
"Article 17. All differences relating to the interpretation of the present Protocol shall be submitted to the Permanent Court of International Justice."

 Article 17 was adopted without discussion


"Article 18. The present Protocol shall not affect in any manner the obligations arising out of the Covenant."

M. Bolli (Switzerland) proposed that in order to facilitate the acceptance of the Protocol by Switzerland, whose military neutrality had been recognised by the declaration of the Council in London on February 13th, 1920, the following words should be added at the end of Article 18:

"... or the special situation created for a signatory State by an international treaty or a declaration of the Council."

He stated that as this point dealt with a principle about which there could be no dispute he would withdraw his proposal provided that it was mentioned in the report to the Assembly, M. Benes (Czechoslovakia), Rapporteur, promised M. Bolli that this should be done.

 The proposal was withdrawn.

 Article 18 was adopted.


"Preamble. With a view to ensuring a lasting peace in the world and to guaranteeing the security of peoples whose existence, liberty or territory might be specially threatened;"

"Being desirous of facilitating the complete application of the system provided in the Covenant for the peaceful settlement of disputes which might arise between members of the international community and for the repression of international crimes;"

"Being accordingly determined to carry out the reduction and limitation of armaments contemplated in Article 8 of the Covenant;"

"The States represented by the undersigned, duly authorised, do hereby accept the following provisions."

The Chairman informed the Committee that two texts had been submitted, namely, the Sub-Committee's text and M. Lange's amendment (Annex 11).

M. Lange (Norway) was of opinion that it was essential that the Preamble should be clearly and exactly worded, so that it should impress public opinion, not only in the countries represented on the League but in other countries which were not yet Members but whose co-operation was both desirable and necessary.

He said that certain paragraphs of his amendment were taken partly from the Preamble to the Hague Convention for the Settlement of International Disputes; he had also made use of an expression which figured in the first draft Protocol but which had been dropped in the course of the discussion — the definition of aggression as an international crime.

He proposed that the Preamble should lay down a great principle — the solidarity uniting the members of the society of nations. It was essential that this solidarity should be recognised and that any act of aggression directed against a member of the international community should be regarded as a breach of such solidarity.

M. Benes (Czechoslovakia), Rapporteur, agreed in principle with M. Lange.

He suggested that the Committee should refer the final drafting of the Preamble to the Drafting Committee, on the understanding that M. Lange's amendment should serve as a basis for discussion.

M. de Jouvenel (France) agreed that M. Lange's amendment was well-worded, but declared that the Sub-Committee's text kept more closely to the Covenant. He asked, therefore, that M. Lange's amendment might be regarded as an addition to be incorporated by the Drafting Committee in the text before the Committee.

The Committee decided to refer the Preamble to the Drafting Committee for final drafting on the basis of M. Lange's amendment.
31. Article 4, Paragraph 2, of the Draft.

M. Beneš (Czechoslovakia), Rapporteur, stated that the Sub-Committee of the Third Committee had adopted the second paragraph of Article 4 in the following form:

“It is further agreed that the provisions of Articles 2 and 3 do not apply to disputes concerning the revision of a treaty or convention, seeing that the Assembly is, under Article 19 of the Covenant, alone competent to deal with such matters.”

The views of the First Committee in regard to this point had been somewhat different.

The Chairman said that the First Committee had discussed Article 4 from a purely legal point of view. It had considered whether disputes referring, for example, to the revision of existing treaties could be dealt with according to one of the pacific methods of procedure, judicial or arbitral, provided for in Articles 3 and 4, and it was unanimous in holding that it was so obvious that such disputes could not be dealt with according to any of these methods of procedure that there was no need to insert any provision to that effect. It was of opinion that such matters came within the scope of the Covenant, under which the Assembly had special powers, and that it would be a mistake to employ words which might be interpreted as modifying the powers conferred on the Assembly by Article 19 of the Covenant.

That was the legal point of view, which they could hardly modify. Certain members of the Committee, however, had pointed out — and, as Rapporteur, he desired to call attention to this opinion — that in addition to the legal point of view there was also the political point of view. They still had to consider, therefore, whether, despite the fact that from the legal point of view such an article was not necessary, it might not be of use from the political point of view. This was the question with which the Committee had to deal.

M. Títulesco (Roumania) agreed that from a legal point of view an article was unnecessary, because, if the Protocol guaranteed the territorial integrity of the aggressor, it was inadmissible that the frontiers of a State not guilty of aggression should be altered or its territorial integrity infringed as the result of arbitration. There remained, however, the political point of view.

They were not simply theorists drafting a Protocol; they were politicians performing political acts for which they were responsible to their respective countries. They should be prepared, therefore, with arguments to meet public opinion and Parliament.

If, as had been said, security was a state of mind, the first condition of security which every country accepting the Protocol required was a guarantee that its frontiers should not be called in question.

He therefore proposed that the second paragraph of Article 4 should be redrafted as follows:

“It is further agreed that the provisions of Articles 2 and 3 do not apply to disputes concerning the revision of a treaty or convention or the modification of the existing territorial situation of the various States signatory to the present Protocol, seeing that the Assembly is, under Article 19 of the Covenant, alone competent to deal with such matters.”

He was really not asking for anything more than what had already been agreed to; he simply wanted it to be stated publicly, with a view to facilitating the acceptance of the Protocol in a large number of countries.

Lord Parmoor (British Empire) thought that in such a case what is called the judicial view was the proper view. He thought it was quite clear that nothing in the subject-matter with which the Committee had been dealing affected in that way Article 19, and therefore Article 19 should not be referred to. But there was another matter which affected the First Committee, and rightly, namely, that if they excepted something which it was not really necessary to except they might assume that other matters really not included in the text were included in it, because they were not in the terms of the exception. A third reason which made him desire to follow the suggestions of the First Committee was that he was extremely desirous that there should be no suggestion that Article 19 has been affected or touched in any way whatever, and he thought the only way to do that would be to leave it alone. If they did not touch it, it stood as it was, and it would have exactly the same operation in the future as it always had. For instance, he would take the last suggested amendment. An amendment of that kind might raise difficulties, and he thought that they should avoid. They had a good many matters in controversy there. He hoped they would leave the article quite outside. That was the correct juridical way of dealing with it.

M. Lange (Norway) said that the system laid down in the Protocol was a very ambitious one. It was the object of the Protocol, by means of arbitration and judicial procedure, to prevent all recourse to force. The judge would naturally have to apply the existing law, but all present would agree that the existing law, the law in force, and justice were not always the same thing. That possibility was foreseen in Article 19 of the Covenant.

The authors of the Protocol should endeavour to provide for the development of the idea contained in Article 19 with regard to the revision of treaties which had become inapplicable and to elaborate a pacific method of procedure for dealing with international conditions which might endanger the peace of the world.
He thought it essential that this point should be mentioned in the report to the Assembly. In conclusion, he agreed with the first British delegate that it would not be wise to insert an article dealing with the matter in the Protocol.

The CHAIRMAN said that the point raised by M. Lange had been very carefully considered by the First Committee.

Certain members of the Committee had requested, like M. Lange, that the matter should be referred to in the Minutes. There had, however, been violent opposition to this proposal and it was decided that it would be best to make no mention of views which were not generally shared, lest there should be discussion, and possibly discussion of a disagreeable character, at the Assembly.

M. de Jouvenel (France) said that he would willingly have supported the views expressed by Lord Parmoor and the Chairman if M. Lange had not appeared to be entering on a somewhat dangerous course.

As things stood to-day, treaties were the law of the world; arbitration was a means of executing it, and it was proposed to enforce arbitration by means of sanctions. Article 19 of the Covenant very rightly provided that the revision of treaties should, like the revision of the laws of any free State, be conditional on the consent of the parties concerned, and there could be no question of any other form of revision; such being the case, M. Titulesco's observation struck him as being very appropriate, for if, instead of strengthening the structure of the League, they were, through arbitration, to provide a means whereby treaties and territorial integrity could be called in question, they would be undoing their work. He asked, therefore, that the views of Lord Parmoor, which were also those of the Chairman as well as of the First and Third Committees, should alone be mentioned in the report.

M. Titulesco (Roumania) agreed with Lord Parmoor. He felt that they should not touch Article 19, which provided for the revision of treaties and established the only possible method of procedure in such matters. He would simply put one question to the Chairman and the Rapporteur and ask them to give an official reply to it: Could the modification of the existing territorial situation of the various States signatory to the Protocol form the subject of proceedings under the Protocol or not?

If the reply were in the negative, he would be quite satisfied and would withdraw his amendment.

The CHAIRMAN said that although, according to the rules of diplomatic conferences, chairmen were not regarded as personally responsible, courtesy demanded, as M. Titulesco had addressed his question to him personally, that he should reply to it; he could not, however, give him an official opinion; he could only state his own opinion and tell him how the matter had been regarded by the First Committee.

His personal opinion was the same as that of his colleagues on the First Committee. He fully agreed with M. Titulesco that no question relating to the existing territorial situation of a Member of the League of Nations could form the subject of proceedings for pacific settlement or, more specifically, of arbitral proceedings on the lines laid down in the Protocol.

M. Villegas (Chile) was glad that he had drawn attention to this important matter in the two Sub-Committees. In view of the statements which the Committee had just heard, he agreed with the Sub-Committee of the First Committee as regards the procedure to be adopted. It would be sufficient to state in the report to the Assembly that the provisions of the Protocol would not apply to disputes relating to the revision of a convention.

He agreed with M. de Jouvenel's views in regard to the interpretation of Article 19 of the Covenant; it was the only possible and the only logical interpretation, and he was glad that it had not been disputed in the Committee.

M. Lange (Norway) wished to correct a misconception which seemed to have arisen in M. de Jouvenel's mind.

He (M. Lange) had said that the judges had to apply the law. That meant that arbitral decisions must, as matters stood, be based on existing treaties. As regards that point, he and M. de Jouvenel were at one; nor was there any appreciable difference in their views in regard to treaties. That was not the point which he had wished to raise. The point on which he had insisted was that the League should devise some procedure for developing the law when the law ceased to be in conformity with justice or with the existing state or social forces or other circumstances, which were after all the determining factors.

There were many international situations not provided for within the narrow frame-work of international law and it was to such situations, which might endanger the peace of the world, that the attention of the League should be drawn; people must not be allowed to think that the system provided in the Protocol was such as to keep the international community in a state of rigidity, because in that case there would be a great risk of explosion. That was the danger which he wished to avoid.

M. Galvanaukas (Lithuania) wished to have further information concerning the point raised by M. Titulesco.

While it was clear that any treaty or convention concerning territorial questions could only be modified in accordance with the procedure laid down in Article 19 of the Covenant, this procedure could not apply to territories, the delimitation of which was fixed, not by convention, but by force or even as the result of the violation of a convention. Everyone would understand what he meant.
The statement made by the Chairman, who was voicing the opinion of the Legal Committee, could only apply to territorial questions settled by convention. It did not in any way affect the procedure to be followed in the case of territorial disputes between States signatory to the Protocol whose territories had not been fixed by convention. Territorial disputes of that nature might be dealt with in accordance with the arbitral method of procedure laid down in the Protocol which had just been drawn up.

M. de JOUVENEL (France), speaking as a layman, said that he would be glad if the question raised by M. Galvanauskas could be referred to the First Committee, which was responsible for legal questions.

He entirely agreed with M. Lange; treaties constituted the laws of the world and such laws could not be modified either by force or by judicial decision but only, like all laws, by the consent of the peoples concerned.

M. SKRZYNSKI (Poland) said that they had been spending a long time over the discussion of a point which all agreed was beyond dispute.

It was agreed in the First Committee that the procedure laid down in the Protocol could not be applied in respect of existing treaties. They had to decide where mention was to be made of the principle of security, which was the basis of the whole structure. All the world desired disarmament, but disarmament was not possible without security; security could only be established by justice based on law, and law was embodied in treaties. Justice without a code of laws meant revolution.

The Rapporteur of the First Committee had expressed the unanimous view of that Committee—that the procedure laid down in the Protocol did not admit of the discussion of existing treaties. If such were the case, there should be some mention of the matter, for, as M. Titulesco had said, the Protocol would have to be submitted to the Parliaments, and behind the Parliaments were the masses, which had to be convinced.

Either they must insert in the Protocol an article embodying the joint opinions of the First and Third Committees or they must insert in the report an authorised interpretation of the Protocol representing the unanimous opinion of the two Committees.

M. GALVANAUSKAS (Lithuania) was of opinion that, in the case of territorial disputes, the procedure laid down in the Protocol should be applied. He asked the Chairman to refer this question to the First Committee.

The CHAIRMAN summed up the discussion: the Committee appeared to be agreed that it was unnecessary to insert in the Protocol an article stating that disputes relating to the revision of existing treaties and, more especially, disputes relating to the existing territorial situation of States were not covered by the procedure instituted by the Protocol.

In view of the general agreement on this point, it would be sufficient if the Rapporteur were asked to include in his report a few words expressing the opinion held by the two Committees.

The Committee decided to delete paragraph 2 of Article 4.

32. Procedure.

The CHAIRMAN announced that the Committee had now concluded its examination of the various texts relating to the Protocol, and he congratulated the members on the despatch with which the work had been conducted. This they owed largely to the activity of their distinguished Rapporteur, M. Benes, whom he ventured to thank very warmly on behalf of the members of the Committee.

M. BENES (Czechoslovakia), Rapporteur, explained the lines upon which the Committee might collaborate with the First Committee in order to bring its work to a conclusion.

He said that there was still a question of principle to be settled in the third paragraph of Article 12. At M. de Jouvenel's suggestion, he would consult M. Munch and his colleagues. He hoped soon to be able to submit to the Committee a text which would lead to an agreement.

He informed the Committee that he would be at their disposal after 5 p.m. on the following day and would then submit his report.

He pointed out that the Committee had to vote on the resolution proposed by M. Lange concerning the Disarmament Conference.

M. LANGE (Norway) observed that they had still to consider the text of the resolution recommending the adoption of the Protocol.

The CHAIRMAN said that it would be best not to deal with these questions at a plenary meeting until after the texts had been definitely settled; the latter could be submitted to the Committee at the same time as the report.

He proposed to wait until the First Committee had finished its work and suggested that a plenary meeting should again meet for the purpose of hearing M. Benes' report. The Committee could then decide on the final texts of the resolutions to be submitted to the Assembly.

The Committee decided accordingly.
Article 12, Paragraph 2, of the Draft (Article 11, Paragraph 2, of the Protocol).

M. BENES (Czechoslovakia), Rapporteur, reverting to the question raised by M. Munch the day before with regard to paragraph 2 of Article 12, said that he was prepared, by way of compromise, to accept a formula which would, he thought, give satisfaction to all the members of the Committee. This formula consisted in amending paragraph 2 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 support of the Covenant of the League and in resistance to any act of aggression in the degree which its geographical position and its particular situation as regards armaments allow.”

It had been proposed by M. Schanzer that the words “and of their national defence” should also be inserted.

He hoped, however, that M. Schanzer would be satisfied with the formula upon which he and M. Munch had agreed.

M. SCHANZER (Italy) again emphasised the point that States, when fulfilling the obligations imposed by the Covenant and rendering assistance to one another, must pay regard to their own national security.

In order to meet the views of the other members, he would not press for the insertion of the words “national defence”, which he had just proposed as an addition. He asked, however, that his observation might be mentioned in the report.

M. DE JOUVENEL (France) noted the withdrawal of M. Schanzer’s amendment. He felt, however, that it was essential to agree that all States should be bound by arbitration and, further, that no State could itself estimate the extent of the assistance which it was bound to give; the measure of its strength must be the measure of its obligations to the League. There must be no doubt on either in these points.

M. SCHANZER (Italy) expressed his surprise that M. de Jouvenel should have been in any doubt as to the meaning of the statements made by himself the previous day in the name of the Italian delegation, for he was under the impression that he had spoken quite frankly and sincerely.

Italy, he said, had always felt that the Covenant constituted in itself a treaty of mutual guarantee and assistance. She had always felt herself bound by Articles 10 and 16 of the Covenant. It was with that conviction that the Italian delegation had collaborated in drawing up the present Protocol.

The obligation laid down in Article 12 must be carried out in good faith, but each State must retain control of its military forces. Each State could only fulfil the obligation laid down in so far as was consistent with its geographical position and the requirements of its national security. The Italian delegation held that opinion very strongly. They fully recognised the obligation to give assistance, but only to the extent he had just explained.

Supposing, for example, a powerful State attacked a smaller State a Member of the League. Italy would be obliged to come to the help of the latter. In view, however, of the fact that the aggressor State might afterwards attack Italy, the latter would be entitled not to employ all her forces in aid of the first State attacked, but to consider the requirements of her own national security.

M. MUNCH (Denmark) thanked the various delegations for the friendly spirit in which they had dealt with the question and spoke in support of his amendment.

