LEAGUE OF NATIONS

Conference for the Reduction and Limitation of Armaments

REPORT SUBMITTED TO THE BUREAU ON THE

QUESTION OF SUPERVISION

In Execution of the Decision taken on September 22nd, 1932.

Rapporteur: M. BOURQUIN (Belgium).

TASK OF THE BUREAU.

1. In its resolution of July 23rd, the General Commission decided that there should be set up "a Permanent Disarmament Commission with the constitution, rights and duties generally as outlined in Part VI of the draft Convention submitted by the Preparatory Commission for the Disarmament Conference, with such extension of its powers as may be deemed by the Conference necessary to enable the Convention to be effectively applied". It furthermore requested the Bureau to pursue the study and preparation of this question, so as to be able to submit definite proposals to it when it resumed its work.

2. The extent of our terms of reference is thus fixed. It will be seen from the foregoing that the creation of a Permanent Disarmament Commission has already been decided upon. This is a point which we must therefore consider as settled.

On the other hand, in all that concerns the "constitution" and the rights and duties of this Commission, the resolution grants us greater freedom and imposes no formal solution upon us. It gives us some guidance however, first, by indicating to us as a fundamental source of inspiration the draft Convention adopted by the Preparatory Commission, and, secondly, by accepting in advance any such "extension of powers as may be deemed by the Conference necessary to enable the Convention to be effectively applied"—from which it may no doubt be legitimately concluded that, in its opinion, the draft Convention-representes, in this respect, a minimum below which we must not go.

3. If the subject-matter thus submitted to our judgment has its limits, it nevertheless remains considerable, particularly as the question is an essential one, not only for the execution of the forthcoming Convention, but also for the future of disarmament. Consequently, every aspect of this question and every factor connected with it assume a genuine importance and deserve the most serious attention.

PURPOSE OF THIS REPORT.

4. The aim of the present report is to distinguish these factors and to prepare for each of them a table of the proposals and suggestions which have been put forward in relation to them.

The report contains no conclusions properly so called. It would have been premature to submit any such conclusions, for at present they would necessarily have too subjective a character. Before they can be formulated, we must await the debate which will be held in the Bureau and of which they will constitute the results.

The Rapporteur's task was therefore confined to preparing the work and to performing functions of documentation and classification, thus enabling the examination of the question to be approached with sufficient precision and clearness.
5. The material he has used was supplied to him, in the first place, by the work of the Preparatory Commission, and particularly by the draft Convention, which was its outcome; in the second place, by the speeches made at the Conference and the proposals formally submitted thereto; and, lastly, by the views ascertained in the course of conversations with a certain number of delegations.

6. These conversations gave him the impression that, despite certain differences of opinion, an agreement could comparatively easily be reached on the different questions to be solved. He has not thought it incompatible with his duty of impartiality to indicate at this moment the unanimous, or at any rate general, favour which a particular solution seemed to him to meet with in the view of those with whom he conversed, or the arguments which he heard expressed for or against a particular formula; for these are simply statements of fact, and cannot but simplify the debate.

PLAN OF THE REPORT.

7. The creation of a permanent disarmament institution having been decided upon, it remains to be determined:
(a) What will be its attributions?
(b) What means it will have at its disposal to exercise them?
(c) What will be its composition?
(d) Lastly, how will it function?

The different points to be considered will be reviewed under these four headings.

I. ATTRIBUTIONS.

Draft Convention.

8. Everyone is agreed in assigning to the Permanent Commission a function of supervision and control. This is the idea expressed in Article 40 of the draft Convention, under which the Commission is entrusted "with the duty of following the execution of the present Convention".

9. But the principle thus formulated calls for certain amplifications. How and in what circumstances will the Commission fulfil the task which has thus been entrusted to it?
To this question the draft Convention supplies a twofold reply.
Its Article 49 organises what might be called the Commission's normal action.
Its Article 52 provides for the Commission's intervention in the exceptional case of a complaint being directed against one of the parties for violation or attempted violation of the Convention.

10. Article 49 enjoins the Commission to draw up reports at least once a year on the manner in which the contracting parties have carried out their undertakings, utilising for this purpose all the information submitted to it in virtue of the Convention, or which the Convention allows it to procure.
These reports are to be addressed both to the Council of the League of Nations and to all the signatory States. They must, moreover, be published (Article 48). It should further be noted that the Commission must not confine itself to inserting therein mere statements of fact. Its powers are wider, and it is authorised to express opinions, criticisms and recommendations.
Possibly the text of Article 49 is not very explicit in this respect. But the report which accompanies it (see C.690.M.289.1930.IX) leaves no doubt on the point. It says (No. 249): "To examine and judge this information is looked upon as the Permanent Commission's normal function. It is in fulfilling this function that the Commission will become an essential factor in the system of the Convention, being responsible for watching its application, regularly reporting on the situation, and calling attention, where necessary, to any errors and omissions which experience may have revealed in the text in force."

