanctions against the aggressor State, in accordance with Article 6 (First Committee's draft, now Article 10 of the Protocol), the obligations...".

He desired to substitute those words for the words, "As soon as an aggression is manifest within the meaning of paragraphs 1 and 2 of Article 6". He hoped that would appeal to his friends representing the Belgian delegation, and he believed the amendment to be in harmony with the decision of the other Committee. He wished to stick closely to the draft sent forward by the Committee. The Protocol was so important that, instead of putting amendments in, they ought to be sent either to the Drafting Committee or the Sub-Committee that prepared this document. Otherwise, the Committee might at the end find that the thing was not watertight, and even if they did not have someone present in the Committee knocking holes into it, they would have the Press doing so. It was their business to make the document as watertight as possible against such criticisms.

M. MATSUDA (Japan) said that Japan had always had every intention of fulfilling the obligations of the Covenant with scrupulous loyalty. If the new system outlined by Dr. Benes in regard to the military sanctions provided for in the Draft did not run counter to the stipulations of the Covenant, i.e., if it was understood that these sanctions would be applied by agreement between Governments and that their application would always remain under the control of the Governments directly concerned, he was quite willing to accept it. If, on the other hand, the interpretation of the present article differed from the provisions of Article 16 of the Covenant, M. Matsuda would be obliged to make a reservation pending the receipt of instructions from his Government.

Passing to another point, he associated himself with the view expressed by Mr. Henderson two days previously to the effect that neither the Permanent Court of Justice nor the Council of the League ought to be converted into a council of war, and that the military forces of each Member should be at the disposal of the League only to the extent decided upon in the last resort by the
Mrs. Henderson's speech was characterized by the courage with which she pledged the power of Great Britain to give what it had. She pointed out that the recommendations of the Council and that the Members of the League would act on these recommendations. Article 16 of the Covenant took the form of a recommendation, but it did not impose the obligation of acting thereon, and the States retained their freedom of action. M. Lange renewed the reservation which he had already made in this respect.

The misapprehension was due to the fact that the great Powers and the small Powers spoke different languages. When Mr. Henderson spoke, he courageously pledged the power of Great Britain to give what it had. He did not propose, however, to repeat the point of view of France, as it had already been admirably expressed by M. Schanzer and Mr. Henderson had agreed and which the French delegation also accepted.

M. Jouvénel (France) hoped that the delegates who had submitted amendments would withdraw them if he succeeded in convincing them that these amendments were not necessary. In his view, only one of the amendments was really necessary and that was the one on which M. Schanzer and Mr. Henderson had agreed and which the French delegation also accepted. As regards M. Lange's proposal to refer the matter to the Drafting Committee, M. Schanzer pointed out that it was not a question of drafting but a question of principle, on which the Committee ought first to pronounce.

Lastly, he agreed with Mr. Henderson regarding the loyal interpretation of the obligations of the Covenant “within reasonable limits”. He took this to mean that each State must give assistance to the best of its ability, but must retain control of its military forces and exercise its discretion, taking into account its geographical position and national security.

Sir James Allen (New Zealand) said it seemed clear to everybody that some obligation rested on States Members of the League under paragraph 2 of Article 16 of the Covenant. He had always interpreted that obligation to be a moral obligation, a moral obligation which left it to the States to decide whether that moral obligation was strong enough to compel them to accept the recommendations of the Council. It seemed perfectly clear from what M. Benes had said that afternoon that the object of the Protocol was to extend the obligation and to make it a legal one as well as a moral one. He gathered that Mr. Henderson was in accord with M. Benes. If that was the purpose of this Protocol, he must, on behalf of his Government, make a reservation. M. Steenboek pointed out that it was not a question of drafting but a question of principle, on which the Committee ought first to pronounce.

M. Lange (Norway) supported Mr. Henderson's proposal that the amendments should be referred back to the Sub-Committee. He pointed out, moreover, that the Committee was being asked to make an interpretation of the Covenant. The Covenant, however, had been adopted by the Norwegian Parliament in the form in which it had been drafted by legal experts. If it were now to be given a fresh interpretation, it would have to be submitted once more to the Norwegian Parliament.

