In this first very general circle it would simply be stated—to employ almost textually the words used by the Secretary of State of the United States on two occasions—that, since all civilised nations have agreed in banning war, that party which makes war cannot continue to reap the advantages and secure the legal recognition formerly granted to belligerents. War being outside the law, it is logical that he who makes war shall be deprived of that economic assistance without which, with the nature and extent of modern wars, operations of force cannot attain success.

But what form of armies? We should undoubtedly have shunned or, at any rate, have recoiled from these specialised forces for common action, for that form of national army which best corresponds to the circumstances, to the period of history through which we are passing, an intermediary period in which it cannot yet be said that conflicts are sufficiently appeased or settled, or that the League of Nations is sufficiently strong to bring about total disarmament; but you well realise that, in this conception, although the legal texts remain unchanged, there would exist a quite different atmosphere for the application of this Covenant—and in particular of Article 16—if the contracting States, as the result of the large general consultative pact, were assured that there was no risk of meeting on the oceans great nations that stood apart from the provisions which we are endeavouring to draw up.

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The second circle would consist of what exists and—for the nations that have signed it, of course—of the Covenant of the League of Nations, and, at the same time, of the treaties resulting therefrom, such as the Locarno treaties.

But you well realise that, in this conception, although the legal texts remain unchanged, there would exist a quite different atmosphere for the application of this Covenant—and in particular of Article 16—if the contracting States, as the result of the large general consultative pact, were assured that there was no risk of meeting on the oceans great nations that stood apart from the provisions which we are endeavouring to draw up.

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Again—and this is one of the most striking and novel characteristics, while still treading the path already marked and following the work of the Committee on Arbitration and Security, which drew up a series of very valuable provisions—which one would think should not merely lie sleeping in a pigeon-hole—we would propose that, although not universal—desirable as universality would be—a Pact of Mutual Assistance should be concluded between a certain number of nations which, from their situation as neighbours and continental Powers, feel themselves more particularly exposed to certain risks, and are more anxious to be able to meet such risks in the shortest possible period; this Pact would be very specific because more limited, for it would be concluded between nations which are, as regards this problem, really in a similar position, in that they are not separated by wide seas or vast distances, which themselves are an effective protection. On the contrary, these nations of continental Europe, which have throughout history been accustomed to the manning of land frontiers so often transgressed, these nations—supposing that, contrary to what is to be hoped, other nations cannot join with them—would insert in this Pact of Mutual Assistance all the details which we have so often vainly sought in more general pacts, which, just because they were more general, could not contain the necessary details.

It is clear that I can only give an outline of the scheme; I cannot and do not wish to go into the details so as not to delay your work, details which you will learn when the written proposal is laid before you. One of the details of the scheme, however, is that, in connection with a pact of military reduction concerning the strictly defensive national armies of which I am going to speak presently, it would be understood that States participating in such a pact would maintain, apart from their national armies, specialised forces, though very small ones, to be solely at the disposal of the League of Nations, not to pursue the chimierical idea of holding in check by their own strength a whole nation that had risen against the Covenant or against an arbitral award, but to fill an urgent need, to be immediately ready to prevent any forcible attempt, and to guard the League of Nations from what would be for it—let us make no mistake—the danger of destruction if its procedures were to operate only when the territory of a country had already fallen a prey to force.

The first object of this close and definite pact between certain nations, whose number and importance would have to be decided, would therefore be—apart from the transformation of the national armies which I shall come to later—the organisation of contingents constantly ready for service, but strictly limited in numbers, to be furnished in equal proportions by countries in corresponding situations, and to form a special force in the service of the League and enable it to give prompt aid to a country attacked.

But the other forces? Yes, the others; for it is quite certain that these specialised forces I have mentioned, which would be very limited in numbers, could not suffice for countries which, from their geographical situation, from their history, from past conflicts, or from conflicts of which they may still see the possibility or the menace—I say it is certain that these very limited forces could not suffice for such countries to defend the integrity of their territory if, unhappily, the League were unable to enforce its authority.