11. The Commission furthermore plays an important part in the procedure regarding complaints, as laid down in Articles 51 and 52 of the draft.
The matter having been laid before it through the Secretary-General of the League of Nations (Article 52, paragraph 1), the Commission proceeds to an investigation, hears the explanations of the parties concerned, and embodies in a report the conclusions which seem to it to arise out of the facts adduced before it—these opinions, it is true, having the character of a mere advisory opinion, from which the contracting States on the one hand and the Council of the League of Nations on the other will draw such political consequences as they are able.

12. It might be asked whether a similar intervention would not be justified in the case provided for in Article 50, which is that of temporary derogations from the provisions of the Convention.
In such cases, however, the draft only gives a very subordinate rôle to the Permanent Commission. According to the system which it prescribes, temporary derogations are decided upon without previous authorisation by the very Powers availing themselves thereof. The
Permanent Commission merely receives notification of such derogations. As regards the political decisions which may be the consequence of a derogation, the contracting parties alone are qualified to determine them, no participation of the Commission being provided for in this respect, even in a purely advisory capacity.

The Bureau's attention had to be drawn to this point. But the time does not yet seem to have come to undertake a discussion of the provisions of Article 50. The very serious and delicate question of derogations is, indeed, closely bound up with other problems which are not under discussion for the moment. The duration of the Convention, procedure of revision, denunciation, derogations—all these form a series of interrelated questions which it would be dangerous to deal with separately.

Apart from the forms of supervision recalled above, the only other action which the Permanent Commission is called upon to take under the draft Convention concerns the opening of Revision Conferences.

The date of these conferences is fixed by the Council of the League of Nations after consultation with the signatory States and the Permanent Commission (Article 58).

Moreover—and this is more important—Article 59 lays down that, if "the conditions under which the engagements stipulated in the Convention were contracted have undergone, as the result of technical transformations or special circumstances, changes justifying a fresh examination and, if necessary, the revision of such engagements", the procedure of revision may be set in motion before the expiration of the normal time-limit, on condition that the request submitted for this purpose by a contracting party should meet with "the concurrence of the Permanent Disarmament Commission".

Here the Commission no longer confines itself to giving an opinion. It pronounces on the request which has been laid before it (report of the Preparatory Commission, No. 296).

But it appears unnecessary to emphasise this point further, for the observation which has just been made in connection with the procedure of "derogations" (12) also applies to that of "revisions". It is a problem which will have to be examined as a whole when the time comes.

Other Proposals.

Since the opening of the Conference, no proposal has been put forward tending to restrict the powers assigned to the Permanent Commission by the draft Convention.

On the other hand, we have received certain suggestions for supplementing and enlarging them.

Preparation for Revision Conferences.

One of these is to entrust the Permanent Commission with the preparation of Revision Conferences and consequently with the subsequent stages of disarmament.

This idea was expressed by the representatives of Norway and Switzerland in their speeches last February before the Plenary Conference (document Conf.D.99, pages 50 and 51). It is also contained in the draft Convention submitted to the Preparatory Commission on March 23rd, 1928, by the delegation of the Union of Soviet Socialist Republics, and again laid by that delegation on the table of the Conference on February 19th, 1932 (document Conf.D.99, pages 39 and following, Article 39 letter d).

The conversations which preceded the drawing up of this report satisfied me that this idea is viewed with favour. Not only did none of the delegates with whom I spoke make any objections, but they all agreed that, on the one hand, the preparation of Revision Conferences was a fundamental condition of their success; and that, on the other hand, nobody would be more qualified to undertake this preparation than the Permanent Commission, which would be called upon, in the exercise of its duties, to observe the application of the Disarmament Convention and thus discern its qualities, imperfections and deficiencies.

The Union of Soviet Socialist Republics' Draft.

The draft Convention submitted by the Soviet delegation, to which we have just alluded, here coincides with what may be regarded as the general views of the delegations represented on the Bureau. But the draft goes further and assigns to the Permanent Commission a series of powers which its Article 39 defines as follows:

"Within three months from the date of entry into force of the present Convention, a Permanent International Commission of Control shall be organised, with the following duties:

(a) The supervision, control and general co-ordination of the measures relating to the application of the present Convention, and the notification to each State of breaches of the provisions of the present Convention;

(b) The preparation of an agreement concerning the pressure to be brought to bear upon States which may fail to carry out the provisions of the present Convention and of the supplementary conventions and technical arrangements completing it;"
"(c) The selection of the places, the procedure and the technical conditions for the destruction of material, and the preparation of all the necessary supplementary technical agreements;

"(d) The study of questions relating to further reductions of armaments and the preparation of international agreements relating thereto;

"(e) Communication to the contracting States and the public of information concerning progress in the work of reducing armaments."