M. BENES (Czechoslovakia), Rapporteur, emphasised the idea of solidarity expressed in Article 12 of the Protocol.

In practice, he said, the case suggested by M. Schanzer would rarely occur, for an aggressor State would immediately find the forces of all the States Members of the League marshalled against it.

M. DE JOUVENEL (France) observed that in August 1914 General Petain and General Haig had had only a few divisions with which to go to the help of a State that had been attacked. But a few months later these few divisions had grown to be millions of men. This example was sufficient to prove that in practice all would realise the claims of solidarity.

The Council of the League, however, must exercise its full authority. It would be impossible for a State to be the sole judge of what were described as the requirements of national defence. These words “national defence” might be used to cover anything. What would happen if a State, invoking such requirements, decided to wait within its frontiers until one State had been vanquished by another and then to side with the victor? It was essential that international solidarity should exercise its full effect. They were organising a system of international defence in order to guarantee national security; as regards this point, he thought that he and M. Schanzer were in agreement.

M. SCHANZER (Italy) regretted that he could not accept M. de Jouvenel’s point of view. He agreed with him that international solidarity must find loyal expression, and no one could question the loyalty of any of the States represented there. But when M. de Jouvenel said that the Council should have power to impose on the different States the measures which they must take to fulfil their obligations in regard to mutual assistance, he could not support him. That was a point of view which he could not accept and he must say so most explicitly.
Such a contention would mean that they were going quite outside the Covenant. The Covenant respected the sovereignty of States; it did not set up a super-State; it did not provide for a military government of Europe such as would be constituted by the Council. The first condition governing the work of the Committee had been that they should keep within the limits of the Covenant. There are, it is true, some who aspire to see a sort of military government set up in Europe, but that day had not yet arrived. The different States, animated by a feeling of solidarity, had already agreed to great sacrifices as regards their sovereign rights. They were not prepared, however, to abandon their sovereignty to the Council, which would thus become a super-State.

He was convinced that they had accomplished a truly important work, in that they had endeavoured to make war impossible. They had set up arbitration as the only means for the pacific settlement of international conflicts. They had upheld the obligations arising out of the Covenant in relation to mutual assistance and the application of sanctions. That represented an important measure of progress.

But the true friends of the League, the true friends of international solidarity and peace, were not those who made proposals which would be unacceptable to the different nations, for the latter had not yet reached a stage when they could renounce their full sovereign rights. To over-insist and to try and force the nations to renounce their sovereign rights would be the best way to bring to the ground the whole structure of the League.

Mr. Henderson (British Empire) said that it was somewhat unfortunate in trying to secure the adoption of the arrangement that was made between Dr. Benes and Dr. Munch the Committee should have had this question opened up afresh, but statements had been made during the last half-hour in the dialogue between the French and the Italian representatives that seemed to compel another statement from the British delegation. The day before the speaker was engaged in endeavouring to combat what he thought was a wrong interpretation of the position of the Protocol in its association with paragraph 2 of Article 16. He thought that there was a desire on the part of certain States to get too far away from what he conceived to be their obligations. He was afraid he must now combat another extreme view if he understood correctly some words which had been used by his friend M. de Jouvenel. As he understood his position, M. de Jouvenel said that the Council must exercise its full authority and, further, that a State will no longer be the judge as to how it will carry out its obligation loyally and effectively to punish the transgressor. If that was the correct interpretation of M. de Jouvenel's position, he must say that position was not theirs, nor was it in accordance with the statement that he understood Dr. Benes to make two days ago, and which he affirmed the previous day in his explanatory statement to the Committee. It was certainly not in keeping with the statement that he (the speaker) made two days before when he was submitting the position of the British delegation. In order to make the position clear he would trouble the Committee with a rather long quotation from the statement which he made two days before.

"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 XVI of the Covenant. 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 a virtue 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."

Mr. Henderson continued: That was and is our position, and I want to make it unmistakably clear that we cannot depart from it. Dr. Benes in his speech said that we had no choice with regard to the obligation, but we had a discretion as to the method under which the obligation could be applied. We accept the obligation, but we say that it must rest with our Government to determine by what method, in its judgment, it can most effectively punish the aggressor. I have dealt already with the question of a recommendation by the Council. The Council can recommend to us, but we feel that the Government of the country is entitled, in strict keeping with the discharge of the obligation, to use its discretion if it thinks that it has a better and more effective way of bringing about the punishment of the transgressor if and when the unfortunate moment arises. But if we are told that our Governments are no judges as to the method by which this is to be carried out, or the measure in which this is to be carried out, and that "loyal and effective co-operation" means suspension of judgment, I can only say that we never agreed to that two days ago, we did not agree to it yesterday, and we cannot agree to it now. Moreover, I do not think
that M. Boncour, in the speech which followed mine, intended to imply what has now been brought by a member of his delegation before the Committee.

M. de Jouvénel (France) said that there was no question either of setting up a super-State or of giving absolute power to the Council. He accepted Mr. Henderson's view that each State should remain free to decide how its forces should be employed, provided that no State was to be allowed to hold its forces in reserve.

M. Schanz (Italy) thought that M. de Jouvénel's interpretation of Mr. Henderson's views was not quite correct. He thought that the Italian and British delegations were in full agreement. He re-affirmed his previous declarations.

M. Benes (Czechoslovakia), Rapporteur, said that the explanations which had been given in his commentary were perfectly clear. He would endeavour in his report to give further explanations which should satisfy all parties.

The Chairman put to the vote M. Munch's amendment, which consisted in adding at the end of the second paragraph of Article 12 the words "in the degree which its geographical position and its particular situation as regards armaments allow".

The amendment was adopted.

The whole of the Protocol (Annex 12) was adopted.

The meeting rose at 7.50 p.m.

TENTH MEETING

held on September 25th, 1924, at 11.30 a.m.

M. Politis (Greece) in the Chair.


M. Skrzen (Poland), Rapporteur, stated that the Second Sub-Committee of the Third Committee had held three meetings, on September 9th, 26th and 26th.

As regards the question of the co-ordination of the work of the two Commissions, all the members of the Third Committee recognised its importance, particularly for the Council, which would have to draw up the programme of the Disarmament Conference. The Third Committee therefore felt bound to submit a scheme of reform of the Temporary Mixed Commission in order to adopt its constitution to the duties which it would have to fulfil in the future. He submitted to the Committee the following draft resolutions:

"Whereas the work of the League of Nations in connection with the reduction of armaments is entering this year upon a period of reorganisation which requires the direct attention of the Council;
"The Assembly entrusts to the Council the question of the co-ordination of the work of its Commissions for the reduction of armaments,
"And recommends the Council to re-organise the Temporary Mixed Commission on the following lines:
"(1) The Commission will include Government representatives, the different classes of States being represented;
"(2) The Commission will include qualified delegates of the technical organisations of the League of Nations, that is to say:
Representatives of the Economic Committee,
Representatives of the Financial Committee,
Representatives of the Transit Committee,
Representatives of the Permanent Advisory Commission,
Representatives of the Employers' and Labour Groups of the International Labour Office,
One jurist selected by the Council;
"(3) Delegates of States not represented on the Commission may be invited to attend whenever the Commission thinks fit;
"(4) The Council will invite any States not Members of the League of Nations which may have notified their intention of taking part in the Conference for the Reduction of Armaments to appoint representatives to follow the work of the Commission."
M. Fernández y Medina (Uruguay) called the Committee's attention to paragraph 1: "The Commission will include Government representatives, the different classes of States being represented." What was the meaning of the expression "different classes of States"?

M. Skrzynski (Poland), Rapporteur, replied that hitherto the Temporary Mixed Commission had not represented all the Members of the League and was not composed of official Government representatives. Some countries had several members on it, while others had none. Moreover, the members of the Commission had on more than one occasion been disavowed by their Governments. The Sub-Committee therefore considered it essential that the principle of official representation should be applied to the political members of the Commission and, while recognising that it was essential for the States most interested in disarmament to be represented, certain other categories of States should also be admitted to the Commission in its reorganised form. The Council would, of course, have to decide this point. It was obvious that every State could not automatically be represented on the Temporary Mixed Commission, as otherwise it would become far too large and its effectiveness would be impaired.

The Rapporteur admitted that the term "classes of States" was perhaps not well chosen, but it aptly expressed the idea that certain groups of States might have common interests in certain specific questions and that in consequence it would be desirable for them to be represented on the Commission whenever that question was under discussion. He was quite willing to accept any better term that might be suggested.

General Freire d'Andrade (Portugal) also thought that the expression "classes" was unfortunate, for it gave the impression that in the League of Nations there might be some States having rights different from those of other countries, which would be inadmissible. He thought the word "groups" was better than "classes".

M. Fernández y Medina (Uruguay) replied to the Rapporteur that he was satisfied with his interpretation, but the expression "categories" did not really correspond with that interpretation. He therefore proposed for paragraph 1 the following wording: "The Commission shall include representatives of States, due regard being paid to the natural groups formed by States possessing similar interests".

The Chairman stated that the Rapporteur was willing to agree to this text.

M. Lange (Norway) pointed out that the word "groups" might give the impression that States, because they were in a similar geographical situation, necessarily possessed identical interests. As a matter of fact, States did not always love their geographical neighbours, but, on the other hand, a State might have close relations with its neighbour's neighbour. Personally, he preferred the word "categories", but if they were able to find a third expression he would be prepared to accept it. They might perhaps say: "taking into account the interests of the various Members of the League of Nations".

M. Pouillet (Belgium) also thought that the expression "classes" might seem to conflict with that equality which should reign in the League of Nations, and, for the same reasons as M. Lange, he did not care for the expression "groups". He therefore suggested the following formula:

"The Commission shall include Government representatives, taking into account the various tendencies which they severally represent."

M. Lange (Norway) said that he accepted M. Pouillet's suggestion.

M. Fernández y Medina (Uruguay) also agreed.

M. de Jouvenel (France), however, pointed out that they might adopt a more general form of words, and instead of giving too precise details in the text of the resolution, they might explain their intention in the report only. They might simply say: "The Commission shall include Government representatives". That would leave to the Council a certain latitude, and they would not run the risk, by being over-precise, of using an objectionable term in the resolution.

General Tanczos (Hungary) said that he would nevertheless like the resolution to be somewhat more precise.

Mr. Buxton (British Empire) thought that the drafting of the last line of paragraph 4 was not exactly in accordance with the opinion of the Sub-Committee, because it seemed to imply that if States non-Members of the League were invited to take part, they would be in a different position from other States, and he did not think that was intended. If such States were invited at all, it was intended that they should take part in the deliberations of the Committee. He suggested that, instead of the word "follow", the more correct drafting would be "take part in".

The Chairman pointed out that they had not yet finished with the first subhead of the resolution. With regard to this subhead, the Committee had two amendments before it. The first was that the words "the different classes of States being represented" should be omitted, and the second was that these words should be replaced by the words "taking into account the various tendencies which they severally represent".
M. BRANCO-CLARK (Brazil) suggested that they should make use, in paragraph 1, of a formula which had already been employed in connection with the composition of certain important organs of the League, such as the Council, the Permanent Court of International Justice and others.

M. POULLET (Belgium) pointed out that it would not be possible for paragraph 1 to consist merely of the words "The Commission shall include Government representatives", for there were 54 States Members of the League of Nations, and the Commission would therefore include 54 members.

The formula which he proposed had been suggested by the recommendation for the Permanent Court of International Justice. Article 9 of the Statutes of this Court laid down that the electors should bear in mind that the whole body should represent the main forms of civilisation and the principle legal systems of the world.

Naturally, this exact wording could not be used for the Commission in question, but it was a stepping-stone to the idea of taking into account the various tendencies which the Governments represent.

M. SCHANZER (Italy) expressed the opinion that the Council would be placed in a very difficult position if they referred in this resolution to various tendencies or various groups of interests in connection with such a subject as the reduction of armaments.

He thought it would be better to leave the Council entirely free and merely to say "Government representatives".

The CHAIRMAN said that he thought M. Schanzer's ideas might be expressed by the formula "by a certain number of Government representatives".

M. POULLET (Belgium) agreed to this text.

Mr. BUXTON (British Empire) said he thought it would be better to say "representatives of a certain number of Governments".

The CHAIRMAN thought that these two texts really meant the same thing. He therefore proposed that the formula should be as follows: "The Commission shall include representatives of a certain number of Governments."

This text was adopted.

The CHAIRMAN said the report would explain that the Committee had thus intended to show that all Governments could not be represented and that it would be desirable to take into account the various economic, political and other interests of different countries.

M. HOLSTI (Finland) pointed out that paragraph 2 spoke of a jurist to be selected by the Council. Would it not be advisable to add the words "... and other experts" ? He thought that other experts might also be necessary for the continuation of the work begun by the former Temporary Mixed Commission.

The CHAIRMAN suggested that this idea might perhaps be more clearly brought out by the following expression: "... legal or other experts chosen by the Council."

This text was adopted.

Paragraph 2, as modified, was adopted.

Paragraph 3 was adopted.

Paragraph 4 was adopted, with the above modification proposed by Mr. Buxton.

The resolution was adopted as a whole, with the various modifications suggested during the discussion.

40. Report of the Second Sub-Committee and Resolution regarding Regional Agreements.

M. SKRZYNSKI (Poland), Rapporteur, proposed the following resolution:

"The Assembly recommends the Council to place the question of regional agreements for the reduction of armaments on the agenda of the International Conference for the Reduction of Armaments."

The resolution was adopted.
Report of the Second Sub-Committee and Resolution regarding Limitation of Expenditure on Armaments.

M. Skrzynski (Poland), Rapporteur, proposed the following resolution:

"Whereas the majority of the States which have replied have stated that, with certain exceptions, they have not exceeded the expenditure on armaments shown in their last budgets, and whereas the recommendation addressed to the Governments relates to the period which must elapse before the meeting of the International Conference for the Reduction of Armaments, which is to take place next year,

"The Assembly does not consider it necessary to repeat the recommendation regarding the limitation of expenditure on armaments, as this question is to be placed upon the agenda of the International Conference for the Reduction of Armaments."

The resolution was adopted.

Report of the Third Sub-Committee and Resolution regarding the Limitation of Naval Armaments (see Annex 20).

M. Loudon (Netherlands) submitted the conclusions of the Third Sub-Committee. He thought that a further technical conference on the subject of the limitation of naval armaments would not be necessary and that, in view of the decision taken by the Assembly, at its meeting on September 6th, to convene a general conference on disarmament, it would be natural that the question of naval disarmament should be included in the general question. For these reasons, he submitted to the Third Committee for approval the following resolution:

"The Assembly is of opinion:

"(1) That a further technical Conference is not necessary;

"(2) That the question of naval disarmament should be discussed as part of the general question of disarmament to be dealt with by the International Conference proposed in the resolution of September 6th, adopted by the fifth Assembly, and that it rests with the Council to settle the programme."

This resolution was adopted.

ELEVENTH MEETING

held on September 27th, 1924, at 11 a.m.

M. Politis (Greece) in the Chair.


M. Benes (Czechoslovakia), Rapporteur, said that he hoped that the Committee would examine his report in a friendly and indulgent spirit as it had been drawn up at very short notice and undoubtedly required a few corrections.

The First and Third Committees were submitting a joint report to the Assembly. The introduction, the narrative portion and the conclusion were common to both; they were drawn up in agreement with M. Politis. But the body of the report comprised one part referring to the articles considered by the First Committee, and another part referring to those considered by the Third Committee.

M. Benes read the report (Annex 13).

M. Benes, concluding, said that he had endeavoured to give clear and accurate expression to the ideas put forward in the course of the debates of the Third Committee. If he had not been completely successful, he hoped, nevertheless, that a few slight modifications in form would suffice for the conclusions of his report to secure the adhesion of all the members of the Committee.
The CHAIRMAN said that the applause which had just been called forth by the reading of the report could, he felt confident, be interpreted as a warm tribute paid to the tremendous efforts of M. Benes, who had been the master-craftsman in preparing the Draft which the Assembly would be called upon to discuss, and had inspired with energy all who had contributed to bringing this task to a successful conclusion.

He sincerely congratulated M. Benes and thanked him warmly.

Sir James ALLEN (New Zealand) said he desired to join in expressing appreciation of the work done by Dr. Benes in presenting his report with such rapidity. There was only one question he wished to ask in order to make the position clear. As he gathered from the report, relative to Article II, the obligation with regard to those who signed the Protocol is definitely made a strictly juridical obligation. The report said:

"Directly the Council has established a fact that an act of aggression has been committed and has called upon the signatory States immediately to apply the sanctions provided in Article II, the signatories of the present Protocol incur the strictly juridical obligation to apply against the aggressor, in the manner laid down in the Protocol, the various sanctions laid down in the Covenant, namely, economic, financial and military (naval, air) sanctions."