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The French delegate's remarks were addressed more particularly to the Danish and Belgian delegations. Nothing was being added to the Covenant and nothing was being taken from it. Article 16 of the Covenant remained within the scope of the Covenant he was prepared to give full support to its proposals.

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Britain, but when Norway and Denmark spoke, they very naturally said that they could not furnish military forces which they did not possess.

It must be remembered that a Disarmament Conference was going to meet and it could be relied on to recommend the Council not to ask States to do what was beyond their power. This would be in conformity with the principles of the Covenant which relied on the discretion of the Council.

It was important not to give the impression of going back on the Covenant, as the only new factor which had made its appearance was arbitration. If arbitration were not supported with all the forces available, a retrograde step would have been made. The purpose of arbitration was to see justice done. From the moment there was no longer any uncertainty as to where justice lay, no uncertainty could subsist as to the duty of every country to give it every possible support.

M. Poulet (Belgium) wished to reply to the criticisms levelled against the Belgian amendments by M. Schanzer. It was the duty of every jurist to see that the Committee did not vote a text of Article 12 which was in contradiction with Article 6 (Article 10 of the Protocol). The Committee of Twelve had decided to stipulate in Article 12 that the sanctions should come into force when the declaration of aggression had been pronounced, simply and solely because Article 6 provided for a declaration of aggression. As the First Committee had subsequently deleted all reference to a declaration of aggression, Article 12 had to be modified. Hence the change proposed. Mr. Henderson and M. Schanzer found the text somewhat vague. But the amendment did not confine itself to saying “as an aggression is manifest...”; it added “... within the meaning of paragraphs 1 and 2 of Article 6”. There was, therefore, no vagueness at all. The Belgian delegate, however, was willing to meet the objections in a conciliatory spirit, on the understanding that everyone agreed that Article 12 must be modified to bring it into line with the changes made in Article 6. He was therefore willing to accept Mr. Henderson’s proposal that Article 12 should refer to the last sentence of Article 6 instead of to the first sentence, and he would not insist on the adoption of amendments which he had only proposed by way of a compromise.

M. Munch (Denmark) recognised that the French delegation’s interpretation was in conformity with his own conception of Article 12 of the draft Protocol and Article 16 of the Covenant. It also agreed with Mr. Henderson’s interpretation, but it was open to question whether Mr. Henderson’s interpretation of to-day was exactly the same as his interpretation of yesterday. He did not think that the interpretation given by M. de Jouvenel that day and Mr. Henderson on the previous day was quite the same as that given by the Chairman of the Sub-Committee. In view of these difficulties regarding the interpretation of Article 12 of the draft Protocol, he felt obliged to maintain his amendment — at any rate, for the moment; he could not withdraw it until he had consulted the Danish delegation.

Mr. Henderson, M. Lange and M. Branting had proposed that Article 12 should be referred back to the Sub-Committee and the Danish delegate asked the Chairman and the Rapporteur to agree to this course, in order that the Sub-Committee might discuss the article anew and find a formula which would be acceptable to everybody.

M. de Jouvenel (France) asked M. Munch to see if he could not waive his objections, as he considered it was unnecessary to refer Article 12 back to the Committee.

He quite understood that M. Munch would like to consult his delegation on the withdrawal of the amendment, since it had been put forward by the Danish delegation as a whole. He was sure that the Committee was willing to give M. Munch time to consult his colleagues, but ventured to ask him to do so, if possible, the same evening and to communicate the result to Dr. Benes, who had a special talent for conciliatory formulæ.

M. Munch (Denmark) accepted M. de Jouvenel’s proposal.

Adoption of Paragraphs 1, 3 and 4 of Article 12 of the draft (Article 11 of the Protocol).

The Chairman put to the vote the amendment submitted on behalf of the British delegation by Mr. Henderson. This amendment consisted in substituting the following for the first two lines of Article 12:

“As soon as the Council has called upon the signatory States to apply sanctions as provided in Article 6, the obligations of the Powers . . . .”

Paragraph 1 as amended was adopted.

Paragraphs 3 and 4 of Article 12 were adopted.
22. Adoption under reservations of Paragraph 2 of Article 12 (Article 11 of the Protocol).