Preparation of Supplementary Executive Agreements.

18. Among the purposes thus enumerated there is one which seems to have attracted particular attention.

It may reasonably be presumed that the Convention as adopted by the Conference will need to be supplemented by executive agreements aiming, not at modifying it (which would involve a revision), but simply at defining the scope of its provisions or at ensuring their loyal application.

Many delegations are of opinion that the preparation of such agreements should be entrusted to the Commission, like the preparation of revisions of the Convention.

It should be noted that they have no idea of giving the Commission power to take binding decisions. Its task would be confined to the preparation of drafts, on which each of the signatory States would be free to pronounce finally.

II. — MEANS OF SUPERVISION.

Draft Convention.

19. The draft Convention defines as follows the sources of information on which the Permanent Commission will be able to draw in the exercise of its supervisory duties.

20. (a) Article 49, paragraph 1, lays it down that the Commission "shall receive all the information supplied by the High Contracting Parties to the Secretary-General of the League in pursuance of their international obligations in this regard".

It will be recalled that, under Part IV of the draft, the signatory States are obliged to forward to the Secretary-General of the League regularly each year various particulars corresponding to the different obligations assumed by them in the matter of disarmament.

According to the draft, it is to the periodic receipt of this information that the Commission will look for its essential and, as it were, normal means of following the operation of the Convention (cf. report of the Preparatory Commission, Nos. 244 and 250).

21. (b) But this source of information, however fundamental its importance, is not the only one which the Commission will be able to use. Article 46 provides that "each member of the Commission shall be entitled on his own responsibility to have any person heard or consulted who is in a position to throw any light on the question which is being examined by the Commission".

22. (c) Lastly, Article 49 to which reference has already been made employs a still more general and elastic expression and empowers the Commission to report upon "any other information that may reach it from a responsible source and that it may consider worthy of attention".

The significance which the authors of the draft intended to attach to this formula is defined in the Preparatory Commission's report (No. 250), the relevant passage of which it may not be out of place to reproduce here:

"In principle, the information in the Permanent Commission's possession will be sent to it through the Secretary-General of the League by the contracting parties in pursuance of their international obligations. It was thought advisable, however, that the Commission should be able to supplement these statements by information drawn from other sources. Here, however, a difficulty arose. It would be unwise to make this power so elastic as to be indefinite. There must be a certain weeding-out of the reports that might come before the Commission. Who is to do it? It was impossible to settle the matter in detail in the actual text of the Convention, which accordingly leaves the application of the principle to the Commission's own judgment and merely emphasises the fact that this power of discrimination should be exercised with caution. That is the effect of Article 49, which lays down that the 'other information' in question is that which 'may reach it from a responsible source' and which 'it may consider worthy of attention'. The Rules of Procedure will give a definition of what should be understood by such sources."

23. Such are the sources on which, under the draft Convention, the Commission will rely for the purposes of its reports. In the special case of a complaint to the Commission, Article 52 provides for the possibility of hearing a representative of the country whose action is questioned, together with any other country which may be specially concerned, which may be regarded to some extent as an additional means of obtaining information.
Other Proposals.

24. No suggestion has been put forward with a view to reducing in any way the means of supervision which the draft empowers the Commission to utilise. Moreover, as has already been pointed out (2), the General Commission, in its resolution of July 23rd, has already pronounced on this question in a manner which it would be difficult to reconcile with any such tendency.

As regards the system laid down in the draft Convention, the resolution contemplated, not a curtailment, but, on the contrary, an "extension of powers".

All the proposals on which the Bureau will be required to pronounce (apart from those recapitulated above, which were accepted by the Preparatory Commission) are in reality based upon this principle.

Supplementary Information which the Governments may be required to supply.

25. One such proposal which was brought up during my preliminary conversations and which appears to have met with universal approval can be directly incorporated in the existing mechanism of the draft Convention which it is merely designed to free from certain impediments.

The main source of information on which the Commission will be able to rely will consist of the particulars which the contracting States will be required to forward each year to the Secretary-General. These particulars are defined by the draft Convention with the greatest possible clarity and attention to detail in Part IV, to which are annexed a number of questionnaires in the form of tables which the Governments will be required to fill up.