To that he raised no objection. Those which signed the Protocol were aware that they committed themselves to a juridical obligation to apply military, naval, and air sanctions. But what was the position of those who did not sign the Protocol? It was clearly stated, in the last paragraph relating to Article II, paragraphs 1 and 2: "We have abandoned the system of recommendations and have made it necessary for the Council to decide rapidly and in all cases which is the aggressor". That was perfectly right so far as those which signed the Protocol were concerned, but he wanted to know the position of those which had not signed. There was Article 19, which definitely stated that the present Protocol shall not affect in any manner the obligations arising out of the Covenant. Under Section 2 of Article 16 of the Covenant, the Council had to make recommendations. What would be the position with respect to those which did not sign the Protocol if aggression took place? He would like Dr. Benes to make these points clear. Then, in the English text of the report relative to Article 19, Dr. Benes says: "Other obligations arising out of the Covenant, but not referred to in the present Protocol, are not affected in any manner". That was obvious. There was one minor question, to which he would like a reply. As regards the commentary on Article 13, paragraph 1, where reference was made to the statements required to be furnished in advance with regard to the military forces that would be available, he presumed that referred to those States which signed the Protocol and he wished to know whether he was right in that assumption or not. The words are: "Article 13 empowers it [the Council] to receive undertakings on the part of States". It did not say what States. Were these the States that signed the Protocol, or were they all the States Members of the League of Nations? That ought to be made clear. If these points were made clear he did not think that, so far as he was concerned as representing New Zealand, the proposals would be other than satisfactory. He thought there would not be much difficulty, with one amendment, in agreeing to the draft resolution recommending all the Members of the League earnestly to consider acceptance of the draft Protocol. It would leave to New Zealand, if it did not sign the Protocol, the obligations which it now had under the existing Protocol and no others.

M. BENES (Czechoslovakia), Rapporteur, said that he could reply in the following simple terms: Members of the League of Nations which did not sign the Protocol would retain the rights, and would remain subject to the obligations, defined by the Covenant.

The meaning of the paragraph referred to by Sir James Allen was in fact that, if disputes arose between States which had not signed the Protocol, these States must follow the procedure laid down in Article 16 of the Covenant, and conform to the obligations contained in that article. Similarly, with regard to paragraphs 1 and 2 of Article 16, it should be understood that States which had not signed the Protocol would be subject to the old procedure for the determination of the aggressor State.

As for the undertakings referred to in the second paragraph relative to Article 13, they would not concern the States which did not sign the Protocol. The latter would retain full freedom of action within the limits laid down by the Covenant.

47. Procedure for the Discussion of the Report.

M. BRANTING (Sweden) said that he wished to associate himself wholeheartedly with the expression of thanks conveyed to the Rapporteur, M. Benes, who had really performed a colossal task.

He would like to make some comments on Article II but, as there was some likelihood of complete agreement being reached when certain of his colleagues had had an interview with the Rapporteur, he suggested that consideration of the whole of Article II should be deferred to a later sitting.
The CHAIRMAN asked whether anyone wished to oppose M. Branting's suggestion, which was accepted by the Rapporteur.

Lord Parmoor (British Empire) said he was in entire agreement with M. Branting. It was of the greatest importance that the whole of the wording of Article ii and the commentary thereon should be carefully reconsidered. He concluded by associating himself with M. Branting's and the Chairman's tribute to the Rapporteur.

The CHAIRMAN said that, as the Committee were in full agreement, it was decided that everything relating to the commentary on Article ii was reserved. To prevent misunderstanding, he added that there was, of course, no question of amending the text of Article ii, but only of revising the commentary.

Lord Parmoor agreed.

M. Lange (Norway) suggested that, in order to remove all possibility of confusion in the debate, the discussion should be divided into three parts, dealing respectively with the narrative, the introduction and the articles, with the exception of Article ii.

This was agreed to.


M. Lange (Norway), speaking on the narrative portion of the report, called attention to the fact that the last paragraph contains the following words: "first, then, there was the need of reducing the burden which armaments imposed upon the nations immediately after the war...". It was not the state of armaments at the end of the war which should be the point of departure for the reduction of armaments.

To avoid misunderstanding, the beginning of this paragraph should be amended to read as follows: "first, then, there was the need of reducing the crushing burden which armaments imposed upon the nations".

He proposed to insert the word "inter-Allied" between the words "Supreme" and "Council".

The CHAIRMAN said that the Rapporteur accepted the two amendments suggested by M. Lange.

M. Munch (Denmark) requested that the text of the resolutions and amendments regarding Article 16 adopted by the second Assembly should be inserted in the relevant passage of the report.

M. Benes (Czechoslovakia), Rapporteur, said that he would consider the suggestion.

The historical portion of the report was then adopted, subject to the amendments proposed by M. Lange.


M. Paul-Boncour (France) reverted to the question asked by Sir James Allen as to how matters stood regarding sanctions in the case of a State which was a Member of the League of Nations and, consequently, a signatory of the Covenant, but not of the Protocol, and pointed out that the Rapporteur had replied very definitely that, for such a State, the duties and obligations defined in the Covenant would remain binding irrespective of any obligations under the Protocol.

He would like a reply on another extremely serious question, although he fully anticipated that the reply would be that the point would be fully met in the actual text of the report which the Chairman was drawing up in his capacity as Rapporteur of the First Committee.

The Covenant contained an article (No. 17) which stated very clearly that, if any difficulties should arise between a State Member of the League of Nations and a non-Member, the Council should employ the same conciliation procedure as was provided elsewhere in the Covenant.

He believed that the text drafted by the First Committee would contain an article adjusting that Article 17 to the new provisions of the Protocol; but the question at issue was that of a threat of aggression against a State Member of the League which, by its very presence in the League, had already given unquestionable proof of its will to peace, and it was therefore necessary, a fortiori, to provide proper safeguards against a State which was not a Member of the League.

It should be clearly understood that, if the procedure of Article 17, as modified by one of the articles which the First Committee was introducing into the Protocol, had been brought into play, and the State which was neither a signatory of the Protocol nor a Member of the League of Nations did not submit to this conciliation and arbitration procedure, it would be incumbent upon the signatories of the Protocol to apply to this non-Member aggressor State not — in future — the sanctions of the Covenant itself, but the sanctions of the Covenant as defined by the present Protocol.
The CHAIRMAN said that he could give M. Paul-Boncour the assurances which he needed. It was correct that one of the articles drafted by the First Committee modified the procedure laid down in Article 17 of the Covenant so as to meet the case of a dispute occurring between a State which had signed the Protocol and a State which was neither a signatory of the Protocol nor a Member of the League of Nations.

The procedure was extremely simple. M. Paul-Boncour had indicated it himself: in the case assumed, if a non-signatory and non-Member State were requested to accept the new procedure of the Protocol and refused, or if it declared war, it would be treated as a covenant-breaking State and the signatories would undertake to apply to it the sanctions provided for in Article 16 of the Covenant, as interpreted by the present Protocol.

M. de PALACIOS (Spain) said that he had asked the First Committee whether the explanation which had just been given by the Chairman ought not to be inserted in the Protocol in the form of a separate article. The First Committee had agreed with his point of view, but had pointed out that it would be wiser not to insert such a provision in the Protocol, but only in the report.

He would be glad to know the Chairman's opinion on that point.

The CHAIRMAN, in reply, said that the question raised by M. de Palacios had been discussed at length in the First Committee, which considered that Members of the League of Nations which did not adhere to the Protocol would continue to be governed by the Covenant and that if a dispute should unfortunately arise between two Members of the League of Nations, one of which was a signatory of the Protocol and the other of which was not, the settlement of such disputes must proceed exclusively under the provisions of the Covenant.

It would, no doubt, be desirable for the new procedure introduced by the Protocol to apply even in such a case as this, but there would, in their judgment, have been insuperable legal obstacles to imposing an obligation of this nature on States Members of the League which did not accede to the Protocol. They had therefore confined themselves to stating, in the report of the First Committee, that it would lie with the Council to invite a Member of the League not a signatory of the Protocol which was engaged in a dispute with a State Member of the League signatory of the Protocol to accept the procedure of the Protocol, but that such a State would retain full liberty of action; it could refuse, and the sanctions entailed by this refusal would not be the same as in the case of a State which was neither a Member of the League nor a signatory of the Protocol.

He hoped that this explanation would satisfy M. de Palacios. It appeared in the report of the First Committee, which he would have an opportunity of considering that afternoon.

*The meeting rose at 1.20 p.m.*

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**TWELFTH MEETING**

*held on September 27th, 1924, at 9.30 p.m.*

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M. POLITIS (Greece) in the Chair.


M. BENES (Czechoslovakia), Rapporteur, reminded the Committee that M. de Palacios had requested them to add to paragraph 4 concerning Article 7 an example of the steps which the Council might take in each definite case. In order to meet this suggestion, he thought it would be sufficient to add, at the end of the paragraph, the words: ".... as, for example, the evacuation of territories".

*The passage in the report referring to Articles 7 and 8 was adopted.*

The observations regarding Articles 12, 13, 14, 15, 17 and 21, 19 and the conclusion were adopted.


M. BENES (Czechoslovakia), Rapporteur, said that, as a result of conversations which he had had with a number of delegations, there were certain changes to be introduced into the text of the observations.

At the end of paragraph 3, concerning Article II, it would be advisable to omit the words "..... especially in the United States Senate in 1920, and .....".

Again, paragraphs 4, 5 and 6 of the commentary on Article II (paragraphs 1 and 2) had been drafted as follows:

"Article II is intended to put a stop to this controversy. Directly the Council has established the fact that an act of aggression has been committed (Article 10, paragraphs 1 and 2) and has called upon the signatory States immediately to apply the sanctions provided in Article II (Article 10, paragraph 3), the signatories of the present Protocol incur the strictly juridical obligation to apply against the aggressor, in the manner laid down in the Protocol, the various sanctions laid down in the Covenant, namely, economic, financial and military (naval, air) sanctions. Should they fail so to do, they will not be fulfilling their obligations. 

"It is quite true that, as regards their nature and extent, these obligations are not so closely defined as is customary in relations governed by private law. They are, however, sufficiently clearly defined in paragraph 2 of Article II. According to this paragraph, the reply to the question whether a signatory to the Protocol has or has not fulfilled its obligation depends on the reply to the question whether it has loyally and effectively co-operated in resisting the act of aggression in question to an extent consistent with its geographical position and the special conditions of its armaments. 

"It would be quite wrong to interpret Article II as making the nature and extent of the obligations imposed by the Covenant, and defined in Article II, depend simply upon the independent opinion of the State obliged to give assistance to the victim of an act of aggression. It is true that the State remains in possession of its forces and itself directs them — and not the Council. But paragraph 2 of Article II gives us positive material upon which to form a judgment as to whether or not these obligations have been carried out in any concrete case. This criterion is supplied by the term loyally and effectively."

In order to explain the additional provision introduced into the second paragraph of Article II, and to give effect to the observations of M. Branting, M. Lange and M. Loudon, he proposed to add, after the sixth paragraph of the commentary on Article II, the following passage:

"During the discussion on the system as to sanctions, certain delegations declared that their countries were in a special situation, by reason of their geographical position and the special conditions of their armaments. These countries desired to co-operate to the fullest extent of their resources in resisting every act of aggression; but they drew attention to the special situation of their countries. In order to take account of this situation, we have made an addition setting out the exact position and defining the particular situation of these countries."

M. SCHANZER (Italy) said that he did not oppose this addition, since it was agreed that the second paragraph of Article II was general in sense and that its application was not limited to a certain number of States.

M. BENES (Czechoslovakia), Rapporteur, said that paragraph 3 of the survey of the system laid down by the Covenant should read as follows:

"3. If it be unsuccessful and war breaks out, the Council, if unanimous, has to express an opinion as to which party is guilty. The Members of the League then decide for themselves whether this opinion is justified and whether the application of economic sanctions becomes operative;"

and not:

"3. If it is unsuccessful and war breaks out, it has to determine unanimously who is the responsible party and then the economic sanctions immediately come into operation."
That was the same idea in another form.

He asked the Committee to authorise him to make the slight textual modifications, which certain delegates had requested, in his statement which compared the system under the Covenant with that under the Protocol.

He proposed, finally, that the last paragraph on the same page should be drafted as follows:

"We have abandoned the above-mentioned system and these two omissions have been made good;"

instead of:

"We have abandoned the system of recommendations and have made it necessary for the Council to decide rapidly and in all cases who is the aggressor."

*The part of the report which concerns Article 11 was adopted, with these modifications.*

53. **Adoption of the Resolution and the Report relative to the Draft Protocol.**

The CHAIRMAN said he thought it might be well to offer a few words of explanation as to the draft resolution, which read as follows:

"The Assembly,

"Having taken note of the reports of the First and Third Committees on the questions referred to them by the Assembly resolution of September 6th, 1924:

"Welcomes warmly the draft Protocol proposed by the two Committees of which the text is annexed to this resolution, and

"Decides:

"(1) To recommend to all the Members of the League the acceptance of the said draft Protocol;

"(2) To open immediately the said Protocol in the terms proposed for signature by those representatives of Members of the League who are already in a position to sign it and to hold it open for signature by all other States;

"(3) To request the Council to convene an International Conference for the Reduction of Armaments, which shall meet at Geneva as provided by Article 17 of the Protocol;

"(4) To request the Council forthwith to appoint a Committee to draft the amendments to the Covenant contemplated by the terms of the said Protocol."

It had been proposed by the First Committee and the Committee of Nine — that is to say, the delegation of the First Committee and that of the Third Committee sitting together — that two paragraphs should be taken from the former Article 17 and placed at the end of the resolution.

These paragraphs referred to the convening of the Conference, the date on which the documents concerning the Conference should be communicated to the Governments, and what would occur if a sufficient number of ratifications had not been received by May 1st.

He added that, if no other member wished to speak, he would consider these modifications adopted.

General Freire d'Andrade (Portugal) pointed out that Article 19 of the Protocol laid down that: "The present Protocol shall not affect in any manner the obligations arising out of the Covenant", that is to say, that it did not alter them.

But paragraph 4 of the text of the proposed resolution laid down that: "The Council" should "appoint a Committee for the purpose of preparing the texts of the amendments to the Covenant referred to in the Protocol."

If there were to be amendments, there would be alterations.

This view was confirmed by the observations of the Rapporteur that morning, in reply to a question asked by Sir James Allen.

As the matter was of the greatest importance, he would like to have further information on the subject.

The CHAIRMAN said he desired to point out that there was no contradiction between Article 19 of the Protocol and paragraph 4 of the draft resolution.

The Protocol laid down a certain number of rules which were to be embodied later on in the Covenant. Until they had been so embodied, the provisions of the Covenant and the Protocol would apply side by side, the former to all Members of the League of Nations and the latter to the signatories of the Protocol only. The Protocol would cease to exist after it had been embodied in the Covenant. The only provisions which would not be embodied in the Covenant would be those which, being merely temporary, would by that time have lost their force.
M. BENES (Czechoslovakia), Rapporteur, stated that the report contained no comment on demilitarised zones because the way in which that question, like a number of others, had been solved would be clearly seen on reading the articles of the Protocol.

The report and the resolution relative to the Protocol were adopted (Annexes I3 and I4).

The CHAIRMAN again thanked M. Benes on behalf of the Committee.


The CHAIRMAN announced that, before the discussions of the Third Committee were closed, he would have to consult the members on the following draft resolution submitted by M. Lange:

"The Assembly requests the Council, in preparing the general programme of the Conference for the Reduction of Armaments provided for in Article 9 of the Protocol, to consider the advisability of including in that programme the following points:

1. General plan for a reduction of armaments in accordance with Article 8 of the Covenant, in particular:

   (a) Basis and methods of reduction (budget, peace-time effective, tonnage of naval and air fleets, population, configuration of frontiers, etc.).

   (b) Preparation of a typical budget for expenditure on armaments.

2. Special position of certain States in relation to the reduction of armaments:

   (a) Temporary reservations by countries exposed to special risks;

   (b) Recommendation of regional agreements for the reduction (or limitation) of armaments.

3. Recommendation of the establishment of demilitarized zones (Article 6).

4. Control and investigation of armaments in the contracting States.

"The Assembly also requests the Council to instruct the competent organisations of the League to examine the schemes relating to the above questions which have already been submitted to the Third Committee, or which may subsequently be received by the Secretariat, and to take them into consideration in preparing the programme of the Conference."

At a former meeting, the Third Committee had adopted three draft resolutions which were, to a certain extent, connected with M. Lange's proposal. They related to questions concerning naval disarmament, regional agreements and expenditure on armaments. It had been decided to propose that the Assembly should recommend the Council to include these three questions in the agenda of the forthcoming Conference on Disarmament.

M. Lange's proposal was very closely allied to these questions, and might be treated in the same manner.

M. LANGE pointed out that he had communicated his draft resolution to the Committee of Twelve.

His idea had been that it would be well to direct public attention in all countries to this Conference, and that, consequently, it should be made clear to the public that this was to be a Conference on a clearly-defined subject.