We are therefore obliged, while still seeking for a reduction of armaments, to look, apart from these specialised forces for common action, for that form of national army which best corresponds to the circumstances, to the period of history through which we are passing, an intermediary period in which it cannot yet be said that conflicts are sufficiently appeased or settled, or that the League of Nations is sufficiently strong to bring about total disarmament; a period, however, in which we feel the necessity of adopting such form of armies as may permit of equitable, mutual and equal reductions, capable of ensuring equality in security.

But what form of armies? We should undoubtedly have shunned or, at any rate, have recoiled.
from this arbitrary choice if we had not been faithful to the method I mentioned at the outset and had not looked to the work of the Conference itself for the ideas which have slowly come to light, to which ideas we are endeavouring to give synthesis and harmony instead of replacing them by our own; if we had not found an idea which, expressed already in the preparatory disarmament work, had grown clearer during our discussions, and taken full shape in June last when the Hoover proposal was placed before us by the United States delegation.

I would remind you that the reception given by the French delegation to that proposal exactly showed our views in regard to it: a respectful and sympathetic reception in which the very reservations made showed the desire of my country not to express mere verbal approval but sincerely to seek for the methods of accomplishing a proposal which had awakened such profound hopes in the hearts of the peoples.

We sought. We realised as soon as the Committee on Effectives came to deal with the question that there were almost insuperable difficulties arising from the diversity of armies in the principal countries of continental Europe, and that these difficulties were a hindrance to the extensive reductions so justly demanded in the United States proposal; for such reductions are in accordance with the desires of those who have sent us here. It was very quickly realised that there was a great difficulty in reducing effectives, equipment and expenditure fairly equally, and that this difficulty lay in the choice of the terms of comparison.

Owing to the Peace Treaties, owing to the evolution of military institutions, or as the result of this quite new post-war element, the forces of a nation no longer lie in its armies properly so called, but extend by gradual and very varied shades of difference from regular forces to semi-political, semi-military autonomous organisations. If, in such circumstances, the rule so justly formulated in the United States proposal is to be applied—and I reproduce the rule textually when I say that the forces, being relative, reductions to be made in them are equally relative—we are obliged, for the purpose of judging this relativity, to take account of all the de facto elements, of all the real elements involved.

No doubt the United States proposal was eminently clear from the fact of its initial discrimination between certain categories of forces—police forces, oversea forces and, lastly, those to which the proposed reductions more especially applied, which are the defensive or aggressive forces. It is this category which raises the question of relativity of which I spoke just now. The discrimination we fully accept. We even think that it is impossible to arrive at methodical, equitable or even sensible measures of reduction of armaments if account is not taken of this essential discrimination: police forces, oversea forces and forces forming what are called sometimes defensive and sometimes aggressive forces, according to the use that may be made of them.

But for this third category, to which the effort for reduction must in particular apply, the discussions in the Committee on Effectives showed—excuse me for insisting on the point, but it lies at the root of our proposals—the almost inextricable difficulties arising from the lack of terms of comparison. In particular (I must insist on this or my ideas would lack in clearness and in frankness, and we are here to speak clearly), it is certain that countries cannot agree to purely mathematical comparisons and will never, for instance, be able to admit that a soldier with twelve years' service is the equivalent of a recruit with six months'; or that a reservist who, after his first military training, only performs very rare periods of service, should, twenty-four hours after he has rejoined his unit, be considered of the same value as those reservists who, on the contrary, have obtained in permanent military or semi-military formations a constant training and cohesion which may be of value from the outset of mobilisation.

In order to make calculations on the lines of the United States proposals and to give these proposals their full scope—you realise how tragically important such calculations may be—and in order to advance progressively towards this equalisation of status which the Conference deeply desires, we have thought that those nations that might be bound by a more precise pact could agree to proceed by the necessary stages to a unification of their type of army in order to arrive at more substantial and at the same time equitable and equal reductions.