It is clear that the time is not yet ripe for the discussion and perhaps modification of the provisions of Part IV of the draft. For the precise definition of the information to be exchanged is, in the very nature of things, dependent upon the obligations to be assumed by the signatory States for the reduction and limitation of their armaments. Not until the nature, character and extent of these obligations have been laid down will the Conference be in a position to define the particulars which will have to be supplied in regard to their execution. For the time being, it can merely be observed that, under Article 8, paragraph 6, of the Covenant, it is incumbent upon the Member States of the League to "interchange full and frank information as to the scale of their armaments, their military, naval and air programmes and the condition of such of their industries as are adaptable for warlike purposes".

But, whatever may be the decisions subsequently taken on this subject, it is to be feared that the written information sent to Geneva by the Governments on the basis of the forms annexed to Part IV will not at all suffice for the enlightenment of the Commission. Experience proves, indeed, that, however carefully drawn up, a questionnaire can frequently be interpreted in a variety of ways, and there is therefore a risk that the replies received by the Commission may prove inadequate and so lacking in homogeneity as to make comparison entirely impossible. It may, moreover, occur that certain governmental authorities, if only through carelessness, may not prepare the required returns with all the necessary care and accuracy.

The draft, however, contains no provision empowering the Commission to request the signatory States for such supplementary information as may be necessary to enable it fully to comprehend the particulars forwarded in the ordinary course and to bring them into line with the actual requirements of the Convention.

It appears likely that the omission of such a provision from the draft was quite unintentional; it is none the less real, and I found it to be the general consensus of opinion that this defect will have to be remedied if the Commission's work is not to be held up by continual obstacles.

Subject to drafting, the proposal which thus emerges aims at the incorporation in the text of a provision authorising the Permanent Commission to request the contracting countries to furnish it, either in writing or orally, with any additional explanations which it may require within the limits of the obligations which they assumed by signing the Convention. The words italicised in the above sentence are, it need hardly be said, of great importance, as they constitute a clear limitation upon the Commission's freedom of investigation. It was to this extent, and with the limitation mentioned, that this idea appears to have been generally accepted.

Local Investigations.

26. The draft Convention contains no clause authorising the Permanent Commission to conduct local enquiries. The common characteristic of the sources of information which the draft places at its disposal—and in this connection the new suggestion outlined above is no exception to the rule—is that they are all indirect. Whether dealing with written documents or verbal explanations, the Commission's only approach to the facts to be investigated is through the medium of another authority.

The view has long been expressed by several delegations that, at least in certain circumstances, such methods may prove inadequate, and that it would be highly desirable to provide for the possibility of direct investigations by which, in cases of doubt, the deficiencies of the normal procedure might be made good.

In other quarters, however, this method has from the outset met with a certain opposition, and been criticised as being both irritating and of doubtful efficacy.
It would appear, however, that, in this as in many other matters, the extreme views have been brought nearer together and it may be hoped, if not that complete unity of opinion will be spontaneously achieved, at least that a compromise may be found which will give due satisfaction to the wishes of some and the apprehensions of others.

27. None of the delegations with which I talked is systematically opposed to the idea of local investigations. Several of them, however, stated that it would be impossible for them to come to any definite decision in the matter until they were in possession of detailed information as to the manner in which the principle would be applied.

28. The problem of methods of application may be summarised under three heads:

(1) In what cases shall local investigations be permitted?
(2) Who is to decide that they shall be undertaken, and how will the decision be arrived at?
(3) How will the Commission of Enquiry be constituted?

29. On the first point, we have to deal with several suggestions which, in ascending order of severity, are as follows:

(a) Local investigations would only be possible at the request or, at the very least, with the consent of the country whose conduct is called into question and on whose territory the enquiry would be conducted.

No definite proposal has been made to this effect, but the idea was put forward in the course of the conversations which preceded the drafting of the present report.

30. (b) Local investigations might be conducted without the consent of the country whose action is questioned, but only if a complaint is lodged.

Those who advocate the above formula point out that the necessity of lodging a complaint affords full guarantees to those who fear that recourse might be had too frequently to direct investigation. By being subordinated to this condition, it is maintained, the procedure takes on a clearly exceptional character. The possibility of its employment nevertheless remedies what would otherwise be a serious defect in the system of supervision.

This was the basic conception of the preliminary draft submitted to the Preparatory Commission in 1927 by the French delegation (document C.P.D.45(d)).

31. (c) The Union of Soviet Socialist Republics delegation's draft, to which reference has already been made, goes even further. Its Article 43 is worded as follows:

"With a view to ensuring genuine control, the Permanent International Commission of Control shall be entitled to carry out investigations on the spot in the event of reasonable suspicion of a breach of the present Convention and of the subsequent supplementary Agreements on the reduction and limitation of armaments, and to appoint for this purpose special Commissions of Enquiry" (document Conf.D.99, page 47).