In any case, the draft only proposed that the matter should be left to the discretion of the Council. They would merely ask the Council to include certain questions in the programme of the Conference. That would not be to prejudge any matter of principle.

He thought that they might embody in his resolution the three questions which had been referred to by the Chairman.

The CHAIRMAN stated that, if M. Lange's proposal were approved by the Committee, he would suggest that M. Benes should be asked to draft a collective resolution to take the place of those which had already been voted and at the same time to embody the fresh points raised by M. Lange. M. Benes would draw up the final text to be added as a new draft resolution at the end of his report.

M. SCHANZER (Italy) said he hoped that they would not tamper with the resolutions already adopted, which were of great importance. There were certain degrees in the importance of these resolutions.

The CHAIRMAN explained that the Committee had approved three resolutions concerning the three questions to be included in the programme of the Disarmament Conference. The suggestion was to combine these resolutions with M. Lange's proposal.

M. HOLSTI (Finland) said that he was very grateful to M. Lange for having mentioned in this draft the position of countries which were most exposed to danger. That was in conformity with the famous resolution No. XIV. He would be glad to see this resolution added to those already voted.
M. PAUL-BONCOUR (France) said that he was not in any way opposed to M. Lange’s proposal, but he would draw the attention of the Committee to the need for extreme caution in making recommendations to the Council for the preparation of the programme of the Conference.

It was, of course, important to make it clear to the public that the Conference would be doing definite work, on a foundation which would lead to results; but the foundation would be technical in character, and it was as yet not easy to say what foundation would be the best. That question would be thoroughly sifted in every country. It was undesirable, therefore, that the Council should be in any way bound by a resolution in its work of preparing for the Conference.

A Committee, which would be the old Temporary Mixed Commission in another form, would be set up to collaborate with the Council; it would immediately set to work to discover the proper technical foundation for a reduction of armaments. It would be necessary for this technical organ to be just as free as similar organs which would discuss the matter in each country to seek the best methods possible.

Misconceptions on this subject were sometimes formed. For instance, the budgets for military expenditure referred to in M. Lange’s proposal did indeed constitute one factor, but it was perhaps the factor which was most liable to misconstruction. Again, very far-reaching changes in the direction of a reduction of armaments might quite well, for a time, involve an increase in expenditure. A reduction of the effectives might, for instance, necessitate the engagement of civil officials to carry out the duties formerly discharged by the troops. The question was undoubtedly a very complex one.

It should therefore — he felt he should insist on the point — be clearly understood that, if the recommendation were sent to the Council, it would be simply as a recommendation of a very general character, and that the technical organs would be left to propose to the Council the technical foundation for the Disarmament Conference.

The CHAIRMAN, while admitting that M. Paul-Boncour’s observations should be given serious consideration, said he did not think that the danger referred to actually existed, for the draft resolution was not intended to instruct the Council to take any action which would lie outside its powers. It merely invited the Council to consider whether it would be advisable to include certain points in the programme of the Conference, so that the Council would be quite free to ignore this recommendation if it felt that the questions were so complicated that it could not examine them before the Conference met.

M. LANGE (Norway) thanked the Chairman for his very judicious remarks. The resolution did not contain any instructions or orders to the Council; it was merely a request inviting that body to examine various questions. He also thanked the Rapporteur for having undertaken to submit, and indeed to modify to a certain extent, the text of his draft resolution. He suggested to the Rapporteur that paragraph 4 of this draft might be simplified as follows:

"4. Control and investigation of the state of the armaments of the Contracting Parties.”

That wording would preserve the general character of the draft.

Mr. HENDERSON (British Empire) could not agree with the Rapporteur’s suggestion. The other questions to which reference had been made had been the subject of very careful examination by Sub-Committees, which was not the case with M. Lange’s resolution. If he was in order, he would suggest that the resolution be sent direct to the Council, for if that were done it would not have the binding effect it might have if it were submitted through the Assembly. He would like the introduction to the resolution altered so that that could be done.

The CHAIRMAN pointed out that there had hitherto been no precedent for a Committee making a communication direct to the Council. The Committees were merely organs of the Assembly, and all they could do was to prepare the latter’s work. It was then for the Assembly to decide whether it would be advisable to request the Council to take any particular line of action.

As regarded Mr. Henderson’s objection, the Committee remained free to decide whether M. Lange’s proposal should be referred to a sub-committee or not.

The Committee decided to refer the proposal to the Assembly.

M. BENES was appointed Rapporteur, and to present a resolution comprising that of M. Lange and the resolutions already adopted in regard to Regional Agreements, Limitation of Expenditure on Armaments and Limitation of Naval Armaments (see Report of the Third Committee to the Assembly (Annex 17).
ANNEXES TO THE THIRD PART.

Annex 1.

EXTRACT FROM THE REPORT OF THE TEMPORARY MIXED COMMISSION FOR THE REDUCTION OF ARMAMENTS

III. CO-ORDINATION OF THE WORK OF THE TWO COMMISSIONS.

At its meeting on December 10th, 1923, the Council forwarded to the Temporary Mixed Commission, for their opinion, Resolution No. VII of the fourth Assembly concerning the co-ordination of the work of the two Commissions, in view of the possible expiration of the mandate of the Temporary Mixed Commission, the resolution being worded as follows:

"The Assembly requests the Council to invite the Temporary Mixed Commission to continue for a further period of one year the work which it has undertaken and to submit its report as early as possible before the meeting of the next Assembly.

"The Assembly is of opinion that it is henceforth the duty of the Council to establish direct co-operation with the Governments with a view to formulating the general plan for the reduction or limitation of armaments which, under Article 8 of the Covenant, must be submitted for the consideration and decision of the several Governments.

"The Assembly requests the Council to regulate and co-ordinate the work of the Temporary Mixed Commission and of the Permanent Advisory Commission, in anticipation of the possible expiration of the mandate of the Temporary Mixed Commission at the next Assembly."

The Commission, after considering this question, decided to submit the following opinion to the Council:

"The Commission is satisfied that the work of the Temporary Mixed Commission is progressing favourably, particularly as regards co-operation between the Temporary Mixed Commission and the Governments of the States Members of the League and between the Temporary Mixed Commission and the Permanent Advisory Commission.

"The Council, by arranging for the simultaneous consideration of different parts of the same problem by the Permanent Advisory Commission and the Temporary Mixed Commission, has greatly contributed to the successful collaboration of these bodies. The Commission further desires to point out that there are six members of the Permanent Advisory Commission who are also members of the Temporary Mixed Commission, and it has been the practice of the Temporary Mixed Commission to put some of these members on its Sub-Committees so as to ensure as perfect a liaison as possible between the two Commissions. In view of these considerations, the Commission does not think that any fundamental change in the method of collaboration between the Permanent Advisory Commission and the Temporary Mixed Commission is necessary, but it hopes that the existing system will continue to develop on the lines upon which its development has so far proceeded.

"The Commission is of opinion that, until the question of the reduction and limitation of armaments in accordance with Article 8 of the Covenant has been settled by the Council, it is essential to maintain the principle of co-operation in its work on the part of persons selected for their qualifications and experience in the political, economic, financial, industrial, labour and legal fields, and that it is desirable that such persons should be selected, after consultation with the Governments, from the appropriate bodies in the League of Nations and the International Labour Office.

"In conclusion, the Commission does not think that any change in the composition of the Temporary Mixed Commission is at present desirable, though it believes that its numbers are at present a maximum which should not be increased."
V. REGIONAL AGREEMENTS.

The question of regional agreements, which had already been raised at the third Assembly and had formed the subject of Resolution XV, was discussed at the fourth Assembly and the following resolution was adopted:

"VI. The Assembly:

"In view of Resolution XV of the third Assembly concerning the problem of the reduction of armaments:

"Asks the Council to request the Temporary Mixed Commission to consider the possibility of recommending, concurrently with the general scheme for the reduction of armaments, the negotiation of draft partial agreements for the same purpose, to be submitted for examination and decision to the Governments of the States Members of the League which are in a special geographical position and brought to the notice of States not Members of the League.

"These draft agreements might, should opportunity arise, provide for reductions of armaments still greater than those provided for by the general scheme."

This resolution, among others, was referred by the Council to the Temporary Mixed Commission for consideration.

The Commission has noted, in this connection, certain Agreements and Conventions which might be regarded as precedents; they are:

The Agreement between Great Britain and the United States of America concluded on April 28th, 1817. It provides for the reduction of war vessels on the Canadian Great Lakes to a certain total, which might not be exceeded in the future. The Agreement also fixed the maximum tonnage and armament for all vessels.

The Convention between the Republics of Central America for the Limitation of Armaments (Guatemala, Salvador, Honduras, Nicaragua, Costa Rica), signed at Washington on February 7th, 1923. It laid down the peace effectives of these Republics, which undertook not to exceed these effectives except in case of civil war or threat of invasion, and not to maintain war vessels, other than coast defence vessels, or to possess more than ten military aeroplanes each. The same Convention prohibits the export of arms from one Central American State to another and the use of poisonous gases or poisons in war. Simultaneously with this Convention, a General Treaty of Peace and Amity was signed between the five Republics of Central America, by which the High Contracting Parties undertook to preserve complete harmony in their mutual relations and to submit all disputes to an international Central American tribunal.

The Convention between the Argentine Republic and Chile for the Limitation of Naval Armaments, signed at Santiago on May 28th, 1902. By this Convention the two Powers undertook not to acquire any new war vessels and to endeavour, by means of subsequent agreements, to reduce the number which they already possessed. (These agreements were, in fact, concluded during the following year, 1903.) Each Government undertook not to increase the numbers of its war vessels during a period of five years without notifying the other State eighteen months in advance. The Convention did not apply to coast defence ships and submarines. The Argentine and Chile further undertook not to cede war vessels to any other country which was engaged in a dispute with one of themselves. Simultaneously with this Convention for the Reduction of Naval Armaments, a General Treaty of Arbitration was signed between Argentine and Chile, by virtue of which the two countries undertook that any dispute which might arise between them should be submitted to arbitration.

The Continental Treaty for the Avoidance or Prevention of Conflicts between American States was signed at Santiago de Chile on May 3rd, 1923, by the following States:

- VENEZUELA
- PANAMA
- UNITED STATES
- URUGUAY
- ECUADOR
- CHILE
- GUATEMALA
- ARGENTINE

- NICARAGUA
- BRAZIL
- COLOMBIA
- CUBA
- PARAGUAY
- SAN DOMINGO
- HONDURAS
- HAITI.
This treaty is often referred to in connection with regional agreements, but, in fact, the Treaty of Santiago does not lay down any fixed total for the military armament of the respective countries. It seeks to ensure the pacific settlement of any disputes which may arise between the different American States by providing that all disputes capable of solution by diplomatic means shall be submitted to a commission of enquiry.

The signatory States undertake not to mobilise or concentrate troops on their frontiers and not to take any military action until six months have elapsed after the report of the commission of enquiry, which is provided for by the Treaty, has been submitted to the Governments concerned.

The Commission was of opinion that, in each of the cases referred to, there existed local conditions specially favourable to the agreements and conventions concluded and that in all these cases the existence of such conditions had of itself led to the conclusion of the agreements. The Commission therefore decided to express the following opinion:

"The Commission notes that, owing to local conditions which are particularly favourable to certain States, the latter may see fit to reduce their armaments, as a result of the conclusion of regional agreements, or even in cases where such agreements do not exist.

"It has no doubt that countries which are placed in the above favourable position have already made, or will not fail to make, reductions without it being necessary to recommend them to do so.

"The Commission does not, in consequence, think that a special recommendation on its part could serve any practical purpose."

Annex 2.

REDUCTION OF ARMAMENTS

Resolution adopted by the Fifth Assembly at its meeting held on Saturday, September 6th, 1924.

(For text, see First Part, eleventh Plenary Meeting of the Fifth Assembly, page 45.)
Annex 3.

TREATY OF MUTUAL ASSISTANCE

Replies from Governments

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TREATY OF MUTUAL ASSISTANCE

ACTION TAKEN BY THE COUNCIL AND THE COMMISSIONS
OF THE LEAGUE ON THE RESOLUTIONS ADOPTED BY THE ASSEMBLY
AT ITS FOURTH SESSION


"The Assembly:

"Having taken cognisance of the Draft Treaty of Mutual Assistance Drawn up by
the Temporary Mixed Commission and amended by the Third Committee as a result
of an exchange of views between its members, some of whom spoke in their personal
capacity;

"Considering that this discussion has revealed some divergences of view and,
further, that a large number of Governments have not yet expressed their opinions
on Resolution XIV of the third Assembly:

"Decides to request the Council to submit the Draft Treaty of Mutual Assistance
to the Governments for their consideration, asking them to communicate their views
in regard to the aforesaid draft Treaty."

In conformity with this resolution, the Council, in September 1923, decided to empower the
Secretary-General to circulate to all the Governments of Members of the League the report
of the Third Committee of the Assembly on the Draft Treaty of Mutual Assistance, together
with the report of the Temporary Mixed Commission to the Assembly on the same subject, and
the Minutes of the Third Committee.

In accordance with the decision of the Assembly, the letter from the Secretary-General
drew the attention of the Governments of the Members of the League to the fact that,
in order that the work of co-ordinating the opinions of the Governments with regard to the Draft
Treaty might be taken in hand in sufficient time for the consideration of the next Assembly,
it would be of the greatest utility that these opinions should reach the Secretariat of the League
as early as possible in the year. The Council, in December, decided to extend this communication
to States non-Members of the League, and a letter to that effect was sent by the Secretary-
General on January 9th, 1924.

During its March session, the Council noted that only three Governments had by then
replied to the first letter of the Secretary-General, dated October 25th, 1923. It adopted the
following resolution:

"The Council:

"In view of Resolution I of the Assembly, in accordance with which the Draft
Treaty of Mutual Assistance was submitted to the Governments for their consideration,
with the request that they should communicate their views in regard to the said draft;
"Considering that it is important that the next Assembly should be in a position
to examine the draft again in the light of the views of the Governments:

"Instructs its President to approach all States Members of the League of Nations
which have not yet communicated their views on this subject, requesting them to be
good enough to do so, in order that their views on the Treaty of Mutual Assistance
may reach the Secretariat in time to be submitted to the next Assembly."

All the replies so far received by the Secretariat are included in the present document.
The Finnish Government considers that it is one of the primary duties of the League of Nations to secure the definite establishment and effective application of the guarantee provided for in Article 10 of the Covenant, and to develop the principles laid down therein. The Finnish Government, therefore, wishes to express its appreciation of the efforts made to create a system of mutual guarantee on the lines laid down in Resolution XIV of the third Assembly, and especially of the endeavour, first, to place on a solid and practical basis the logical relation which ought to exist between the right to security and the duty of reducing or limiting armaments—a relation the establishment of which is undoubtedly required by the spirit of the Covenant—and, secondly, to enlarge the community of nations for the purpose of the application—in the interests of the world's peace—of Articles 8, 10, and 16 of the Covenant. If, notwithstanding, my Government ventures to submit certain remarks on the scheme of mutual assistance drawn up by the Third Committee of the fourth Assembly, it is due to the fact that the problem is of wide general interest, and that its discussion from every point of view is indispensable.

I. In accordance with the principle laid down in Article 14 of the draft, and with the definition of the aims of the Treaty given in the preamble, the Finnish Government considers that the Treaty of Mutual Assistance should be directed, above all, to the progressive consolidation of the League of Nations.

The draft Treaty of Assistance establishes the principle that a State which is not a Member of the League of Nations may participate in the organisation of mutual assistance. The Powers signatory to the Treaty of Assistance, which seeks to facilitate and direct the application of the two fundamental principles contained in Articles 10 and 16 of the Covenant, would therefore include States outside the League of Nations and not bound by the League's judicial system. Difficult as it may be to incorporate a Power which remains outside the League of Nations in an organisation depending for its motive power on the Council of the League, the Finnish Government cannot but express its satisfaction at the enlargement, whether immediate or not, of the League's sphere of action.

A serious difficulty results from another unavoidable anomaly in the system provided for in the draft Treaty, i.e., the fact that a Member of the League of Nations might not be a party to the Treaty of Assistance. As the compulsory character of the Covenant and of the obligations based upon it will not and cannot suffer any limitation in consequence of the new Treaty, it will be necessary to fix a definite line of demarcation between the obligations resulting from the Covenant and those based upon the Treaty of Assistance. This appears essential, in view of the fact that States Members of the Council may have to deal with matters concerning the application of the Treaty of Assistance without themselves being parties to the Treaty, and, further, that the Council may have the same dispute submitted to it in its two distinct capacities; in the absence of unanimity, it could take no action as the organ of the organisation of assistance, but it could perhaps, composed in a slightly different manner, take action as an organ acting in virtue of the Covenant. It should be emphasised that the application of Articles 10 and 16 of the Covenant ought, in all fairness, to affect in equal measure all the Members of the League.

In the opinion of the Finnish Government, only vital political and practical considerations could justify an arrangement whereby Members of the League of Nations would remain outside the new organisation of assistance.