"Those obligations shall be interpreted as obliging each of the Members of the League to co-operate loyally and effectively in support of the Covenant of the League, and in resistance to any act of aggression."

The CHAIRMAN reminded the Committee that an amendment had been submitted by the Danish delegation in regard to the second paragraph. As the Danish delegation did not insist on having its amendment put to the vote immediately, and was ready to consider a conciliatory formula more fully meeting the views of all the members of the Committee in regard to the meaning of this paragraph, the Chairman proposed that it should be considered as adopted, subject to a subsequent agreement to be concluded between the Danish delegation and the Rapporteur.

M. COBIAN (Spain) proposed that, in the second line of this paragraph, the words "Members of the League" should be replaced by the words "signatory States or States acceding to the present Protocol", in order to bring this paragraph into line with Article 13.

He considered that it would be dangerous to confine the obligations provided for in this article to the Members of the League and to leave out of account the signatories not Members of the League.

M. BENES (Czechoslovakia), Rapporteur, said that he quite agreed with M. Cobian's suggestion and accepted it.

Paragraph 2 was adopted, with the modification proposed by M. Cobian and subject to an agreement to be arrived at between M. Benes and M. Munch.

The Committee rose at 8:30 p.m.

NINTH MEETING

held on September 25th, 1924, at 3 p.m.

M. POLITIS (Greece) in the Chair.

23. Discussion and Adoption of Article 13 of the Draft (Article 12 of the Protocol).

"Article 13. — In view of the complexity of the conditions in which the Council may be called upon to exercise the functions mentioned in Article 12 of the present Protocol concerning economic and financial sanctions, and in order to determine more exactly the guarantees afforded by the present Protocol to the signatory States, the Council shall forthwith invite the economic and financial organisations of the League of Nations to consider and report as to the nature of the steps to be taken to give effect to the sanctions and measures of financial and economic co-operation contemplated in Article 16 of the Covenant and in Article 12 of this Protocol.

"When in possession of this information, the Council shall draw up through its competent organs:

1. Plans of action for the application of the economic and financial sanctions against an aggressor State;
2. Plans of economic and financial co-operation between a State attacked and the different States assisting it;

and shall communicate these plans to the Members of the League and to the other signatory States."

M. COBIAN (Spain) began by expressing the desire that Article 13 should be co-ordinated with paragraph 3 of Article 16 of the Covenant. It was clear that paragraph 3 of Article 16 took into account the possibility that the adoption of economic and financial sanctions might cause difficulties and inconvenience for the States called upon to apply them. It might happen that a country would normally have sold most of its products to a State declared to be the aggressor, or, conversely, an aggressor State might be in the habit of selling products to one of the States called upon to apply the sanctions. Article 16 of the Covenant laid down that States should mutually support one another in defending economic life, and in minimising the loss and inconvenience resulting from the application of sanctions. It might be said that, as this provision was already contained in the Covenant, it was not necessary to insert it in the Protocol. That would be true if the Protocol
only applied to Members of the League, but they hoped to get non-Members also to sign it. He therefore proposed the following addition to Article 13:

“The signatory States agree that they will mutually support one another in the said financial and economic measures, in order to minimise the loss and inconvenience resulting therefrom, and likewise in resisting any measures aimed at one of their number by the aggressor State.”

He pointed out, further, that in the third paragraph of Article 13 it was not stated that the plans of action drawn up through the competent organisations were binding on the signatory States; that, however, was certainly the intention of the Committee, and it would be necessary for the Council to consult the States concerned in advance. He therefore proposed that, in the third paragraph, the words “and after having consulted the Governments concerned” should be inserted directly after the first words of the paragraph: “When in possession of this information...”.

He pointed out, in conclusion, that Article 13 provided for the communication of the plans to the Members of the League, but made no mention of the moment at which they were to be put into execution. He proposed, therefore, that there should be added at the end the words: “together with an intimation as to the moment at which they are to be put into execution”.

M. Cobian (Spain), Rapporteur, stated, in reply to the question as to whether the plans of action were binding, that he felt there was a certain danger in the Spanish delegate’s proposal, for it would give the Council powers which certain Members had always felt should not be conferred upon it. The intention had been, by leaving each State free, to enable it to act in accordance with the recommendations which the organisations of the League were drawing up in preparation for the day when sanctions would have to be applied. If certain measures were made compulsory, it was to be feared that some of the States non-Members of the League would find it impossible to accept them.