Under this suggestion, it will be noted, local investigation may be decided upon without a complaint having been lodged by one of the contracting countries against another. "Reasonable suspicion of a breach" will be sufficient, the matter being left to the discretion of the Commission.

32. (d) It has, lastly, been suggested—though no one has put forward a definite proposal to this effect—that Commissions of Enquiry shall visit the territory of all the contracting States in turn and as part of their normal duties.

It is maintained in support of this formula that it invests the method of direct investigation with a more normal and less irritating character by making it entirely independent of complaints and even suspicions.

It is important to note that, here, supervision by local investigation assumes much greater proportions than in the other systems, not merely on account of the regularity with which it would be exercised, but also because, being no longer bound up with the allegation of definite facts, it must embrace every factor in the observance of disarmament obligations, without distinction or reservation.

33. The second question which requires consideration is how and by whom it shall be decided that such investigations are to be undertaken.

It is difficult to conceive of this duty being entrusted to any other organ than the Permanent Commission. This, moreover, is the solution embodied both in the French preliminary draft of 1927 and the Soviet draft (Article 43 reproduced above).

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In the particular cases with which they deal the 1919-20 Treaties of Peace vested powers of this kind in the Council of the League of Nations; but, as the General Disarmament Convention is to apply to certain countries which are not Members of the League, it could hardly comprise a similar provision.

If it is assumed that these powers will be vested in the Permanent Commission, it remains to decide in what manner it will vote in coming to decisions in such matters.

On this point we have only a single proposal—that of the French preliminary draft of 1927, which adopts the rule of the two-thirds majority, not counting the votes of the countries concerned.

As regards the Soviet draft, it leaves the question for settlement in a supplementary agreement (Article 46).
34. As regards the composition of the Commission of Enquiry, the French preliminary draft of 1927 was worded as follows:

"The members of the Commission of Enquiry shall be selected by the Permanent Commission from a list of experts duly qualified in the different branches, subject to the limitations provided for in the present Treaty. The Permanent Commission shall also appoint the chairman of the Commission of Enquiry. The list of experts shall be drawn up in pursuance of the proposals of the Governments signatories of the present Treaty. "The State involved and the party making the application may only be represented on the Commission of Enquiry in a purely advisory capacity. "The experts appointed by the Permanent Commission may in no case be subject to the authority of any of the parties to the dispute."

This is the only definite proposal which has been put forward. (Cf. Article 412 of the Treaty of Versailles, which deals with the composition of the commissions of enquiry of the Labour Organisation.)

Workers' Supervision.

35. The Soviet draft provides for the organisation of special workers' supervision in certain factories. Article 44 of the draft is worded as follows:

"In enterprises for the production of war material or in enterprises capable of being utilised for the manufacture of armaments, a permanent labour control may be organised by the workers' committees of the factories or by other organs of the trade unions operating in the respective enterprises, with a view to limiting the possibility of breaches of the corresponding articles of the present Convention. "A similar control shall be set up in the various branches of the chemical industry, of which a list shall be drawn up by the Permanent International Commission of Control."

Denunciation of Infringements of the Convention.

36. In a speech delivered at the General Commission's meeting on July 22nd, Count Carton de Wiart, delegate of Belgium, drew his colleagues' attention to a clause which, in his opinion, should be added to the draft Convention, consisting of an undertaking on the part of all the contracting countries to refrain from inflicting penalties upon persons disclosing infringements of the Convention.

37. Judging by my conversations with those concerned, this idea would appear to have been favourably received.

Special Forms of Procedure.

38. Before concluding this chapter, one general observation must be made. The means of supervision which have just been reviewed and on which the Bureau will have to pronounce without delay do not necessarily exhaust the possibilities. It is, indeed, quite conceivable that the examination of a special question, such as that of chemical and bacteriological warfare, that of the manufacture of, and trade in, arms that of limitation of national defence expenditure, etc., will subsequently reveal the desirability of resorting, in such matters, to other methods of verification more in keeping with their special technical aspects.

It would appear essential that, when coming to a decision on the suggestions at present before it, the Bureau should make due provision for such a possibility.

III. — COMPOSITION.

Draft Convention.

39. The discussion of this question by the Preparatory Commission showed that opinions differed very widely and the final solution bears the mark of these divergent views. On the one hand, in certain respects, it is clearly a compromise. On the other hand, it is incomplete, and fails to settle certain important difficulties. Lastly, its adoption by a majority vote was accompanied by reservations.