Anxious to assist the common cause by exploring every avenue which may lead to the general acceptance of the Treaty, the Finnish Government feels bound to observe that, in view of the provisions of paragraph 4, Article 16 of the Covenant, the relation between the right to security and the duty of reducing or limiting armaments could, in its opinion, be established in another form than that adopted in the draft Treaty.

II. The Government is fully aware of the difficulties raised by the requirement that all decisions of the Council should be unanimous—a principle which can only be justified on the ground that it is an unavoidable consequence of the virtual identity of the Council sitting as an executive organ of the League of Nations and, as such, ruled by this principle, with the Council acting as the motive power of the organisation of assistance. As long as the principle of unanimity remains a fundamental rule of the Covenant, it seems difficult to propose the acceptance of a contrary principle for the Treaty of Assistance. Nevertheless, the Finnish Government feels justified in suggesting two necessary modifications on this point:

1. The declaration provided for in Article 4, paragraph 1, for the purpose of deciding which States are the objects of aggression, is only a statement of fact. On purely logical grounds it would, therefore, seem natural that such a declaration should be made by a majority vote. Even if a decision as to the measures to be taken requires unanimity, the Council could hardly declare itself incompetent to settle this question of fact; the consequences of applying the unanimity rule to this case might be equivalent to a denial of justice.

2. Could not this hard-and-fast rule be modified, as regards the measures provided for in Article 5, by applying the principle established in the Convention on the neutralisation of the Aaland Islands, to the effect that, if unanimity cannot be obtained, each of the High
Contracting Parties will be authorised to take the measures which the Council may recommend by a two-thirds majority? The Finnish Government ventures to recommend that, with a view to rendering easier the working of the Treaty, an application of this principle should be considered.

Mention should also be made of the grave drawback resulting from the connection between the general guarantee and the complementary agreements provided for in Article 6, tautologically defined in Article 7 as agreements "complementary to the present Treaty". It is clear from the provisions of the Treaty that a State which is party to a complementary agreement may refuse to carry out the obligation incumbent on it in virtue of this agreement as long as the Council has not succeeded in obtaining the unanimity required to decide, first, that there is a threat of aggression; secondly, which is the aggressor; and lastly, what measures should be taken in virtue of Article 5.

III. — Article 3 lays down with justice that any State "party or not to the present Treaty" and therefore conceivably not a Member of the League of Nations, may be denounced on account of its aggressive policy or hostile intentions. If there is reasonable ground for thinking that a menace of aggression has arisen, the Council may take, among other measures, those indicated in sub-paragraphs (a), (b), (c), (d) and (e) of the second paragraph of Article 5. The application of these measures necessarily presupposes a decision as to which Power is threatening aggression and which is the victim of the aggression. The Council may therefore be called upon to deal with a question concerning a State which is not a Member of the League of Nations. The Finnish Government views this contingency with satisfaction, especially because this point of view entirely corresponds with the Permanent Court of International Justice and the Assembly and Council of the League of Nations.

Article 3, paragraph 1, lays down that any State, party or not to the Treaty, may be denounced on account of its aggressive policy. But, in paragraph 3, the only States considered as liable to denunciation are the High Contracting Parties; it is these States which must be invited to send representatives to the Council. Why is the invitation of a State which, though not party to the Treaty of Assistance, may be denounced by a Contracting Party not expressly authorised by the analogy of Article 17 of the Covenant? The draft requires to be completed on this point.

For the same reasons, Article 4, paragraph 3, should be modified in order to make it quite clear that it is not with the High Contracting Parties alone, when engaged in hostilities, that the assistance organisation is concerned, and consequently that the measures laid down in the second paragraph of Article 5 may be applied in respect of a State which is not party to the Treaty, both in the circumstances indicated in Article 4 and in those described in Article 3.

IV. — The draft Treaty is also insufficiently clear owing to the fact that it does not indicate how the Council is to accomplish the important duties imposed upon it by Article 5 of the Treaty. How will it employ the forces which each State furnishing assistance will have to place at its disposal? How will it prepare a plan for co-operation when it has no permanent military organisation ready for action at the required moment? Does Article 5 take for granted that an organisation of this kind would be established in advance? The silence of the draft Treaty on this point is the more incomprehensible as Resolution XIV assumes that an organisation of this kind will be created. This resolution says: "The Council of the League ...... should further formulate and submit to the Governments for their consideration and sovereign decision the plan of the machinery, both political and military, necessary to bring them (i.e., the systems of achieving a general reduction of armaments) clearly into effect." In these circumstances, it might be expected that the draft Treaty would expressly stipulate that such machinery should be set up. It is equally necessary, in the opinion of the Finnish Government, that the plans for financial co-operation should be prepared in advance, in order to allow States victims of an aggression, the resources of which are insufficient for their national defence, to obtain the contemplated assistance at the outset of hostilities.

V. — According to Article 17, any State may notify its conditional or partial adherence to the proposed Treaty. It goes without saying that a State will not by such conditions or reservations be able to evade its obligations under the Covenant. Hence, the nature and extent of these conditions should be clearly defined, and also — what is even more important — the rights which may be claimed by these States, the position of which should be determined on a basis of perfect reciprocity.

The somewhat vague terms of Article 17 lend themselves to the interpretation that a State could adhere to the Treaty of Assistance even with the reservation that it should not be required to take any part in carrying out the economic measures provided for in the Treaty. But such a reservation would be quite inadmissible, as it is in contradiction with the fundamental rules of the Covenant. If conditional or partial adherence were to be equivalent to an attempt to evade certain obligations imposed by the Covenant, the Finnish Government would regard it as a "shirking of responsibilities" entirely contradictory to the principles of solidarity and co-operation laid down in the Covenant.

The article in question should also be considered from another point of view. Resolution XV of the third Assembly lays down the principle that certain countries which are in a special geographical position may conclude regional agreements of such a character as to make it possible to take measures for the reduction of armaments even exceeding those decided upon in respect of general reduction. Further, the Assembly recognised that special measures would have to be taken for the defence of countries which, for historical, geographical or other reasons, were in special danger of attack. But it is clear that the Council's task will be made even more difficult if, on account of the accentuated reduction of armaments in neighbouring countries, it is obliged to look to more distant countries for the special guarantees indicated above. The Finnish
Government therefore considers that the provisions of Article 17 should be modified so as to render partial or conditional adherence to the Treaty impossible in cases when the States in question intend to conclude regional agreements for the purpose of reducing their armaments to a greater extent than is provided for in the general scheme.

VI. — The procedure regarding the preparation of the general plan for the reduction of armaments as laid down in Article II of the Treaty seems destined in practice to give rise to serious difficulties. The first paragraph of this article obliges the High Contracting Parties to inform the Council of the reduction or limitation of armaments which they consider proportionate to the security furnished by the general Treaty or by the complementary defensive agreements, in order to enable the Council to prepare a general plan for the reduction of armaments on the basis of this information. But at the moment when the High Contracting Parties have to fulfil this obligation, they will probably not be possessed of any exact information in regard to the actual assistance on which they can count, in the event of danger, by virtue of the decisions taken by the Council under the terms of Article 5. There is reason to fear, therefore, that they will be unable to take such assistance into account when supplying information to the Council of the League, and that they will be unable to furnish the latter with a sound basis for its calculations or to fulfil the obligation expressly imposed by the first paragraph of Article II of the Treaty and accepted by them.

VII. — While it will be difficult to bring the Treaty of Assistance into effect, it will be easy to denounce it. The terms of Article 19 do not make it clear that the Treaty cannot be denounced in the course of the first fifteen years. If it can be denounced during the first period of fifteen years, and especially if denunciation on the part of a permanent Member of the Council, i.e., of a Great Power, is sufficient not only to break up the contractual community formed by the States situated in the same continent, but to invalidate the whole Treaty, it must be admitted that the security furnished by the Treaty will be very slender.

VIII. — In comparison with the foregoing considerations, the note of the Committee of Jurists with regard to the term “aggressive war” is only of secondary importance; this term, although not strictly in accordance with the Covenant, is preferable to the amendments proposed by the Committee. The Committee also states that the Covenant “authorises, by implication, war in the case of States which comply with a unanimous recommendation by the Council and, in general, in the case of all parties to a dispute in which the Council fails to reach a unanimous recommendation.” It should, however, be pointed out that whether a war is legitimate and whether it is in conformity with the Covenant are matters which do not depend solely on the formal and incidental question as to whether the Council has come to a unanimous decision or not, but rather on the actual facts of the case in point. For instance, a war may be contrary to Article 10 of the Covenant without being unanimously disapproved of by the Council. When the Committee describes as an international crime a war which violates the provisions of the Covenant, this is tautology as far as the Members of the League are concerned, while the States non-Members of the League would probably not recognise an act forbidden by the Covenant as an international crime unless it appeared as such in the light of the general principles of international law.

IX. — In the opinion of the Finnish Government, it would be preferable to make the co-operation of the Council in the conclusion of agreements concerning demilitarised zones optional and not obligatory as proposed in Article 19. But such agreements should, for the same reasons as in the case of the agreements referred to in Article 6, be regarded as complementary to the Treaty, and as such be subject to examination by the Council and to registration in conformity with Article 18 of the Covenant.

X. — Article 3 only deals with cases in which the State which tears the aggressive policy or preparations of another State appeals to the Council. But under Article 11 of the Covenant, any war or threat of war, whether immediately affecting any of the Members of the League or not, involves the immediate summoning of the Council and justifies any Member of the League in requesting the Council to meet.

Again, Article 15 (paragraphs 9 and 10) of the Covenant lays down that a question with which the Council has already dealt, in virtue of these provisions, may be laid before the Assembly. According to the Treaty of Assistance, the Assembly would play no part in the disputes with which the Treaty deals. It goes without saying, however, that the Treaty of Assistance does not take precedence over the Covenant, and that the option of laying a question before the Assembly still exists if the question at issue also calls for investigation under the terms of the Covenant. In consequence, this option should be expressly specified in the Treaty.

In its keen desire to further the efforts of the League of Nations in favour of an effective reduction of armaments based upon increased national security, the Finnish Government has considered it necessary to formulate certain objections to which the draft Treaty submitted to it gives rise. It expresses the sincere hope that the organs of the League of Nations will be able to solve satisfactorily this fundamental problem and to carry out successfully this task of completing the League's organisation and of safeguarding the interests of peace throughout the world.

(Signed) Wennola.
REPLY FROM THE ESTONIAN GOVERNMENT.

January 22nd, 1924.

In reply to your Note C.L.105, dated October 25th, 1923, concerning the draft Treaty of Mutual Assistance, I have the honour, on behalf of the Government of the Estonian Republic, to inform you as follows.

The Estonian Government has watched with interest and keen sympathy the work in which the League of Nations has been engaged for over a year in order to find a practical scheme which will enable the different Governments to reduce their armaments. The Estonian Government congratulates the League of Nations on the first important fruits of this work — the draft Treaty of Mutual Assistance adopted by the fourth Assembly — and expresses its lively satisfaction at the attainment of so notable a result.

The Estonian Government recognises the exceptional competence of the Temporary Mixed Commission and of the Third Committee of the Assembly, and is well aware that these Committees have spared no efforts to ensure that this scheme, while remaining true to the high general ideals upon which it is based, should at the same time be realisable in practice in the existing situation of world politics; the Estonian Government does not, therefore, deem it necessary to offer any detailed comments on the draft adopted by the fourth Assembly, although it has given the proposals its most careful consideration. Its object, in the present communication, is rather to declare that it approves of the draft Treaty and is prepared to adhere to it, whenever it shall have been given its final form.

The Estonian Government would, however, have preferred that the first article of the Treaty should have retained the concise and exact form in which it was originally drafted. Similarly, it believes that the Treaty would prove more effective if all the Contracting States undertook the same obligations and received in return the same guarantees; and, finally, it considers that a simple general Treaty would have been preferable to a Treaty supplemented by special agreements. However, it is well aware that concessions had to be made on these points in order that the draft should prove acceptable to as many States as possible, and also because these concessions rendered its practical application easier.

In regard to Article 18 of the draft, the Government of the Republic desires, in particular, to state that it approves the conditions for the coming into force of the Treaty in Europe as laid down in that article — which requires ratification by five States, three of which must be States permanently represented on the Council. It is, however, essential, in the view of the Estonian Government, that the expiration of the Treaty should be made subject to the same conditions: in other words, that the Treaty must not cease to be in force in Europe until, out of the five ratifying States, less than three of the States which are permanent Members of the Council continue to be parties to the Treaty.

Finally, Estonia, as a State which has accepted the optional clause for the compulsory jurisdiction of the Permanent Court of International Justice, and which is vitally interested in the complete elimination of war as an expedient for the settlement of international disputes, expresses its confident hope that the League of Nations will succeed, in a not distant future, in making the Treaty of Mutual Assistance an accomplished fact, and that the largest possible number of States will adhere to it.

(Signed) F. AKEL,
Minister.

REPLY FROM THE BELGIAN GOVERNMENT.

February 8th, 1924.

I have the honour to communicate to you the views of the Belgian Government on the draft Treaty of Mutual Assistance, prepared by the Temporary Mixed Commission and amended by the Third Committee of the Assembly, which you were good enough to forward to me with your letter dated October 25th last.

The draft is based on two leading principles, to which the Government has already signified its assent, namely, the necessity of making the disarmament of each State proportionate to the guarantees of security furnished to it, and the combination of partial defensive agreements with the Treaty of General Guarantee.

The Belgian Government readily gives its adherence to the general lines of the draft, but it feels bound to submit the following observations, which have been suggested to it by a detailed examination of the articles.
The draft Treaty is closely connected with the Covenant of the League of Nations, of which it forms, to a certain extent, a supplement. Consequently, the existence, in the draft Treaty and the Covenant, of two different terminologies in regard to the definition of the kind of war which the Contracting Parties undertake not to wage against each other presents serious practical disadvantages which have been pointed out in the Note from the Committee of Jurists appointed to consider the text of the draft Treaty.

The Government therefore adopts the view of this Committee and proposes to draft Articles 1 and 2 as follows, specifying in article 2 the articles of the Covenant to which it refers:

**Article 1.** "The High Contracting Parties solemnly declare that a war waged in violation of the provisions of the Covenant is an international crime and severely undertake that no one of them will be guilty of this crime.

**Article 2.** "The High Contracting Parties jointly and severally undertake to furnish assistance, in accordance with the provisions of the present Treaty, to any of their number which, after having reduced its armaments in conformity with the provisions of the present Treaty, is the object of a war prohibited by the Covenant of the League of Nations either on account of its origin (Article 10 of the Covenant) or of its aims (Articles 12-15 of the Covenant)."

The textual amendments to these two articles do not in any way impair the value of the draft Treaty from the point of view of the military guarantees which it will add to the Covenant. The amendments do not affect the main advantage which the draft has to offer, namely, that the Contracting Parties substitute for limited engagements to furnish military assistance on certain occasions (Articles 10 to 15 of the Covenant) engagements which are both more precise and more extensive.

**Article 5** of the draft lays down that in the cases referred to in Article 2 of the Treaty the High Contracting Parties shall furnish one another mutually with assistance in the form determined by the Council of the League of Nations, which has the right to "require", if necessary, the High Contracting Parties to furnish military assistance to one of their number.

**Article 9** provides for the establishment of demilitarised zones. It would be desirable to define what is meant by this term, in order that the Council of the League of Nations may be enabled to take steps to establish zones of this kind.

**Article 10** places upon the aggressor State the cost of the operations and of the damage caused, up to the extreme limits of its financial capacity.

Provision should be made for the case in which this financial capacity may prove inadequate. It might be stipulated that, in the event of the total or partial insolvency of the aggressor State, the cost of that part of the damage for which no reparation has been made would be borne by the High Contracting Parties in the proportion fixed by the Council of the League of Nations, which could take into account for this purpose the amount of their respective contributions to the expenses of the League of Nations.

Under the terms of Article 11, it will not be possible to alter the plan for the reduction of armaments, when once approved by the various Governments, until a period of five years has elapsed. But the situation might be considerably changed if a new State were admitted or if a State were excluded, and certain countries might thereby lose part of the security upon which they had relied.

Should such a situation arise, it should be laid down that the reduction of armaments by the signatory States might be modified accordingly, after the Council has considered the request put forward by the countries concerned or by any one of their number.

In Article 12 no method of investigation is laid down to determine whether each State has actually reduced its armaments in accordance with the Treaty, or, on the other hand, whether it is still in a position to furnish the forces which are required of it.

Anxiety to avoid infringing State sovereignty was apparently the consideration which militated against the introduction of supervision of this kind. In order to provide a safeguard on this point, a system of supervision might be instituted, acceptable to the parties concerned, which could be carried out on identical lines in every country by a Commission composed of representatives of all the Powers signatory to the Treaty.