Then the following question arose: If armies are to be reduced to a uniform type, at any rate for the great continental military Powers which are linked by a closer solidarity or by more definite anxieties, towards what type of army should we look? The choice would have been very difficult and very arbitrary if one nation alone made it. But all that has come to light since the beginning of this Conference has given us valuable data to go on, and these data were fully utilised in the United States proposal when it used the formula of which I shall remind you, which formula we accept as our own, having made it the centre of the proposals we place before you.

Still less is there any question, in fact I might say there is above all no question, of reducing all armaments without discrimination and uniformly. That might lead to false and unjust results. The question is, above all, to use the expression of the United State proposal, that of increasing the forces of defence and proportionately decreasing those of aggression.

We first endeavoured to attain that end in the field of material and qualitative disarmament. I do not forget the very interesting speech made at the beginning of our work by M. Grandi, delegate of Italy. I remember the day when, in this same place where we welcome our United States colleagues, Mr. Gibson rose to read a draft which he did not
immediately table, but which he wished to serve as a guide, which draft has an undeniable connection with the Hoover proposal. Then Sir John Simon, in the name of the United Kingdom delegation, handed in a very detailed proposal on the same subject. If I enumerate these proposals, it is not merely to take my hat off to them, and to express perfectly legitimate sentiments of gratitude for the assistance given. I want you to be convinced that, at the present moment, it is not so much a question of putting forward new proposals as of endeavouring to extract from what has been done or proposed material which will enable us to succeed.

At that time, we were dealing solely with qualitative and material disarmament. What was the result?

No difficulties arose as regards that form of warfare which is universally reprobated: chemical and bacteriological warfare. M. Herriot was right when, speaking from this very place in July last, he told the Conference that it was not negligible that, amongst the points on which agreement had already been reached, there should appear the absolute prohibition of chemical and bacteriological warfare: not negligible, provided an effective control is exercised over the actual preparation for it. I need not say that this is one of the points in the proposal which I am laying before you, but it is nothing new. I repeat, it merely confirms an agreement already reached in July last.

Nor are there any insuperable difficulties as regards the air, where death's destructive work was quick to seize on a recent and marvellous achievement of human genius. It is certain that aerial bombardment from a long distance and with heavy bombs has essentially that offensive character against which we are endeavouring to discriminate. It is certain that this form of warfare brings us back to bygone days, that it even accentuates the horrors of bygone days; for at that time, before the population of a whole town were put to the sword, they were at least offered the chance of surrender.

As it is difficult to distinguish the characteristics of aerial bombardment, the Technical Commissions were led to propose its total abolition. I would remind you that, with the twofold authority attaching to their personalities and their offices, M. Painlevé, the French Air Minister, and afterwards Prime Minister Herriot, in the name of the whole French delegation, accepted this prohibition of aerial bombardment with the reservation that measures would, of course, be taken for internationalising at least those machines of which the characteristics exceeded those laid down for military aircraft, and that there should be a general control of civil air services, in order that they might not, in the day of battle, do precisely what military aircraft are forbidden to do.

This much is accepted, and we must not be led by too easy a discouragement or too unjust criticism to undervalue its importance. It is accepted, and France has already agreed to it, and it is the subject of a part of our proposal, over which I pass rapidly for the simple reason that, when you have before you M. de Madariaga's report, my colleague M. Painlevé will give you all the necessary explanations on the subject.

I would add—and this is an important point, one that is connected, moreover, with the very summary remarks I made just now concerning this definite pact which we contemplate and which would involve the maintenance, in the service of the League, of reduced national contingents to be used for resisting the first onslaught of war—that, in the matter of aviation, it seems to us that it would be possible to organise an organically international force; in this we are interpreting certain exchanges of views, certain proposals even, which have not yet assumed an official character but which have, we are entitled to say, already created the atmosphere of the Conference. Such an organically international air force, by its mobility, by its facility for rapid movement and by the indisputable superiority which it would confer on a State the victim of an aggression, if placed at its service, takes its place within the framework of this idea of international assistance through the League, whose organisation can be made more thoroughgoing, more complete and more organically international where aviation is concerned.