40. The main features of the system adopted in the draft Convention are as follows:

(a) The Permanent Disarmament Commission will be a small Commission (Article 40);
(b) Its members, though appointed by the Governments, will not "represent" the latter, and may not be removed during their term of office (Article 40);
(c) Their number and of the Governments called upon to appoint them are to be determined by the Conference (Article 40);
(d) They may be assisted by technical experts (Article 40);
(e) Any contracting party not having a member of its nationality on the Commission will be entitled to send a member appointed for the purpose to sit at any meetings of the Commission during which a question specially affecting the interests of that party is considered (Article 44).

41. As the problem with which we are confronted is a somewhat complex one, it is necessary to single out its various aspects and examine them one by one.
42. The first question to be settled may be said to be whether the Permanent Commission should consist of Government delegates, or, on the contrary, of persons who are independent of their Governments. The satisfactory examination of the other difficulties appears to be impossible until a choice has been made between these two fundamental concepts.

43. The brief summary given above (40) shows that, in this connection, an intermediate and somewhat ambiguous attitude has been adopted in the draft Convention.

On the one hand, Governments are to appoint the members of the Commission; *ad hoc* members may be appointed to sit at any meetings during which questions specially affecting the interests of a State not having a member of its nationality on the Commission are considered; lastly, the Convention omits to state—and this omission is not the result of an oversight—that there is any incompatibility between membership of the Commission and the holding by a member of an office under his Government. All this certainly seems to point the way to a Commission consisting of Government delegates.

On the other hand, however, the text states that the members of the Commission will not "represent" the States by which they are appointed and, by the rule of irremovability, it obviously seeks to grant them a certain measure of independence—in accordance with the opposite concept.

In talking over the matter with delegates, I gathered that many of them regard this combination as a somewhat artificial one and do not believe that the precautions devised to prevent the members of the Commission from being—in fact, if not in law—the representatives of the Governments appointing them will be really effective.

44. The arguments put forward by the advocates of a Commission to consist of persons who are independent of their Governments appear to be of two kinds:

(a) Such persons would not bind the Governments and would thus be able to exercise more freely the supervisory functions with which the Permanent Commission will be entrusted;

(b) If, instead of directly appointing certain persons, the Conference merely selects the States called upon to designate the members of the Commission, uncertainty will prevail as to the essential part of its choice, since Governments change and, according to circumstances, the delegates of one and the same State may have widely different concepts and tendencies in the matter of disarmament.

45. Those who are in favour of a Commission consisting of Government delegates give the following reasons:

(a) The Permanent Commission, even in the discharge of its supervisory duties, will play a political part of such importance that it is impossible to ask Governments not to participate therein.

(b) This impossibility is made still more evident by the fact that, in all probability, the Commission will be called upon, not only to supervise the execution of the Convention, but to prepare supplementary technical agreements and future stages of disarmament. It is obvious that, if it is to be effective, this preparatory work must be entrusted to Government delegates.

(c) Lastly, the opposite system comes up against a practical difficulty. By whom are the members of the Commission to be appointed if not by the Governments? Apart from them, this task could only be entrusted to a permanent international body. This is the case, for instance, with the members of the Mandates Commission who are appointed by the League Council. But the situation with which we are dealing is an entirely different one, chiefly owing to the presence of States non-members of the League. The procedure adopted in the case of the Mandates Commission could not be applied to the Disarmament Commission.

46. Formulae have been suggested with a view to combining the two systems to some extent. One proposes that two commissions should, as it were, be superimposed. The foundation of the edifice would consist of a commission of independent persons chosen by the Conference and possibly in part by the workers' and employers' groups of the Governing Body of the International Labour Office. This commission would be responsible for supervising the execution of the Convention.

Above it would be placed a commission of Government delegates whose duty it would be to pronounce upon the draft reports drawn up by the former.
47. Another system, which is regarded with favour by several delegations, consists in setting up, in addition to the Permanent Commission, which would consist of Government delegates, a small committee of independent persons appointed by the Conference, and possibly in part by the workers' and employers' groups of the Governing Body of the International Labour Office. All the functions mentioned in Part I of this report would be exercised exclusively by the Commission of Government delegates. The small committee—a kind of body representing public opinion—would not participate in the Commission's work, but the latter would be required to send it the reports and information which it is already obliged, in accordance with the draft Convention, to communicate to the League Council and the contracting States. The Committee would be entitled to submit to the Permanent Commission any suggestions which it considered expedient and to draw the Commission's attention to any fact which might facilitate the accomplishment of its task.