As regards the suggestion that the Governments concerned should be consulted in advance, this point had been considered by the Committee, and he had no objection to the insertion of a provision, the text of which would be settled by the Drafting Committee. On the other hand, the amendment submitted by the Spanish delegate, with reference to the loss and inconvenience resulting from the economic and financial sanctions, appeared to him to be a more serious one. In the first place, Articles 12 and 13 really included all that the Spanish delegate required, for what he now proposed had been taken into consideration during the discussion. Paragraph 3 of Article 13 dealt with the question in general, and Article 13 was confined to a few details. The only addition that might perhaps be made in Article 13 was “to minimise any loss which might be sustained by the States imposing the sanctions”; the rest of the amendment could not be accepted. He was proposing a compromise, the text of which might also be settled by the Drafting Committee. He pointed out, further, that, as Article 13 was intended more especially to lay down rules for the execution of Article 12, the Spanish delegate’s amendment would have been more in its place in the latter article; Article 12, however, had already been adopted by the Committee.

M. Cobian (Spain) declared that the Rapporteur had submitted an argument in regard to procedure with which he could not quite concur. It was clear that Article 12 provided for economic and financial sanctions, but it only dealt with the State attacked or threatened. Unlike the Covenant, it did not take into account the inconvenience and loss which might be incurred by States which were obliged to come to the assistance of the State attacked or threatened. This question had appeared to him to be a very important one from the point of view of States non-Members of the League, and it was for this reason that he had felt it his duty to raise it.

The Chairman, on learning that no one else wished to speak, asked M. Cobian if he wished to maintain his amendment or if he would be satisfied with a reference to his observations in the report.

M. Cobian (Spain) agreed to the latter suggestion.

M. Benes (Czechoslovakia), Rapporteur, stated that he accepted M. Cobian’s proposal that the Governments should be consulted in advance, and would see that the necessary explanations on the other points were given in the report.

Article 13 was adopted.


“Article 14.— In view of the contingent military, air and naval sanctions provided for in Article 16 of the Covenant and in Article 12 of the present Protocol, the Council shall be entitled to receive undertakings on the part of States, determining in advance the military, air and naval forces which they would be able to bring into action immediately, in order to ensure the fulfilment of the obligations arising in this connection out of the Covenant and the present Protocol.

Furthermore, after an act of aggression has been established, the States signatories may, in accordance with agreements previously concluded, bring to the assistance of a given State which is the victim of aggression the whole or such part of their military, naval and air forces as they may consider necessary.

The agreements mentioned above shall be registered and published through the instrumentality of the Council of the League of Nations. They shall be open to all States Members of the League who may desire to accede thereto.”
General Freire d'Andrade (Portugal) said that he wished to ask the Rapporteur for information on certain points.

Paragraph 1 laid down that:

"The Council shall be entitled to receive undertakings on the part of States, determining in advance the military, air and naval forces..."

He wished to know if the States were bound to make such statements or if they were merely at liberty to do so.

Paragraph 2 provided that:

"..... After an act of aggression has been established, the States signatories may in accordance with agreements previously concluded, bring to the assistance... (of a given State) "the whole or such part of their military... forces as they may consider necessary."

Could a State, for example, which considered that it was not necessary to intervene refuse to offer any contribution? That would not be in accordance with Article 16 of the Covenant, which said:

"Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13, 14 or 15, it shall ipso facto be deemed to have committed an act of war against all other Members of the League..."

and further on:

"It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military, naval or air force the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League."

In conclusion, he wished to ask a third question: The Protocol referred throughout to the territory of the State threatened. He wished to know if this was to be interpreted as meaning only the territory of the mother country or whether it included a State's colonial possessions.

M. Koumanoudi (Kingdom of the Serbs, Croats and Slovenes) also wished to have certain points explained. He felt that there was a contradiction in the terms of paragraph 2 of Article 14, which read:

"Further, after an act of aggression has been established, the States signatories may, in accordance with agreements previously concluded, bring to the assistance (of a given State) "the whole or such part of their military (naval and air) forces as they may consider necessary."