This distinction between the defensive and the offensive, which has so rightly been made the basis of the United States proposals and to which expression was given in the earlier proposals and speeches to which I referred just now, is plain to everybody, when the question is that of chemical warfare and aerial bombardments, but to what discussions and difficulties it seems to give rise when we come to the question of the calibre of artillery or of the tonnage of tanks. I believe that, notwithstanding all the goodwill and fine diplomacy he has employed, my colleague, M. Buero, who was specially entrusted with the drafting of the report on this subject, has not yet been able to arrive at any definite proposals. Above what calibre does a gun cease to be defensive and become offensive? Above what tonnage does a tank, the infantry's buckler, built to protect the bare breast of the foot-soldier against the fire of automatic weapons, become instead a menace and a possible instrument of aggression? That is an extremely difficult matter to analyse; once we depart from the lucid idea sketched in Sir John Simon's proposal and reproduced and defined in rather more detail in the United States proposal and its commentaries—namely, that any arm sufficiently powerful to constitute a menace to the permanent defensive organisations set up by a country on its frontiers is indisputably offensive. That was Mr. Gibson's idea when, at the beginning of the General Commission's work, he gave notice of this scheme, which clearly inspires the United States proposals. This clear idea, one which, while manifestly open to discussion with regard to the scale of calibres or tonnages, does yet enable a practical distinction to be drawn, this fruitful
and essential idea we have taken from the United States proposal and made one of the principal parts of the plan we are submitting to you.

This idea has two aspects: one is that material sufficiently powerful to be a menace to the permanent defensive organisations must be reserved for use, without any restriction, by these fixed organisations themselves, whether they be designed for coastal defence or the defence of land frontiers; the other aspect is that this material must be forbidden to the general body of the national forces, which we will define in a moment and which each country will be allowed to keep so as to enable it to defend its territory in case the League proves powerless. The material forbidden to these forces would be reserved to the League, which alone would have the right to use it, regardless of whether it was the armament of very small, permanent contingents held in each country at the League’s disposal to meet the first shock of war, or stored under the control of the League so that it might, when necessary, be placed by the League at the disposal of the State victim of the aggression.

I clearly foresee one objection which may be raised—and this is not a fanciful objection, but one that was actually put forward when we took up the problem. Why not destroy the arms forbidden to the national forces? That is an attractive idea, because it seems so simple. I venture to say, however, that it may be too simple, and even illogical and inconsistent with the aims we are pursuing here. Reduce them; yes, and very considerably, for, in virtue of such a distinction and of the system I have just indicated, which is the logical outcome of that distinction, the reductions will be extremely important; but would it not be illogical, by such destruction, to deprive the League of one of its means of action, when we are endeavouring, by proposing this more definite pact, to strengthen the League so that the nations which had signed such a pact—and especially those which are most exposed to conflicts, or believe themselves to be so—may receive the collective and efficacious aid which they require? It seems even more illogical, when we remember that one of the most valuable pieces of work carried out and brought to completion by the League—for we have had some successes, and not only failures—is that we have organised in advance the financial assistance to be given to a State victim of an aggression. How illogical to provide for financial assistance designed in part to enable such a State to purchase or have manufactured any material which it might need in case of aggression and not to keep at least part of the existing material so that the League may be able to give it without delay to the State victim of the aggression.