Article 12 of the draft Treaty contains no mention of sanctions. This omission might be repaired by stipulating that a refusal to communicate the necessary information could be pleaded by one of the High Contracting Parties as prima-facie evidence that the armaments of the High Contracting Party which fails to supply the information exceed the limits allowed it under the present Treaty. In such a case, Article 3 of the Treaty might be applied.

The Belgian Government is in favour of the following text proposed by the Committee of Jurists for Article 14:

**Article 14.** "Nothing in the present Treaty shall affect the rights and obligations resulting from the provisions of the Covenant of the League of Nations or of the Treaties of Peace signed in 1919 and 1922 at Versailles, Neuilly, St. Germain and Trianon and in 1923 at Lausanne, or from the provisions of treaties or agreements registered with the League of Nations at the date of the conclusion of the present Treaty."
The Belgian Government considers that more complete guarantees should be required in the event of the adherence to the Treaty of States non-Members of the League of Nations, as provided in the second paragraph of Article 16.

It proposes that such adherences should be subject to the consent of two-thirds of the High Contracting Parties in respect of which the Treaty has come into force, and subject also to the unanimous consent of those of the High Contracting Parties which are permanently represented on the Council of the League of Nations and in respect of which the Treaty has come into force.

Article 17 would gain in precision if it were drafted as follows:

"Any State may, with the consent of the Council of the League of Nations and subject to the provisions of the second paragraph of Article 16, notify its conditional or partial adherence to the provisions of this Treaty, provided always that such State has reduced or is prepared to reduce its armaments in conformity with the provisions of this Treaty."

Article 18 of the draft does not appear sufficiently explicit. It refers to the date at which the Treaty of Guarantee will enter into force in respect of the various countries. The following wording is proposed:

"The present Treaty shall be ratified and the instruments of ratification shall be deposited as soon as possible at the Secretariat of the League of Nations. It shall come into force:

"In Europe when it shall have been ratified by five European States, of which three shall be permanently represented on the Council of the League of Nations;

"In Asia when it shall have been ratified by two Asiatic States, one of which shall be permanently represented on the Council of the League of Nations;

"In North America when it shall have been ratified by the United States of America;

"In Central America and the West Indies when it shall have been ratified by two States in Central America and one of the West Indies;

"In Africa and Oceania when ratified by two States in those continents."

The rest of the article would remain as in Article 18 of the draft Treaty.

As a matter of less moment I may add that, although the Government gives its general approval to the commentary on the definition of a case of aggression prepared by the special committee of the Temporary Mixed Commission, it must nevertheless make the following reservations:

Paragraph 6 includes, among the signs of an intention of aggression, the organisation on paper of industrial mobilisation. It would, however, appear hardly possible to prohibit a country from examining the theoretical question of industrial mobilisation and still less possible to consider such an investigation as an act of aggression.

Moreover, according to Paragraph 8 (e), the refusal of either of the parties to withdraw its armed forces behind a line or lines indicated by the Council may also be considered as an act of aggression.

The Government's view is that when military operations have once been begun they cannot be subjected to any restrictions of this kind. If imposed upon countries with territory of small depth, such as Belgium, the withdrawal of the troops might have serious consequences which would menace the strategical position of the army.

(Signed) Jaspar.
The Federal Government of the Union of Socialist Soviet Republics has examined with the utmost care the draft Treaty of Mutual Assistance which was drawn up by the Temporary Mixed Commission of the League of Nations, amended by the Third Committee of the fourth Assembly of the League and forwarded to the Commissariat for Foreign Affairs by the Secretariat in its letter of January 9th.

The Federal Government of the Union maintains the negative attitude which it has frequently expressed with regard to the "League of Nations" in its present form and as at present constituted. It nevertheless feels under an obligation to do everything in its power to assist in lightening the military armaments which oppress all nations in averting the risk of war.

In contradistinction to the provisions of the draft Treaty, the Federal Government of the Union considers it desirable to separate the question of the limitation of armaments from that of establishing an international organisation for the prevention of war. It regards the adoption of measures by all Governments for the limitation of armaments as so grave and urgent a task that it is imperative that the question should be raised immediately, independently of other problems which are more difficult to solve. On more than one occasion, e.g. at the Genoa Conference and at the Disarmament Conference held at Moscow, the Soviet Government has endeavoured to draw the attention of other Governments to this question and to obtain an agreement for a general and proportionate limitation of armaments. Although these efforts have not been crowned with success, it would still insist on the urgent need for an international examination of this problem.

In the opinion of the Soviet Government, it is perfectly possible at the present moment to fix the maximum strengths of the standing armies and of the naval and aerial forces of each State, taking as a basis the area of its territory, the figures of its population and the amount of its public revenue and also taking count of the special local considerations of certain States. The Soviet Government considers that this limitation of armaments should be accompanied by the fixing of war budgets. It regards as indispensable the simultaneous disbandment by all the Contracting Parties of their irregular military forces. Subject to slight modifications, it approves the proposal contained in Article 9 of the draft Treaty that each Contracting Party should be authorised to negotiate with the neighbouring States the establishment of controlled frontier zones. It recommends the institution of frontier zones of equal width on both sides, within which only a strictly limited number of regular troops could be stationed under the control of mixed commissions. This system has already been put into force as between the Union and Finland. The Soviet Government has proposed to its other neighbours in the West the adoption of the same system, but so far without success. The Soviet Government would recommend the general adoption of this measure.

The general limitation of armaments could, in the opinion of the Soviet Government, be carried out, without the participation of the League of Nations, by a general congress convened for the purpose, which would appoint its own executive organ for the purpose of putting into effect such decisions as might be taken.

The Committees and the Assembly of the League of Nations have approached the problem from the opposite angle. They have made the limitation of armaments depend upon the solution of the extremely complicated question of an international organisation for the prevention of wars, and in this way they have delayed it for an indefinite period. The third Assembly of the League of Nations decided that the limitation of armaments should be preceded by a general treaty of guarantee against aggression, which should itself be preceded by the obtaining of general consent to the limitation of armaments. In the report of the Third Committee of the fourth Assembly, this point is expressed as follows: the treaty of guarantee and disarmament are interdependent; there arises, in addition to the dependence of disarmament upon the guarantee, a further dependence of the guarantee on the necessary disarmament. Consequently, the Third Committee of the fourth Assembly proposed the following procedure: first, a general contractual guarantee is established in principle; next, each State determines the limitation which it considers it can effect in its armaments; subsequently, the Council of the League of Nations draws up the general plan for the limitation of armaments; then the adhering States agree to put this plan into operation within a fixed period; and it is only then that the treaty of guarantee comes into force.

The Soviet Government is of opinion that the whole system of interdependence between disarmament and the treaty of guarantee merely delays the realisation of the immediate practical object — namely, the general limitation of armaments. This object, which is perfectly feasible and practicable in itself, is made conditional upon the execution of a plan the putting into force of which is hardly possible at the present time.

The Soviet Government feels that in an epoch such as ours, when the policy of all States is wholly dominated by their separate interests, any attempt to establish a system of international equity and of protection for the weak nations against the strong by means of an international organisation is sure to fail. In the whole of its policy, the Soviet Government is endeavouring to help in dissipating world antagonism, in preventing war and in defending the weak nations against the strong. It is fully prepared to discuss any plan, whatever it may be, which is designed to achieve the same objects. But it categorically refuses to co-
operate in carrying out plans the execution of which might furnish a weapon to certain States or groups of States for the satisfaction of their separate interests or aggressive desirings and thus merely envenom the present international situation. The Soviet Government therefore rejects any plan for an international organisation which implies the possibility of measures of constraint being exercised by any international authority whatsoever against a particular State. In the present state of international relations, a system of that kind would inevitably become, in the hands of a dominant group of Powers, an instrument of aggressive policy against other Powers. The Soviet Government considers that the establishment of an international organisation is at present both right and desirable, but only for the purpose of excluding the aimless settlement of all disputes, without application of penalties or measures of constraint. This world organisation might, in its opinion, take the form of general congresses of all Governments, which would arrive at agreements voluntarily with regard to the questions in which they were interested without any measure of constraint being employed against certain of them.

The draft Treaty of Mutual Assistance is based upon two original plans — that of Viscount Cecil and that of Colonel Réquin. These two plans are themselves based upon opposite principles. In accordance with the views expressed above, the Soviet Government rejects them both. The former places extremely wide powers in the hands of the Council of the League of Nations in all domains of international life. Most of these powers have been retained in the final draft: for instance, the Council of the League of Nations is to decide within a period of four days, in the event of hostilities, which of the belligerents is the aggressor, and all the Contracting Powers are then obliged to submit to its decision and take part in the struggle against the State in question. The Soviet Government objects, in the most emphatic and definite manner, to the attribution to a group of States of such wide powers, which are equivalent to an international dictatorship.

Moreover, the Soviet Government denies the possibility of determining in the case of every international conflict which State is the aggressor and which is the victim. There are, of course, cases in which a State attacks another without provocation, and the Soviet Government is prepared, in its conventions with other Governments, to undertake, in particular cases, to oppose attacks of this kind undertaken without due cause. But in the present international situation, it is impossible in most cases to say which party is the aggressor. Neither the entry into foreign territory nor the scale of war preparations can be regarded as satisfactory criteria. Hostilities generally break out after a series of mutual aggressive acts. For example, when the Japanese torpedo-boats attacked the Russian fleet at Port Arthur in 1904, it was clearly an act of aggression from a technical point of view, but, politically speaking, it was an act caused by the aggressive policy of the Czarist Government towards Japan, who, in order to forestall the danger, struck the first blow at her adversary. Nevertheless, Japan cannot be regarded as the victim, as the collision between the two States was not merely the result of the aggressive acts of the Czarist Government but also of the imperialist policy of the Japanese Government towards the peoples of China and Korea. The Soviet Government considers, therefore, that it is absolutely impossible to adopt the system of deciding which State is the aggressor in the case of each conflict and making definite consequences depend upon such decision.

Colonel Réquin’s plan is based not on the attribution of extraordinary powers to the Council of the League of Nations but on the recognition of individual agreements between groups of States for the prevention of aggression, together with the communication of these agreements to the Council of the League of Nations. In the final draft, this plan is incorporated in the form of supplementary regional agreements between States for the prevention of aggression, subject to the preliminary examination of such agreements by the Council of the League of Nations.

The Soviet Government fully realises that the conclusion of local agreements between certain States is inevitable in the present state of international relations. It considers, however, that it is quite inadmissible that they should receive recognition from an international organisation or that they should be regarded as beneficial in the prevention of wars. It regards as even more inadmissible the obligation imposed on the other Contracting States to give assistance, in the event of hostilities, to these coalitions of Powers.

The Soviet Government absolutely refuses to accept the reservation contained in the draft Treaty confirming the Treaties of Versailles, Neuilly, Saint Germain and Trianon. The Soviet Government took no part in the conclusion of these treaties and maintains an entirely negative attitude with regard to the provisions contained in them.

While willingly responding to the invitation addressed to it to communicate its opinion regarding the draft Treaty of Mutual Assistance, the Soviet Government emphatically protests against that article of the draft whereby the adhesion of States not Members of the League of Nations is only possible with the consent of two-thirds of the signatories. The Soviet Government has no intention of addressing such a request to the Powers signatory to the Treaty or of appearing to ask for their indulgence. The Soviet Government always negotiates with other Governments on a footing of equality.

In any case, the essential object of the drafts communicated to the Soviet Government — viz. disarmament and the averting of the risk of war — cannot be achieved, even partially or, indeed, to any degree whatsoever, without the participation of the Soviet Republics.

(Signed) George TCHITCHERIN,
People’s Commissary for Foreign Affairs of the Union of Socialist Soviet Republics.
REPLY FROM THE LATVIAN GOVERNMENT.

[Translation] Riga, March 22nd, 1924.

With reference to your letter No. C. L. 105, dated October 25th, 1923, I have the honour to inform you that, in accordance with the resolution adopted by the fourth Assembly of the League of Nations, the Latvian Government has considered the draft Treaty of Mutual Assistance and has instructed me to communicate to you its opinion thereon.

The Latvian people are eminently peace-loving, and the Government has invariably been anxious to contribute to the development of good relations between all countries. The Government accordingly desires, in the first instance, to pay a tribute to the work of the League of Nations for the consolidation of the peace of the world.

The Government cannot do other than approve the draft taken as a whole. If, however, it makes a few observations on certain clauses in the draft, its only object is to increase the efficacy of the measures provided for in the draft.

In accordance with its frequently reiterated conviction that the best method of preventing disturbances of the peace consists in unanimous co-operation between all nations on the basis of mutual equality, and taking into consideration the present political situation, the Government approves the principle of partial agreements as a practical measure for guaranteeing the safety of States. The Government will, however, give its support to any endeavour in the field of mutual assistance the object of which is to render the general treaty more effective.

Among other obligations imposed on the Council by the draft Treaty and also by the Covenant is a military obligation:

(a) The Council shall decide, within four days of notification being addressed to the Secretary-General, which of the High Contracting Parties are the objects of aggression and whether they are entitled to claim the assistance provided under the Treaty (Article 4).
(b) The Council determines the form of assistance (Article 5).
(c) The Council may act as intermediary between two or more neighbouring countries for the establishment of demilitarised zones (Article 9).
(d) Under the Covenant and draft Treaty (Article 11) it is the duty of the Council to prepare a general plan for the reduction of armaments and to supervise the execution of such plan by the High Contracting Parties, and also to undertake the revision of armaments provided for in Article 13 of the Treaty.
(e) The Council receives and considers information on the armaments of the High Contracting Parties furnished by the latter to the military or other delegates of the League (Article 12).
(f) Finally, in accordance with the intentions of the Treaty and in order to enhance its efficacy, the Council obviously must prepare in advance some plan of military action, based on the terms of the Treaty, to meet cases in which political circumstances make a resort to arms a possible eventuality; the Council would also be called upon to direct the execution of such a plan.

Under present conditions the Council cannot carry out these obligations without consulting military experts—a somewhat protracted process, which, moreover, would not provide all the desired guarantees. The Government accordingly thinks that these disadvantages might be obviated with the help of a permanent military organisation which would possess qualifications greatly exceeding those possessed by experts selected ad hoc. The Government merely puts forward this idea, which it is ready to support when this subject comes up for discussion; it will not at the present moment go into details of the organisation, which would be within the competence of the Temporary Mixed Commission.

Article 17 admits of conditional or partial adherence to the provisions of the Treaty, the object obviously being to give States which, but for this clause, would abstain, an opportunity of adhering to the Treaty. States which, however, adhered to the Treaty in a conditional or partial form would only assume certain vaguely defined obligations and would, in certain cases and to the same extent as those States which adhered unconditionally, derive all the advantages resulting from the fact that the latter States had assumed in toto the obligations under the Treaty. The Latvian Government fears that a situation of this kind would seriously impair the efficacy of the general treaty and would tend to increase the number of States adhering under special privileged conditions.

Article 19 should be amended in such a way that the Treaty could only be denounced at the end of the fourteenth year. As the Treaty involves a genuine reduction of armaments, it should only be possible to denounce it upon the expiration of the period in question.

(Signed) L. SEJA,
Minister for Foreign Affairs.
REPLY FROM THE BULGARIAN GOVERNMENT.

[Translation.] Sofia, June 10th, 1924.

The Bulgarian Government congratulates the League of Nations on its untiring efforts to evolve a general plan for the reduction of armaments, and on having produced, as a first result of these efforts, the draft of a Treaty of Mutual Assistance. Desirous of doing all that lies in its power to assist the League of Nations in its work in the cause of peace, the Bulgarian Government has subjected the draft to the most careful examination and declares that it approves it. If feels, however, that it should make certain observations which it considers important.

The Treaty of Mutual Assistance should be regarded as the continuation and development of the system of the Covenant of the League of Nations, for the preamble and Articles 8 and 9 of the Covenant provide for the general reduction of armaments.

The Bulgarian Government is firmly convinced that a general reduction of armaments is one of the most effective means of diminishing the danger of war, and earnestly hopes that the efforts of the League of Nations to this end will result in guaranteeing peace to a world, which has been so sorely tried.

But, although nearly six years have elapsed since the signing of the Covenant, the promises contained in Articles 8 and 9 have not been fulfilled. Side by side with countries which have voluntarily reduced their armaments, or which have been obliged to disarm under treaties, are to-day other countries which have maintained formidable armaments.

The inequality thus established is not favourable to the cause of general peace, since experience has, unfortunately, proved that armed countries cannot always resist the temptation of employing their forces, particularly when they are not in the right. The need for a general reduction of armaments was therefore never more urgent. Finally, it seems highly desirable that the undertaking to reduce armaments should be given a more positive form and that the general plan for this reduction should be laid down in the Treaty itself. The period of two years provided for in Article 11 of the draft might well be reduced to one year.