It would seem that, if such States were bound by previous agreements, it could no longer be left to them to decide whether the whole or only part of their forces should be brought into action. In order to avoid any mistake, he would suggest the deletion of the words: "such... as they may consider necessary".

M. Benes (Czechoslovakia), Rapporteur, agreed that the views of the two members of the Committee who had just spoken were to a large extent justified, and he thought that an agreement could easily be reached as to the formal modifications which it might be necessary to make in the text.

In reply to M. Freire d'Andrade, he said that there had been several reasons for drafting the first paragraph of Article 14 in the form in which it was now submitted to the Committee. He had already explained, when commenting on preceding articles, that the Council, when the question of applying sanctions arose, would have to act in an advisory and directing but not in an executive capacity. The Council would have to give its opinion as to the manner in which the sanctions should be applied and it was therefore desirable that it should know in advance what forces would be available.

A second reason was that the different countries varied very much from the point of view of geographical position, policy, etc., and it was desirable that they should be enabled to state, with due regard for these differences, what forces they would be able to place at the disposal of the Council with a view to the application of sanctions.

A third reason, and one which had been repeatedly emphasised by M. Paul-Boncour, was that, if the Disarmament Conference was to prove successful, certain countries must know in advance what security would be offered them and by what forces such security would be guaranteed. The various States need not necessarily be consulted as to the forces available, but, as it would be in their interest as well as in that of the Council, it was probable that they would agree to this procedure.

As regards the second point raised by M. Freire d'Andrade and the point raised by M. Koumanoudi, which were more or less identical, he agreed that the text as it stood might give rise to misunderstanding.

The meaning of the paragraph in question was that States which had previously concluded agreements were bound by the terms thereof to assist one another in accordance with their undertakings, and that such undertakings were still binding even though a State might be declared guilty of aggression.

The insertion of the words "such... as they may consider necessary" had been intended primarily to cover cases in which a State might consider that, because the events had occurred at a distance, intervention on its part was not so essential.

He agreed that the text as proposed was ambiguous and was quite prepared, if the other members of the Sub-Committee approved, to delete the words "such... as they may consider necessary". The sense of the paragraph would not be affected and all risk of misunderstanding would be avoided.
Mr. Henderson (British Empire) said that in consequence of an amendment that was carried the previous day he thought it necessary to make an alteration at the commencement of the second paragraph of Article 14, and therefore requested the insertion of the words: "Further, after the Council has called upon the signatory to apply the sanction in accordance with Article 8 of the draft". Those words would bring it into harmony with what the Committee did the previous day.

M. Schanzer (Italy) thought it necessary, in view of M. Benès' remarks, that the interpretation of the first part of Article 14 should be made perfectly clear.

On the one hand, the Council was to be entitled to receive undertakings from States and, on the other, States were to be entitled to give such undertakings. There was, therefore, no question of a legal obligation.

Another important point was this: the Rapporteur had said that the forces to be placed at the disposal of the Council should be taken into account in drawing up the plan for the reduction of armaments.

There must be no misunderstanding; this calculation of forces should not be allowed to influence in any way the deliberations of the future Disarmament Conference, which must have full liberty of decision.

He would state a case to show the absurdities which might arise. A State might place at the disposal of the Council an army of one million five hundred thousand men to take part in what might be described as "social execution" and use this as an argument for insisting upon an army of one million five hundred thousand men for purposes of national security.

The forces offered could not be taken as a criterion for the plan for the reduction of armaments.

Such an argument was not met by Article 8 of the Covenant, which laid down that:

"The Members of the League recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations."

When this provision was drafted, there had been no intention of constituting forces for what might be called "social execution"; regard had merely been paid to the various inter-allied forces scattered for various reasons throughout Europe and other parts of the world.

M. Benès (Czechoslovakia), Rapporteur, accepted Mr. Henderson's amendment, which followed from the amendment adopted the previous day as a result of the agreement between Mr. Henderson and the Belgian delegation.

He also agreed with M. Schanzer in regard to the first point which he had raised.

He observed, with regard to the second question, which related to the Disarmament Conference, that the declarations to be made by States could not by themselves constitute a basis for decision; there would be many other criteria.