Those are the ideas on which, as regards material, our proposals have been based. I will complete them by saying—and I am sure you will all appreciate the significance of this point—that our plan mentions, besides the necessary stages to be followed in accordance with the principles of Article 8, which, in one of our first resolutions, was taken as the basis of our work, the gradual standardisation of material in the armies of the various countries which would be bound by the pact. But although the question of the distinction still presents difficulties—difficulties which are not insurmountable—I hope I have shown, in spite of the relative brevity of my remarks, how striking and simple the discussion based on the formula of the United States proposal which I mentioned just now becomes, when we leave the question of material—for material varies in character according to the intention with which it is employed and according to the use made of it—and consider the actual type of army, that is to say its spirit. What are the armed forces that respond to the distinction in question? How are we to strengthen the forces of defence by reducing the forces of offence?

I should like to say at once that I am only examining this question from the point of view of the home forces of the continental Powers. I am not saying this merely as a rhetorical precaution or even out of deference—in itself perfectly legitimate—for the established traditions of nations which are opposed to conscription or which at least only introduced it in those days which, I can assure them, we have not forgotten. I shall deliberately confine my analysis to the continental Powers precisely on account of what I said at the beginning of my remarks with regard to the necessity of adapting the improved guarantees of security, international security, to suit each of the different regions of the world. It may be as well to repeat, because we are still constantly misunderstood, that, when we say security, we mean international security and the organisation of peace, and not our own individual security, which we should be perfectly well able to ensure with our own resources were it not that we have come here to seek for the means of obtaining international security, so that the individual national safeguards of individual national security may be reduced.

In agreeing upon and proposing to you a more definite pact between a certain number of continental Powers more particularly concerned—without, of course, excluding any other—we have done so because, as I have already said, there are certain special situations which make the need for mutual assistance both more definite and more imperative; and also because—and quite apart from the obviously pacific intentions of the countries in question, a factor which dominates everything—if we deliberately rule out all considerations of foreign policy and look at the matter purely from the technical point of view, there can be no doubt that, if an army, be it a professional army or one of any other kind, be it a home army or a colonial army, is, in regard to the nations to which it might be a menace, stationed overseas, it cannot be a real menace to such countries, or, if it is so, the question is a naval rather than a land one. Even so, as our experts are fully aware, even given the mastery of the seas, the success of an attempted landing would be very problematical or very much lessened in the circumstances of modern warfare, especially if it were agreed, as it is in the United States proposals, in Sir
John Simon's and in our own, that, in the case of the coastal as of the land frontiers, no fixed defences will be subject to any form of limitation, precisely because such defences have no offensive characteristics.

But for the countries on the mainland of Europe, separated only by frontiers which, in the course of history, have been crossed so often and so easily in either direction, the question of the type of army becomes of decisive importance, and it is not, I think, open to question that a professional army may present—and I am not attributing evil intentions to any country, but giving you a purely technical analysis—if the country wishes to use it to that effect, greater facilities for aggression and greater possibilities of rapid aggression than any other type. By reason of the fact that it maintains, not only permanent effectives, but permanent effectives which are thoroughly trained, thoroughly organised and immediately able to act in combination, just because of their period of service. The converse is equally true; an army with a very short term of service, in which, consequently, all the permanent and immediately utilisable troops were abolished except for the small nuclei of specially trained men and cadres intended for training purposes, would, so to speak, compel the nation to mobilise itself, with the consequence that it would only mobilise for some big undertaking that affected its vital interests and, first and foremost, for its own defence, since such an army, though it might possibly cover the frontiers and prevent incursions into its territory, could not, at any rate, carry out large-scale operations menacing another country except after the very long interval which would be necessary to ensure that its mobilised forces possessed the requisite cohesion and training.