48. The draft submitted by the delegation of the Union of Soviet Socialist Republics provides for only one International Commission of Control. But, instead of providing for the homogeneous composition of the Commission—as is the case with the other drafts—it states that the members shall be of different origin. Article 40 reads as follows:

"The Permanent International Commission of Control shall consist of an equal number of representatives of the legislative bodies and of the trades unions and other workers' organisations of all States participating in the present Convention."

"The Permanent International Commission of Control will later include representatives of international associations whose aim it is to establish pacific relations between States and which have pursued this aim with success, provided that these organisations express a wish to participate in the work of the Permanent International Commission of Control."

* * *

A General Commission or a Small Commission?

49. A choice having been made between a Commission consisting of Government delegates, a Commission of independent persons, a combination of the two systems and the Soviet draft—a second question arises: Of how many members is the Commission to consist? This is a question of figures which, in the case of a Commission of independent persons, is perhaps merely of secondary importance; but it is, on the contrary, a fundamental matter in the case of a Commission of Government delegates, for it would then have to be decided whether all signatory States are to be represented or only some of them are to enjoy this privilege.

50. The draft Convention is in favour of a small Commission. The reason for this is stated in the Preparatory Commission's report, and is a purely practical one. It is that an institution of this kind cannot "satisfactorily perform its task unless it is of comparatively small size" (No. 235).

However, the draft stops short at this point. It does not tell us either how many States will be granted the right to appoint members, or how those States will be chosen.

"After careful consideration", the report states (No. 236), "the Commission came to the conclusion that any decision on this subject, which is a definitely political question, should be left to the Conference itself."

"I thought it desirable, however, to bring to the notice of the latter the three systems which had been proposed to it: (1) that of the British delegation, consisting in reserving the right of appointment to the States Members of the Council of the League of Nations and to two or three States not members of the League; (2) that of the French delegation, consisting in conferring this right on the States Members of the Council, on certain States not members of the League of Nations, to be designated by the Conference, and, further, on certain States Members of the League of Nations but not represented on the Council, which would also be determined by the Conference; (3) lastly, that of the Chinese delegation, which recommended that the Conference should elect all the countries which should be entitled to nominate members, it being understood, however, that those countries should fulfil certain special conditions to be determined."

51. To the three suggestions summarised in this part of the Preparatory Commission's report may be added that made by M. Branco, representative of Portugal, in his speech on February 15th (document Conf.D.99, page 20), to the effect that all States should have an opportunity of being represented in turn upon the Commission.

1 It should be noted that the Chinese delegation had primarily supported the system of universality.
52. Strong objections have been raised in certain quarters to the system of a small Commission, which met with the approval of the majority of the Preparatory Commission. These objections may be summarised as follows:

(a) States which may possibly not be represented on the Commission will naturally hesitate to entrust extensive powers to it. The institution of a general Commission, on which all the contracting parties would be able to have a delegate, would, on the other hand, allay many misgivings and would consequently facilitate the solution of the other problems.

(b) It is true that Article 44 of the draft Convention provides that States may send a representative to sit at any meetings during which a question specially affecting their interests is considered; but this concession does not afford sufficient guarantees.

In the first place, the ad hoc representatives will take their seat in the Commission without being acquainted with its methods or having followed its previous proceedings—in short, they will be placed in an inferior position as compared with their colleagues.

Moreover, it is extremely difficult in the matter of armaments to say whether a question “specially affects” the interests of a State or not. The armaments of even a geographically distant Power may be of considerable interest to it. Hence there are two alternatives: Article 44 will either be interpreted in a very elastic manner—and the Commission will thus become a general one, or almost; or it will be interpreted narrowly, and the assurances which it appears to offer will prove illusory.

(c) What is true in the matter of supervision is also true in regard to preparations for the revision of the Convention. If the Commission is a small one, the inequality between States represented on it and other States will be still more glaring and cannot fail to jeopardise the success of the work to be accomplished.

(d) Lastly, if the Commission is a small one, it becomes necessary to select the Governments that are to be represented on it (or, at least, some of them—assuming that the great Powers will automatically be represented).

Practice shows, not only that the difficulties in making such a choice are very great, but also that they create an irritating atmosphere which it is better to avoid.

It should also be noted that, in such matters, it would be hard to lay down rules for the guidance of the electors, as is done, for instance, in Article 393 of the Treaty of Versailles as regards the Governing Body of the International Labour Office, and in Article 5 of the Barcelona Rules for the Advisory Committee on Communications and Transit. For though a privilege may be granted in the first case to States “which are of the chief industrial importance” and, in the second case, to those which are “the most generally concerned in questions of communications and transit”, it is difficult to see what, in the matter of disarmament, could be the equivalent of these criteria.