As regards M. Schanzer's last question, which concerned national security, agreement would be unanimous in view of the fact that the Covenant spoke of the reduction of armaments to the lowest point consistent with national safety. The essential point was, as he had said in commenting upon the Protocol, that a real attempt should be made to co-operate in preventing and punishing acts of aggression.

In reply to M. Freire d'Andrade's question, he said that the words "the territory of a country" should be interpreted as meaning not only the territory of the mother-country but all other territory, no matter where situated, belonging to the State in question.

M. Jouhaux (France) wished to make a few general remarks. M. Schanzer had pointed out, in speaking of the Disarmament Conference, that the figures which might be given for the purposes of paragraph 1 of Article 14 should not be taken as a criterion in fixing the armaments of each State, and he had added that one of the criteria to be taken into account was the lowest point consistent with national safety.

He (M. Jouhaux) did not deny the importance of the argument drawn from the Covenant. He pointed out, however, that when the Protocol now under discussion had been generally accepted there would be a widespread feeling of security which must count for something and which must be taken into consideration, especially in fixing the armaments of each nation. If this were not done, the Conference could not succeed.

There was a further risk of its not succeeding owing to the fact that, by the application of paragraph 1, the various States would be induced to give the Council minimum figures, calculated with a view to cases of aggression which did not directly concern them—figures, that is to say, which would be more or less ridiculous.

He emphasised the danger to which this might give rise and ended by declaring that the Disarmament Conference should take into account the general security which would be established in the world and not merely the wording of the Covenant and other acts of the League.

Adoption of Article 14 (Article 13 of the Protocol).

The Chairman observed, at the conclusion of the discussion, that they had dealt with two amendments, both relating to paragraph 2.

The first amendment, proposed by Mr. Henderson, was to delete the words "Further, after an act of aggression has been established" and to put in their place the words "Furthermore, after the Council has called upon the signatory States to apply sanctions in accordance with Article 8 of the
M. PAUL-BONCOUR (France) wished to know what was the exact significance of these amendments.

The CHAIRMAN replied that the first amendment simply brought the paragraph in question into line with the beginning of Article 12.

M. PAUL-BONCOUR (France) said that they must be careful not to pass anything admitting of ambiguity. The expression “after an act of aggression has been established” was not sufficiently definite, and he quite appreciated Mr. Henderson’s object in making a direct reference to the provisions of Article 6. But if they were to interpret aright Article 6 itself, which came within the province of the First Committee, they must be perfectly clear as to one vital and essential point.

The words “after the Council has called upon the signatory States” presupposed that the whole machinery of Article 6 had been put into force, and in view of the fact that Article 6, as had been intended by the First Committee, stated that in certain specific cases the act of aggression was so clearly established that there was no need for discussion, he wondered what the function of the Council would be in such a case. Legally, it appeared to be simply a question of procedure; the Council would immediately set in motion the machinery of the sanctions. Such being the case, there was no need any longer of unanimity; a majority vote was sufficient.

The CHAIRMAN agreed, as Rapporteur of the First Committee, that a majority vote would be sufficient.

Mr. Henderson’s amendment was adopted.

Mr. Knowles (Australia) said that it seemed to him that the clause in paragraph 2 did not quite cover the case in which the agreement provided for bringing only a part of the forces into action, and he thought it might be desirable to omit the words “the whole of”, so that the clause would read “… bring to the assistance of the State which is the victim of aggression their military, naval and air forces...”

M. Benes (Czechoslovakia), Rapporteur, accepted the amendment.

The CHAIRMAN read paragraph 2 as it would stand if the amendments of M. Koumanoudi and Mr. Knowles were adopted.

“The States signatories may, in accordance with agreements previously concluded, bring to the assistance of a particular State which is the victim of aggression their military, naval and air forces.”

The amendments of M. Koumanoudi and Mr. Knowles were adopted.

M. Schanzer (Italy) pointed out that Mr. Henderson’s amendment, which had just been adopted by the Committee, took the place of the Belgian amendment which had been mentioned the previous day.

Article 14, as amended, was adopted.