The Treaty of Mutual Assistance must be universal and general and must include all civilised countries: this principle was laid down in paragraph 1 of the Resolution XIV of the third Assembly. It is widely recognised that the partial grouping of countries possesses the great defect of giving rise to the formation of rival groups, which paves the way for a return to the former military alliances, and these constitute a danger to peace. For these reasons, partial agreements should only be permitted if they are concluded under the auspices of the League of Nations, and if their purely defensive character is established beyond all doubt.

It would also be desirable, in order that war should be eliminated as a means for settling international disputes, to enlarge the field of the application of compulsory arbitration, and to recommend that all the Contracting Parties should adhere to the optional clause concerning the obligatory jurisdiction of the Permanent Court of International Justice.

(Signed) Ch. KALFOFF, Bulgarian Minister for Foreign Affairs.

REPLY FROM THE GOVERNMENT OF THE UNITED STATES OF AMERICA. Washington, June 16th, 1924.

The Secretary of State of the United States of America has the honour to acknowledge the receipt of a communication of the Secretary-General of the League of Nations submitting, by direction of the Council of the League of Nations, the draft Treaty of Mutual Assistance, proposed by the Third Committee to the fourth Assembly, and requesting the expression of the views of the Government of the United States.

In reply it may be said that the Government of the United States is most desirous that appropriate agreements should be reached to limit armament and thus to reduce the heavy burdens of expenditure caused by unnecessary and competitive outlays in providing facilities and munitions of war. The desire and purpose of this Government were fully manifested when the great military and naval Powers were invited by the President of the United States to send representatives to meet in conference at Washington in 1921 for the purpose of considering the limitation of armaments. While that Conference resulted in the conclusion of an important Naval Treaty between the United States of America, the British Empire, France, Italy and Japan for the limitation of capital fighting ships, it was found to be impossible to obtain an agreement for the limitation of the tonnage of auxiliary naval craft or to make any progress in the direction of limitation of land forces. The Government of the United States, having reduced its own armaments, continues to cherish the hope that the desired result in the case of other Powers may be achieved, and it notes with keen and sympathetic...
interest every endeavour to that end. In this spirit the draft Treaty submitted has been carefully considered.

It appears from the preamble of the Treaty that it has been formulated with the desire "of establishing the general lines of a scheme of mutual assistance with a view to facilitate the application of Articles 10 and 16 of the Covenant of the League of Nations, and of the reduction or limitation of national armaments in accordance with Article 8 of the Covenant to the lowest point consistent with national safety and the enforcement by common action of international obligations".

The following provisions of the draft Treaty may be especially noted:

"Article 2. — The High Contracting Parties, jointly and severally, undertake to furnish assistance, in accordance with the provisions of the present Treaty, to any one of their number should the latter be the object of a war of aggression, provided that it has conformed to the provisions of the present Treaty regarding the reduction or limitation of armaments.

"Article 3. — In the event of one of the High Contracting Parties being of opinion that the armaments of any other High Contracting Party are in excess of the limits fixed for the latter High Contracting Party under the provisions of the present Treaty, or in the event of it having cause to apprehend an outbreak of hostilities, either on account of the aggressive policy or preparations of any State party or not to the present Treaty, it may inform the Secretary-General of the League of Nations that it is threatened with aggression, and the Secretary-General shall forthwith summon the Council.

"The Council, if it is of opinion that there is a reasonable ground for thinking that a menace of aggression has arisen, may take all necessary measures to remove such menace and, in particular, if the Council thinks right, those indicated in sub-paragraphs (a), (b), (c), (d) and (e) of the second paragraph of Article 5 of the present Treaty.

"The High Contracting Parties which have been denounced and those which have stated themselves to be the object of a threat of aggression shall be considered as especially interested and shall therefore be invited to send representatives to the Council in conformity with Articles 4, 15 and 17 of the Covenant. The vote of their representatives shall, however, not be reckoned when calculating unanimity.

"Article 4. — In the event of one or more of the High Contracting Parties becoming engaged in hostilities, the Council of the League of Nations shall decide, within four days of notification being addressed to the Secretary-General, which of the High Contracting Parties are the objects of aggression and whether they are entitled to claim the assistance provided under the Treaty.

"The High Contracting Parties undertake that they will accept such a decision by the Council of the League of Nations.

"The High Contracting Parties engaged in hostilities shall be regarded as especially interested, and shall therefore be invited to send representatives to the Council (within the terms of Articles 4, 15 and 17 of the Covenant), the vote of their representative not being reckoned when calculating unanimity; the same shall apply to States signatory to any partial agreements involved on behalf of either of the two belligerents, unless the remaining Members of the Council shall decide otherwise.

"Article 5. — The High Contracting Parties undertake to furnish one another mutually with assistance in the case referred to in Article 2 of the Treaty in the form determined by the Council of the League of Nations as the most effective, and to take all appropriate measures without delay in the order of urgency demanded by the circumstances.

"In particular, the Council may:

"(a) Decide to apply immediately to the aggressor State the economic sanctions contemplated by Article 16 of the Covenant, the Members of the League not signatory to the present Treaty not being, however, bound by this decision, except in the case where the State attacked is entitled to avail itself of the Articles of the Covenant;

"(b) Invite by name the High Contracting Parties whose assistance it requires. No High Contracting Party situated in a continent other than that in which operations will take place shall, in principle, be required to co-operate in military, naval or air operations;

"(c) Determine the forces which each State furnishing assistance shall place at its disposal;

"(d) Prescribe all necessary measures for securing priority for the communications and transport connected with the operations;

"(e) Prepare a plan for financial co-operation among the High Contracting Parties with a view to providing for the State attacked and for the States furnishing assistance the funds which they require for the operations;

"(f) Appoint the Higher Command and establish the object and nature of his duty.

"The representatives of States recognised as aggressors under the provisions of Article 4 of the Treaty shall not take part in the deliberations of the Council specified in this article. The High Contracting Parties which are required by the Council to furnish assistance in accordance with sub-paragraph (b) shall, on the other hand, be considered as especially interested and, as such, be invited to send representatives, unless they are already represented, to the deliberations specified in sub-paragraphs (c), (d), (e) and (f).

Without attempting an analysis of these provisions, or of other provisions of the draft Treaty, it is quite apparent that its fundamental principle is to provide guarantees of mutual
assistance and to establish the competency of the Council of the League of Nations with respect to the decisions contemplated, and, in view of the constitutional organisation of this Government and of the fact that the United States is not a Member of the League of Nations, this Government would find it impossible to give its adherence.

The Government of the United States has not failed to note that, under Article 17 of the draft Treaty, "any State may, with the consent of the Council of the League, notify its conditional or partial adherence to the provisions of this Treaty, provided always that such State has reduced or is prepared to reduce its armaments in conformity with the provisions of this Treaty," but it would not serve a useful purpose to consider the question of a conditional or partial adherence on the part of the Government of the United States when the conditions imposed would of necessity be of such a character as to deprive adherence of any substantial effect.

REPLY FROM THE AUSTRALIAN GOVERNMENT.

Melbourne, July 4th, 1924.

The Commonwealth Government has given most careful consideration to the draft Treaty of Mutual Assistance and other relevant documents forwarded with your letter C.L. 105. 1923. IX of October 25th, 1923.

The Commonwealth Government earnestly desires to assist in every way to secure the maintenance of world peace, and realises that a general reduction of armaments is essential as a preliminary step in the pursuit of this objective.

As regards the application of this principle to Australia, it may be stated definitely that, being a young country, Australia, in the adoption of measures for her own defence, has not yet attained the lowest point consistent with national safety; and therefore the obligation relating to reduction or limitation of armaments is without that special significance for us which it has for other and older States.

The particular national and geographical situation of Australia needs emphasis. We are a small population, forming part of the British Empire and occupying a continent; and in this respect our position is entirely different from that of any European State. It follows that any treaty of mutual assistance specially designed to meet European conditions could be made applicable to Australia only after considerable reservation. This latter observation is specially warranted, in view of the provisions of Article 5 (b) of the draft Treaty, from which it must be inferred that the Continent of Europe was chiefly in mind when the Treaty was being drafted.

Resolution XIV of the third Assembly affirms the undeniable proposition that, in the present state of the world, serious reduction of armaments can only be accepted in exchange for a satisfactory guarantee of safety; and it is in the light of this proposition that the Government of the Commonwealth of Australia has approached this important question.

The obligations of the draft Treaty, concisely stated, are:

(a) To reduce armaments in return for a guarantee of security;
(b) To keep a striking force available for duty at the call of the League,

and the provisions of Article 5 (b) of the Treaty have a special significance for Australia in this connection, in as much as they take no account of the fact that she is the sole occupant of a continent.

Article 5 (b) provides:

"In particular the Council may invoke by name the High Contracting Parties whose assistance it requires. No High Contracting Party situated in a continent other than that in which operations will take place shall, in principle, be required to co-operate in military, naval or air operations."

The result of this article, in its application to Australia, is that no nation signatory to this Treaty would be under any obligation to come to the assistance of Australia if she were attacked, and Australia herself would not be obliged to render assistance to anybody. In other words, there is neither obligation to assist nor guarantee of receiving assistance so far as Australia is concerned.

Additionally, the following views are expressed in connection with certain other provisions of the Treaty.

Article 5 of the draft Treaty, which authorises the Council to take measures and give directions, goes far beyond the provisions of Article 16 of the Covenant, under which the Council may only recommend action.

The proposal in Article 6 for complementary defensive agreements between individual Members of the League is an indication that the general treaty by itself would not be fully effective. Apart from other objections to this system of partial treaties, it is very difficult to see what part Australia could have in the linking-up of these treaties.
The question whether it would be possible for the Council to determine, within four days of the notification of hostilities, which nation is the aggressor is a most important one. The uncertainty of agreement on this matter within the prescribed time, or at all, seriously jeopardises the effective use of forces at the disposal of the League.

The foregoing are the main reasons why this draft Treaty is not acceptable to the Common wealth Government. The Government thinks, however, that useful avenues of enquiry have been opened up by the report. That this particular scheme of international guarantees does not prove acceptable need not discourage the friends of the League. The League has done, and can still do, much to concentrate the moral force of the world on the urgent necessity for the solution of this great problem, and to devise means to that end.

(Signed) S. M. Bruce,
Prime Minister.

REPLY FROM THE BRITISH GOVERNMENT.

London, July 5th, 1924.

His Majesty's Government have examined with the utmost care the report of the Third Committee of the fourth Assembly, the resolution of the fourth Assembly of the League of Nations and the report for 1923 of the Temporary Mixed Commission on the reduction of armaments, together with the other documents enclosed in your letter of October 25th, 1923. They desire to place on record their appreciation of the prolonged and exhaustive investigations which have been made into the important subject of treaties of mutual assistance as a step towards the reduction or limitation of armaments.

2. There is no question to which His Majesty's Government attach greater importance than the reduction or limitation of armaments, for they recognise that, as stated in Article 8 of the Covenant, the maintenance of peace, which is the principal object of the League of Nations, requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations. For this very reason, they hold that any measures designed to bring about the reduction or limitation of armaments must be subjected to the most careful scrutiny before adoption. No greater calamity to the cause which they have at heart can be imagined than that any scheme adopted by the League should, when submitted to the test of reality, fail owing to defects which ought to have been foreseen in advance. It is vital, therefore, that, before the League of Nations takes the responsibility of making any recommendations to its Members, it should satisfy itself that the scheme recommended is in all respects reliable and effective.

3. Out of the twenty-six nations whose replies are published with the report of the Temporary Mixed Commission, only a very small number are able to express unqualified acceptance of Resolution XIV adopted at the third session of the Assembly, which forms the basis of the reports now under consideration. The objections to the various proposals for treaties of mutual guarantee or assistance which have been considered by the League are to be found in the report of the Third Committee itself, as well as in the reports of experts and the opinions of Governments included in the documents circulated to Members of the League. From these detailed criticisms there emerge certain objections of principle which up to the present time do not appear to have been adequately met.

4. The main criticisms of the proposed treaty fall under two heads, which may be expressed in an interrogative form: Are the guarantees contained therein sufficient to justify a State in reducing its armaments? Are the obligations to be undertaken towards other States of such a nature that the nations of the world can conscientiously engage to carry them out?

5. In regard to the first group of criticisms, it is generally conceded that if a treaty of mutual assistance is to prove effective in bringing about a reduction of armaments, its stipulations must be such that the parties thereto can assume with absolute confidence not only that in the contingencies for which it provides it will be brought into operation with certainty, but also that it will effectually accomplish its purpose.

6. The effectiveness of the scheme will be seen to depend to a considerable extent on the ability of the Council of the League to determine, by unanimous vote of all Members not concerned in the dispute, which nation is the aggressor. This difficult question has to be settled within a period of four days from the notification of hostilities to the Secretary-General. It is unnecessary here to deal at length with the difficulties which might confront the Council in reaching agreement on such a point within the stipulated time, or the likelihood that unanimity might never be reached at all on a really controversial issue, since these considerations are fully discussed in the documents circulated to the various Governments.

In this connection, the "commentary on the definition of a 'case of aggression'" drawn up by a Special Committee of the Temporary Mixed Commission, in collaboration with certain technical members of the Permanent Advisory Commission, is of great interest. The commentary does not provide a solution of the difficulty. It is stated therein more than once that no satisfactory definition of what constitutes an "act of aggression" could be drawn up...
Consequently, the report does not provide that element of certainty and reliability which is essential if the League of Nations is to recommend the adoption of the treaty by its Members as a basis for reduction in armaments.

7. Another important objection of principle is the long delay which is liable to occur before the forces at the disposal of the League of Nations can be brought into effective operation against an aggressor State. It is not until after the determination by the Council of the question which State is the aggressor, which is likely to occupy the whole of the four days permitted by the draft Treaty, that the Council can begin to take the necessary steps for bringing pressure, whether military or economic, to bear on the aggressor. Economic pressure is admittedly slow in operation. As regards military pressure, all the technical experts who have advised the organs of the League on the subject are agreed that no military assistance can be considered immediate and effective unless it be given in accordance with a pre-arranged plan. It is obvious, however, and was recognised by the Third Committee of the fourth Assembly, that in the case of a general treaty of assistance plans can rarely be pre-arranged. They would therefore have to be drawn up, after the question which was the aggressor State had been determined, by the naval, military or air officers designated by the Council of the League to command the international forces. The experience of the recent world-war does not justify the assumption that where the forces of several nations are involved the immediate acceptance, much less the rapid execution, of plans of operations can with certainty be counted on. The possibility will always exist that the States most favourably situated for providing the necessary force may at a given moment not be in a position to do so, owing to commitments elsewhere, the state of public opinion, or the political condition of the country at the time. The appointment of the higher command will itself involve delay. The Council will have great difficulty in reaching a unanimous decision, for each nation places its troops under a foreign command without very careful considerations. A system which involves prolonged delays before the first step in bringing military pressure to bear on an aggressor nation can be taken does not reach that standard of effectiveness which is essential.

8. The necessary measures to carry the general guarantees into effect are, moreover, made dependent upon the explicit consent of each individual State which may be called upon to render assistance as a permanent or ad hoc Member of the Council. This consideration can but strengthen His Majesty's Government in the view that the guarantee afforded by the draft Treaty is so precarious that no responsible Government will feel justified in consenting to any material reduction of its armaments in return. If, as His Majesty's Government feel convinced, this is the case, the whole object of the Treaty is lost and its conclusion is hopeless. His Majesty's Government, indeed, go further. They are persuaded, after careful examination of the draft scheme, that, if the obligations created by the Treaty be scrupulously carried out, they will involve an increase rather than a decrease in British armaments. The report of the Temporary Mixed Commission for 1922 stated that, "in the case of armed assistance, certain forces, such as aircraft and warships, are the most readily available and therefore the most likely to be asked for and to be effective in the initial stages of the war". It is the considered opinion of the British Naval Staff that a treaty such as is proposed will, if properly carried out, necessitate an increase in the British naval forces. His Majesty's Government cannot avoid the belief that the position will be the same in other countries.

9. It was owing to the recognition of the defects inherent in any general treaty of mutual assistance that the proposal was made to super-impose on a general treaty a system of partial treaties between groups of countries. It has been urged against such partial treaties that their conclusion by one group of States is likely to bring about the formation of competing groups, and that the result will be a reappearance of the former system of alliances and counter-alliances, which in the past has proved such a serious menace to the peace of the world. The proposal to meet this objection by bringing the partial treaties under the control of the League of Nations does not overcome the difficulty, particularly so long as important nations remain outside the League, and His Majesty's Government cannot but recognise the force of the above criticism.

10. A further objection to the scheme for partial treaties to be embodied in the Treaty of Mutual Assistance is the opening that would be afforded for conflict between the Council of the League and individual Governments. Under Article 4 of the draft Treaty it will be the duty of the Council to decide which of two belligerents is the aggressor. Under Article 8, States parties to a partial treaty will be at liberty to decide the point for themselves, before it is decided by the Council. The possibility of disagreement between the Council and States between which a partial treaty is operative is one which cannot be contemplated with equanimity.