53. A formula has been recommended which takes into account the reasons put forward by the advocates of the two systems. It provides for the establishment of a general Commission, on which each contracting State would be represented by a delegate. This Commission, however, would entrust the preparation of its work to sub-committees and would itself merely have to pronounce upon the latters’ proposals at a plenary meeting.

The advocates of this system point out that it would meet the objections of the opponents of a small Commission and also has regard for the arguments of its supporters, since the whole of the work which cannot be done effectively by a large body would be left to sub-committees.

If this proposal is adopted, the number of sub-committees, their composition and the matters with which they are to deal will have to be settled.

Generally speaking, the idea seems to prevail that it would be inexpedient to settle all these points a priori in the Convention, and that it would be best to leave them to the Commission itself.

Some delegates, however, consider that at least certain rules or guiding principles as regards the composition of the sub-committees should be laid down in the Convention, so as to ensure a certain equality between States.

Incompatibility.

54. Some delegations were of opinion that the holding of certain offices should be incompatible with membership of the Permanent Commission.

This question would seem to arise chiefly in the case of a Commission consisting of independent persons. For the attitude of Government delegates will depend directly on the instructions given them, behind which their individuality will to a large extent be effaced. In such a case, at all events, the practical importance of the problem does not at first sight appear to be so great.
55. In the Preparatory Commission the delegation of the United Kingdom proposed the following text:

"Members of the Commission shall be selected for their personal merits and competence, and shall not hold any office which puts them in a position of dependence on their Governments while members of the Commission."

This is practically the same formula as is found in the constitution of the Permanent Mandates Commission, in accordance with which the members of that Commission "may not hold any office which puts them in a position of direct dependence on their Governments".

It is obvious that the necessity for this rule of incompatibility no longer exists in the case of a Commission of Government delegates, which, however, was not contemplated in the United Kingdom proposal.

56. The Soviet draft (document Conf.D.99) mentions two groups of persons who may not be members of the Commission (Article 42).

In the first place, it excludes "professional soldiers and officials of Ministries of War, Marine and Military Aviation".

It also excludes "owners of, and shareholders in, military industrial undertakings, owners of, and large shareholders in, banking and commercial enterprises with interests in military undertakings and the traffic in arms, and higher employees in all these undertakings".

Several delegations pointed out that:

(1) As regards the first group, the incompatibilities enumerated would be covered by the wider formula previously suggested by the United Kingdom, but would be open to the same objection in the case of Government delegates;

(2) As regards the second group, the proposal was certainly based on a rightly inspired sentiment, which would be shared by the entire Conference, but that the difficulty was to express this idea in a sufficiently definite legal formula.

The suggestion made by one delegate that, in the event of a complaint, the State involved should have a certain right of challenge, the limits and operation of which would be determined later, is also connected with the question of incompatibility.

58. Article 40 of the draft Convention provides that the members of the Commission "may be assisted by technical experts".

It is obvious that, even in the absence of a text defining this right, the members of the Commission will always be able to call in the help of technicians in whom they have confidence and whose opinion they desire. The insertion in the Convention of a formal provision on this matter merely has the effect of conferring an official character on those experts and making them part of the machinery of the institution.

59. Certain delegations doubted whether this was necessary and whether it would not be better to provide for the setting up of a body of experts appointed by the Commission itself, to be at the latter's disposal.

This last proposal appears to have been favourably received in all quarters—at any rate, as regards its positive part. If the principle is admitted, its methods of application will have to be determined later, whether they are left to the Commission or whether certain rules are laid down in the Convention. In either case, the matter should not give rise to any real difficulty.

60. However, the majority of delegates who were in favour of this institution pointed out that it would not do away with the necessity for granting to the members of the Commission the right, if not to be "assisted by experts" as stated in the draft, at all events to have substitutes.

It is clear that the Commission will sometimes have to embark upon discussions of so pronounced a technical character that the delegates will be almost compelled to depute specialists to replace them. And, on the other hand, whatever the general structure of the Commission, it is highly probable that it will be obliged in certain cases to set up sub-committees which will work at the same time; and this will make it necessary for a State represented on several sub-committees to possess a large delegation.

This difficulty can best be met by the system of substitutes.
IV. INTERNAL ORGANISATION.

The internal organisation of the Permanent Commission constitutes an aspect of the problem which cannot be overlooked.

However, the questions of procedure and administrative organisation which it involves can quite well be postponed. They can easily be settled, once the Conference has agreed upon the principles.

In this connection, the draft Convention contains various rules which have not so far given rise to any observations. On the other hand, certain points (secretariat, expenditure, etc.) have been left outstanding. All these matters will have to be settled; but this cannot be done satisfactorily until the system as a whole has been fixed.