“Article 15. — The signatory States consider, in accordance with the spirit of the present Protocol, that the whole cost of any military, naval or air operations undertaken for the repression of an aggression under the terms of the present Protocol, as well as the reparation of all material damage caused by the operations and of all losses suffered by civilians or members of the military forces, should be borne by the aggressor State up to the extreme limits of its financial capacity.

“Nevertheless, in view of Article 10 of the Covenant, the application of the sanctions mentioned in the present Protocol shall not affect the territorial integrity or political independence of the aggressor State.”

M. Lange (Norway) proposed the following amendment:

“That a third paragraph be added to Article 15 drafted as follows:

‘The Council of the League shall have sole competence to order the removal of sanctions and a return to normal conditions’.”

One very important point had not been provided for in Article 15. There was nothing to show, when the sanctions had been put into force, at what moment the action of the League
should terminate. Such action would be more or less in the nature of war. In the course of a war
ambitions might be aroused and agreements might be concluded between the parties — facts which
might give rise to very serious consequences. That being so, it would be expedient to lay down that
the Council should have sole competence to decide when the League's action should terminate.

M. BENES (Czechoslovakia), Rapporteur, accepted the amendment, but pointed out that there
was a difference between the removal of sanctions and the actual termination of operations. Opera-
tions could only come to an end through the action of the Governments and this would necessitate
close contact, during the course of the operations, between the Council and the Governments.

Mr. Arthur HENDERSON (British Empire), while agreeing with the amendment, suggested that
Article 15 was not the correct article in which it should be inserted. In Article 15 they were dealing
with the consequences of the act of the aggressor by making him pay the bill, and that did not seem
to be the proper article in which the amendment should be inserted.

M. LANGE (Norway) recognised the justice of the Rapporteur's observation, which he thought
might be mentioned in the report.

Mr. Henderson's objection might perhaps be met if the amendment were embodied in a special
article.

M. Lange's amendment was adopted, subject to a reservation as to the place in which it should
be inserted.

Mr. Arthur HENDERSON (British Empire) said that he thought the word "financial" at the
end of the eighth line of the English text of Article 15 should be deleted so as to make it read that
the reparation, etc., was to be borne by the aggressor State "up to the extreme limits of its capacity".
If the word "financial" was not deleted, he thought they ought to insert the words "economic
and" so that the article would read "the extreme limits of its economic and financial capacity".
Personally, he thought that the best way would be to delete the word "financial".

M. KOU.MANOUDI (Kingdom of the Serbs, Croats and Slovanes) supported Mr. Henderson's
proposal.

M. BENES (Czechoslovakia), Rapporteur, accepted the amendment.

The amendment was adopted.

Article 15, as amended, was adopted.

27. Article 16 of the Draft (Article 17 and part of Article 21 of the Protocol).

"Article 9. The undersigned Members of the League of Nations undertake to participate
in an International Conference for the Reduction of Armaments which shall be convened by the
Council of the League and which shall meet at Geneva on Monday, June 15th, 1925. All States
non-Members of the League of Nations shall be invited to take part in this Conference.
"Ratifications of the present Protocol must be deposited at the Secretariat of the League
not later than May 1st, 1925. Unless... States Members of the League, of which... shall be
permanent Members of the Council, have deposited their ratifications at the Secretariat of the
League by May 1st, 1925, the Secretary-General of the League shall cancel the invitations
to the conference.
"The entry into force of the present Protocol shall be suspended until a scheme for the
reduction of armaments has been adopted by the Conference.
"In view of the convening of the Conference, the Council, taking into account the under-
takings mentioned in Articles 12 and 14 of the present Protocol, shall draw up a general
programme for the reduction of armaments, which shall be laid before the Conference and
communicated to the Governments two months previously or sooner if possible.
"If within a time-limit, which shall be fixed by the Conference, the scheme for the reduction
of armaments has not been carried out, it shall be the duty of the Council so to declare. In
consequence of such declaration, the present Protocol will lapse.
"The conditions in which the Council may declare that the scheme drawn up by the Inter-
national Conference for the Reduction of Armaments has not been carried out, and that in
consequence the present Protocol has lapsed, shall be defined by the Conference itself.
"Any Member of the League of Nations which has not within the time-limit fixed by
the Conference conformed to the scheme adopted by the Conference shall not be admitted
to benefit by the provisions of the present Protocol."