11. The obligations involved in the proposed treaty are of such a nature that several of the nations whose opinions are forwarded with the report of the Temporary Mixed Commission have been unable to accept them. In this connection, His Majesty's Government desire to draw particular attention to the following extract from a letter to the Secretary-General of the League from the Government of Canada, dated June 19th, 1923:

"It is intended that the obligation to render assistance shall be limited in principle to those countries situated in the same part of the globe. While Canada is situated in the North-American Continent, she is a nation forming part of the British Empire, and it seems difficult to devise a scheme which would give due effect to these conflicting
considerations. In any case, it seems very unlikely that the Canadian people in the present circumstances would be prepared to consent to any agreement binding Canada to give assistance as proposed to other nations, and the Government therefore does not see its way to a participation in the Treaty of Mutual Guarantee.

12. The draft Treaty further appears to involve an undesirable extension of the functions of the Council of the League. Under Article 16 of the Covenant, the Council can only recommend action, while even under Article 10 it can only advise. By Article 5 of the draft Treaty, the Council is authorised to decide to adopt various measures. Thus the Council would become an executive body with very large powers, instead of an advisory body. In any event, the Council of the League is a most inappropriate body to be entrusted with the control of military forces in operation against any particular State or States.

13. For the reasons which have been enumerated, the draft Treaty, in the eyes of His Majesty’s Government, holds out no serious prospect of advantage sufficient to compensate the world for the immense complication of international relations which it would create, the uncertainty of the practical effect of its clauses, and the consequent difficulty of conducting national policy.

14. His Majesty’s Government, therefore, have come to the conclusion that the adoption of the text included in the report of the Third Committee of the fourth Assembly cannot be recommended. They are, however, far from admitting that the careful study of these questions has been fruitless. The years of patient investigation which have been devoted to this subject by the various organs of the League are themselves a proof of the desire of nations Members of the League to find a solution to the difficult question of reduction and limitation of armaments. This sentiment finds strong expression in practically all the replies of the various nations published with the report of the Temporary Mixed Commission. If this study has not so far resulted in the submission of a draft treaty of mutual assistance in an acceptable form, the reports which have been under consideration nevertheless contain some encouraging and suggestive passages as to other lines of enquiry which might be followed with useful results.

15. It is the policy of His Majesty’s Government that, whenever a favourable opportunity presents itself, the Governments of the world should meet in conference with the object of devising a scheme or schemes for the reduction of armaments. Such a conference should include the Governments of countries which are not yet Members of the League, and which are therefore not represented at the Assembly. At this conference every suggestion for the reduction of armaments, including the suggestion contained in the proposed Treaty of Mutual Assistance, would be open on its merits for full exploration and examination, and His Majesty’s Government, in finding themselves unable to support the proposal submitted by the Third Committee of the fourth Assembly, desire to make it clear that there is no intention to prejudge in any way the further consideration of the proposed Treaty by the conference, which it is their policy to bring together, or help to bring together, whenever a favourable opportunity is presented. It is not within the province of His Majesty’s Government, nor would it be wise on the present occasion, to attempt to formulate anything in the nature of an exhaustive category of the proposals which may be brought before such a conference. Among constructive proposals which have been already discussed are those defining zones of demilitarisation between States, safeguarding special frontiers under some form of international control, granting further powers to the International Court, and so on. His Majesty’s Government believe that they ought to keep themselves free to consider any and every practicable proposal, and commit themselves at present only to a pledge to do everything in their power to bring about agreements that will have as an immediate effect a substantial reduction in armaments. On the practical side, it is noticeable that an advance in the reduction of armaments has already been made in Central and South America, and in the carrying-out of the recommendations of the Washington Conference.

(Signed) J. Ramsay MacDONALD,
Prime Minister.

REPLY FROM THE CANADIAN GOVERNMENT.

Ottawa, July 9th, 1924.

The Canadian Government has very earnestly considered the proposed Treaty of Mutual Assistance submitted to it by you in your communications of October 25th, 1923, and April 11th, 1924, and has also examined the documents accompanying the draft. Realising the vital importance of the subject and the devoted labour the formulation of the draft Treaty has entailed, and notwithstanding its profound sympathy with the objects sought to be attained, the Canadian Government finds itself unable to conclude that these objects would be
promoted by the arrangement suggested. It concurs generally with the conclusions on the subject expressed by the Government of Great Britain and submits only the following brief observations.

The position of Canada in the British Empire is such that, in spite of the fact that the application of the Treaty to the continent of North America is by its terms conditioned upon its ratification by the United States of America, the question of Canada's adherence to it has a more practical aspect than it would otherwise have. Apart from indications that the Government of the United States of America was likely to find the plan acceptable in principle, Canada has already indicated disapproval of the interpretation of the terms of Article 10 of the Covenant as implying an obligation upon her to intervene actively under that article. The proposed Treaty creates an obligation wider in its extent and more precise in its implications than any which Article 10 could be interpreted as imposing, and it proposes, moreover, to transfer the right to decide upon the scope of the action Canada should take from the Canadian Parliament to the Council of the League of Nations. It is true that, for the purpose of deciding upon the assistance to be given by Canada, the Council would include a Canadian representative and that the draft limits the liability of a signatory in another continent to measures not involving naval, military or air operations. But the presence of a Canadian representative on the Council would hardly compensate for the, at least nominal, transfer of authority, and, again, Canada's position in the British Empire affects the protection afforded her by the continental limitation of which in any event the utility is uncertain since it appears doubtful if hostile action can widely or indeed safely be undertaken by any State upon the principle of limited liability.

For these reasons and those expressed in the communication of the Government of Great Britain above referred to, the Canadian Government is of the opinion that the nature of the proposed Treaty is such that so far as it purports to impose a future obligation to take specific action in circumstances incapable of present definition, it would be hopeless to expect the people of Canada to accept it, and it is also of opinion that, even if those provisions of the draft were generally approved and brought into operation, their effect would neither be to minimise the danger of war nor to bring about any useful limitation of armaments. On the other hand, the Canadian Government considers that every extension by general agreement of the facilities for formal, regular, early and informed public discussion of possible causes of war is to be welcomed. It omits to deal more at large with such of the provisions of the draft Treaty as appear to be designed to bring about such an extension only because it conceives that those would not appear in their present form if the draft were confined to provisions of that character.

(Signed) Mackenzie King,
Prime Minister.

REPLY FROM THE GERMAN GOVERNMENT.

[Translation from the German.]

Berlin, July 24th, 1924.

The German Government has examined with interest the draft of a treaty of mutual assistance which you forwarded to it in your letter of January 9th, 1924. In view of the great importance of the problem dealt with in the draft, the Government considered it advisable to obtain the views on the matter of certain German experts of repute. These experts, viz.: Professor Hoetzsh, Member of the Reichstag; Professor Kaas, Prelate and Member of the Reichstag; Professor Kahl (Geheimer Justizrat), Member of the Reichstag; Dr. Krieger (Wirklicher Geheimer Rat), Ministerial Director; Professor Meinecke (Geheimer Regierungsrat); Count Montgelas, Infantry General, retired; Dr. Schiffer, former Minister of the Reich and Member of the Reichstag; and Professor Schücking, Member of the Reichstag; have embodied the results of their investigation in a memorandum. In forwarding this memorandum to you, I have the honour to observe that the views to which expression is given therein are also the views of the German Government.

(Signed) Stresemann.

The draft of a Treaty of Mutual Assistance submitted to us is dominated by the idea of disarmament which the League of Nations has hitherto been unable to realise. In its opening sentence, the Covenant of the League of Nations incorporated in the Treaty of Versailles sets forth as its object the promotion of "international co-operation" and the achievement of "international peace and security by the acceptance of obligations not to resort to war". According to Article 8 and the Preamble to Part V of the Treaty of Versailles, the demand for "a general limitation of the armaments of all nations" shall serve to effect the realisation of this main motive. In order to render the nations capable and willing to fulfil this demand, a scheme is placed at their disposal for the peaceful settlement of their
disputes, and arrangements are, at the same time, made for opposing with united forces any party who shall evade or ignore their obligations and resort instead to arms. This scheme, however, has not proved effective. The contractual disarmament provided for has not materialised. There are serious gaps in the legal protection afforded by the Covenant. In many cases it tolerates war or the use of force; and it fails to provide adequate guarantees that, in the event of illicit war, the culpable party shall be disabled with sufficient rapidity.

This shortcoming the draft under consideration seeks to make good by proceeding from the new starting-point that aggressive warfare must be prohibited and that the nature of aggression is declared in principle to be an international crime and is categorically interdicted. The object of such a war is assured of the speediest assistance against the aggressor. The assurance of this assistance is to involve the obligation to proceed to the reduction or limitation of one's own armaments and to co-operate in the construction of a general scheme of disarmament. Moreover, protection against an aggressor is immediately coupled with the disarmament which it is intended to render possible, so that it is only to be accorded if the party menaced has fulfilled the stipulations concerning the reduction or limitation of armaments. Furthermore, the object of such a war is assured of the speediest assistance against the aggressor.

The object of this draft treaty is thus clearly defined. Its significance and value are beyond all manner of doubt. But whether the method adopted for the achievement of that object is practicable and appropriate is open to serious question.

For intervention on the part of the contracting parties, the war must be shown to be a war of aggression. But, save for the purely negative definition contained in Article 1, paragraph 2, the draft gives no interpretation of the term. Nor is it, indeed, able to give such an interpretation. The question who is the aggressor in a war — just like the question who is responsible for a war — cannot, as a rule, be answered according to the immediate and superficial features of the case; it is a problem which can be solved only after careful recognition and appreciation of all the many intrinsic and extrinsic factors which have contributed to originate it. Its solution involves a task of historic research and the application of international law, and this, in its turn, implies the reference to all sources, the disclosure of all records, the examination of witnesses and experts, as well as the taking of all sorts of other evidence. This demands time — an amount of time, indeed, which only scientific enquiry can assume. But, in the case before us, the verdict would have to be pronounced forthwith; for hereupon would depend the intervention, and upon the speediness of the intervention its very success.

Looked at, therefore, from this point of view, it appears absolutely logical that the draft treaty appoints a period of only four days for the decision. But the logic of this stipulation does not, in any way, alter the fact that, in the great majority of cases, it would be impossible to issue a decision of an objectively exhaustive and conclusive character within such a limited period. This impossibility is not lessened but only enhanced by the character of the organ to be entrusted with making the decision. This organ is to be the Council of the League of Nations. Its members are chosen with a political perspective; they act, not according to their own convictions and free judgment, but on the instructions of their respective Governments. Their votes are accordingly influenced by the special political interests of their various countries, and any resolution adopted bears the nature not of an impartial verdict but of a political decree. True, the immediately interested parties will have no vote (it is to be assumed that this applies also to the States regularly represented on the Council, though the draft treaty only expressly excludes from voting States not represented on the Council and merely admitted to the proceedings in special cases). But with the interlocking of political relations the interests of a Power immediately concerned will very frequently be safeguarded by other Powers not directly involved. This heightens the danger of no decision whatever being reached, inasmuch as it must be unanimously adopted. A single partisan of the aggressor will suffice to prevent the latter from being subjected to an adversarial decision and effectively to nullify the entire claim to assistance on the part of the party attacked. On the other hand, the Council of the League of Nations is given the control of economic, military, communicational and financial measures of an incisive character, and is thereby placed in a position to dictate to the individual States participation in a coalition war with the ultimate result that the effects of the war may be more serious for these participants than for the original parties to the dispute.

To entrust a body of purely political orientation with such enormous powers is a very hazardous proceeding. But the situation becomes still more serious when, instead of action being taken by the Council of the League of Nations itself, the parties to the complementary defensive agreements permitted by the draft treaty adopt the initiative. Where such a complementary agreement has been concluded, the separate allies who, by virtue of their agreement, hold a partisan position from the very outset, are ipso facto legitimised to declare the case for assistance as established and to act accordingly. True, they must in this case inform the Council of the League of Nations without delay of the steps they have taken, but this power is then to consider the situation just as it would have done it it had dealt with it from the first. But even if it should unanimously adopt a resolution contrary to the decision of the separate allies — which as regards a coalition of any significance and the actual situation created by it would certainly be a very rare occurrence — practically it would scarcely be possible to direct those who had hitherto marched as the confederates of one party into the camp of the other.

Considering the unequal status of armaments now prevailing, especially on the European continent, the military action provided for in the draft will be absolutely unfeasible in the event of an illegal attack being made by a strong military Power, not to speak of a group
of strong military Powers allied by special agreement. The assistance provided for in the draft treaty will not be feasible until the inequalities of the status of armament have been removed by raising the standard of permissible armament in one direction and lowering it in another according to objectively ascertained requirements. But, as a matter of fact, in this direction the draft treaty contents itself with taking no steps; it leaves it entirely to the personal judgment of the various contracting parties to decide the extent to which they will reduce or limit their armaments and give their assent to the general scheme of disarmament.

It is also left to free agreement between contiguous States to establish demilitarised zones. While the draft treaty rightly demands that no "unilateral sacrifice from the military point of view" shall be required on the part of one of the interested Powers, a mechanical special equality will nevertheless not suffice, since consideration must be given to the difference of the circumstances decisive for military operations. Apart from local, natural and artificial conditions, this difference will also noticeably exist in the disproportion of armaments.

Keeping all this in view, it is difficult to recognise in the draft treaty any progress as compared with the Covenant. Frequently, indeed, the contrary appears to be the case in regard to inherent ideas. This is particularly so with the complementary defensive agreements, which, though they have perhaps their formal authorization, Article 21 of the Covenant, are something materially different from the special agreements permitted by that article and contravene, indeed, the very spirit of the Covenant. Their admission means practically the sanctioning of the existing system of group alliances and military conventions, the system of secret diplomacy and the balance-of-power policy; consequently it would form a serious menace to the peace of the world; for a State against which such a special agreement is directed would feel itself to be continually threatened and in its turn would endeavour to protect itself by military agreements with other States; in other words, military conventions challenge the conclusion of fresh military conventions and render illusory the leading notion of the League of Nations, which is to replace the grouping of Powers by international organisation.

It must further be remembered that the contracting parties of the proposed Treaty of Mutual Assistance and the Members of the League of Nations will not, by any means, necessarily be identical. Consequently, the simultaneous existence of the new treaty and of the Covenant would create a most awkward uncertainty as to the competency of the two. In stressing the fact that its articles do not in any way affect the rights and duties emanating from the Covenant of the League of Nations, the draft treaty reveals the difficult complications which must arise from a State being a Member of the League of Nations, a signatory of the Treaty of Mutual Assistance, a party to a complementary defensive agreement — or to several such agreements — or being able to make use of the right to declare its merely conditional or partial adherence to the draft treaty. Under these circumstances, it is clearly a tempting and easy matter for a State to evade its obligations by playing off the articles of the one treaty against those of the other.

But, further, the Treaty is to leave unaffected not only the Covenant of the League of Nations but also the Treaties of Versailles, Neuilly, St. Germain and Trianon. If, therefore, Germany were to adhere to the new treaty, her situation would be intolerably ambiguous and would involve her in well-nigh incalculable danger. Disarmed almost to the point of impotency, she would have to reckon with being drawn resistless and defenceless into all sorts of conflicts, and to look on while her unprotected territory became the battlefield of foreign Powers. The mere fulfilment of the obligation to permit transit and traffic through the country to one party would render her a prey to the other, inasmuch as the latter would be given a convenient pretext for treating her as an enemy State. The fact, moreover, that her adherence would require a two-thirds majority of the votes of the principal contracting parties reveals even more drastically the disproportion between the adverse character of the conditions under which Germany could join and the advantages which might accrue to her from doing so.

If we really wish to promote that realisation of disarmament, of such essential import to the League of Nations, we must not follow the lines laid down in the new draft treaty. They are lines which neither touch nor run parallel with the principles of the Covenant but which diverge further and further from them. Only an organic development of the Covenant can bring success — not a heterogeneous adjunct thereto. What we need is not an accumulation of treaties and agreements side by side with the Covenant but an intensification and refinement of the Covenant itself. This development cannot be achieved by opposing force to force. Illegal force will only be driven from the world by opposing it with justice whereby the force employed to meet injustice will be justified and hallowed. Forbidden the forcible settlement of disputes; forbid the forcible attempt to obtain one's supposed rights altogether. Interdict all special agreements which shelve or contravene the general treaty. Remove all hindrances left by former treaties. Side by side with the Court of International Justice for purely legal disputes, create a court of arbitration for political conflicts and endow it with every guarantee for the juridical independence of its members. Decree compulsory adherence thereto as well as to the Permanent Court of International Justice. Endow both courts with the right and the duty to issue provisional measures uti possidetis, especially in reference to the ostensibly peaceful occupation of foreign territory. An organ which shall oppose the peace-breaker with the weight of the League of Nations in order to carry into effect the decrees and all other decisions of the Court of Arbitration and of the Court of International