The CHAIRMAN asked the Committee to consider Article 16 from a general point of view, as
the wording was to form the subject of fresh discussion at a Mixed Committee which would include
the jurists of the First Committee.
Mr. Henderson had proposed to replace the words “cancel the invitations to the Conference” at the end of the second paragraph by the words “shall immediately take the advice of the Council in order to ascertain whether the invitations should be cancelled or the Conference merely adjourned until a sufficient number of ratifications has been deposited.”

M. Benes (Czechoslovakia), Rapporteur, thought the amendment was perfectly justified; it would be a mistake to risk cancelling the invitations to the Conference simply because two or three ratifications were not received in time.

He pointed out, as regards the form of the article, that it would no doubt be necessary to embody the paragraphs dealing with the question of ratifications in a special article.

M. Cobian (Spain) asked that the expression “reduction of armaments” should be replaced by the fuller expression “reduction and limitation of armaments”.

He saw no reason for retaining paragraphs 5 and 6, which emphasised the possibility of the Protocol’s lapsing. Even if they failed to arrive at an agreement at the next Conference, that was no reason for saying that the Protocol should lapse.

M. Benes (Czechoslovakia), Rapporteur, agreed with M. Cobian’s first observation. As regards the second observation, he was of opinion that, in view of the conditions under which the Protocol had been drafted, paragraphs 5 and 6 must be retained.

M. Pouillet (Belgium) pointed out that the Protocol provided for arbitration, sanctions and, finally, the convening of and preparing the way for a Conference by the Council. Paragraph 3 of Article 16 provided that the entry into force of the Protocol should be suspended until a scheme for the reduction of armaments had been adopted by the Conference. Such suspension, however, could not apply to the convening of the Conference or the work of preparation. Some mention must be made of this point in the article.

M. Lange (Norway) objected to the substitution of the expression “reduction and limitation of armaments” for the expression “reduction of armaments”, as proposed by M. Cobian. The use of the word “limitation” might lead certain delegates to think that disarmament must not be carried too far. Article 8 of the Covenant, however, provided specifically for the reduction of armaments. They ought, therefore, to keep to the expression “reduction”.

M. Branco-Clark (Brazil) supported M. Cobian’s proposal. He asked, however, that the addition proposed by the Spanish delegate should be inserted, not in every paragraph of Article 16, but simply in paragraph 4.

He had told the Committee the year before that the South American States were virtually disarmed, and M. Edwards had drawn a suggestive comparison between the position of the least-armed South American and European States as regards disarmament; this comparison had been highly favourable to the South American States. The position had not changed. Far from having increased her armaments, Brazil had reduced them; the Brazilian Government had no intention at present of going in for excessive or even large armaments; its main preoccupation was to improve the financial position of the country.

He also referred to the fact that the year before he had submitted an amendment to the Preamble of the Treaty of Mutual Assistance and that this amendment, which was supported by Lord Robert Cecil and M. Lebrun, had been adopted by the Committee. The latter would therefore be acting consistently if it maintained in the present text the amendment which it had already adopted and added the words “in conformity with Article 8 of the Covenant”.

Article 8 of the Covenant should form the basis of discussion at the Conference on the Reduction of Armaments — the whole of Article 8 and nothing but Article 8. It should be pointed out, therefore, that there could be no question of reduction of armaments for countries whose armaments were far below the lowest point consistent with national safety; in such cases they could only speak of limitation.

M. Benes (Czechoslovakia), Rapporteur, accepted M. Pouillet’s suggestion, which would be examined by the Drafting Committee.

He regretted that he could not agree with M. Lange.

He agreed to the addition of the word “limitation” in paragraph 4 of Article 16.

M. Lange (Norway) stated that the Rapporteur’s decision satisfied him.

He pointed out that as he had not voted in favour of the Treaty of Mutual Assistance the previous year he was not committed.

The Committee adopted M. Clark’s proposal that the word “limitation” should be inserted in paragraph 4.

It was agreed to refer paragraph 3 to the Drafting Committee in order that the alterations proposed by M. Pouillet might be made.

Article 16 was adopted.