I have no wish to make improper comparisons or to harrow your feelings with too many pictures of war. We are discussing peace. But we must begin by facing things squarely. When States are not separated by the sea or by wide territories belonging to new countries, when they live side by side in a state of tension and anxiety behind frontiers that are often menaced, it is unquestionable that, if they were to agree to adopt certain types of army with a very reduced period of service, and to abolish all permanent effectives except for the cadres, so compelling the nation to mobilise itself in its own defence and consequently giving the League the necessary time to bring into operation its procedures which, it must be admitted, are inevitably slow, it is unquestionable that that would constitute an indisputable guarantee of peace. A guarantee of that sort cannot be given by a force which in itself presents, at any time it may choose, a possibility of aggression and a possibility, if I may add an epithet and a conception which are fundamental in all our work, of sudden aggression, because such an army can thwart the efforts of the League, and that—I press this point particularly—altogether apart from the spirit by which such a force may be animated and the pacific or bellicose intentions of the State employing it.

France firmly believes in the relief which would follow in the relations between a certain number of countries, were they to conclude the definite pact of mutual assistance which I described at the beginning of my statement, from the standardisation of their armed forces and from their reduction to the type I have just defined. She believes that that would relieve anxieties and that the consequence might be large reductions in effectives, since in conscript armies the effectives are reduced ipso facto, if the period of service, material and expenditure are reduced. That is why, in the proposals which France submits to you—and in them she makes a gesture the seriousness of which it is not for me to emphasise and the significance of which you cannot in all fairness underestimate—France states that, notwithstanding the reductions she spontaneously carried out at the close of the war, and those she effected as soon as the Locarno Agreements had established certain measures of greater security, she is ready to make further reductions as a result of which her land forces in the home country will conform to the type I have just summarily described. She does so in the clearest possible terms, but, of course, subject to certain categorical conditions:

First, that the same applies to all countries acceding to this definite pact, since it is obvious that a type of army of that kind, useful as I believe it to be, indeed extremely useful and efficacious in defence, cannot be accepted unless neighbouring countries accept it too;

Secondly in the armies thus reduced to a uniform type, the period of service should, in order to make the reductions contemplated, more particularly in the United States plan, practicable and equitable, take account of everything that in any way at all effectively constitutes military training—that is to say, pre-military training and training resulting either from periods of instruction in regular formations or from membership of political formations or others imparting military instruction.

Finally, to use M. Herriot's phrase, countries with large populations should not constitute a possible menace to the others, and conscript armies, with a reduced period of service, should be limited in number in strict accordance with the provisions governing their recruitment.

I make, of course, no claim to have exhausted the details of a scheme which will be submitted to you in a more precise form in writing and which you will have all the necessary time to consider before—and here we are in the Chairman's hands—the General Commission takes it up along with the other proposals that have been laid before you.

I do not desire to delay any longer the work on the Bureau's agenda and that which we have begun on the report of our colleague, M. Bourquin, concerning a question which we may well term the keystone of our proposition, as indeed of all the other proposals of the same kind—namely, international supervision. It is quite plain that radical reforms of this kind and reciprocal reductions of this sort cannot be carried out unless each State has an assurance that, whether as regards effective or material or expenditure, there will be some effective supervision able to satisfy itself on the spot of the reality of these essential changes.
I am speaking more especially for those countries which may be bound by the more restricted, more definite pact I have just described, this pact of mutual assistance with all the various aspects of it I have defined. You are now discussing this international supervision. I sincerely hope that your discussion will be successful, for it is quite obvious that any reductions, changes or reforms which may be carried out by the different countries will be carried out more easily because such supervision gives them the certainty that any conventions adopted will be observed by all. That is an additional reason for concluding a statement that is already very long. It will not suffice to inform you in full, but I hope that, in the main lines I have sketched out, it does suffice to convince you, without the need of further phrases from me, of my country's unquestionable goodwill in the organisation of peace.

The CHAIRMAN thanked M. Paul-Boncour for his statement and announced that, at its next meeting, the Bureau would resume the discussion of M. Bourquin's report on supervision.

TWENTY-FIRST MEETING (PUBLIC)

*Held on Friday, November 4th, 1932, at 3.30 p.m.*

Chairman: Mr. HENDERSON.

25. **Question of Supervision: Report by M. Bourquin (Belgium) (continuation).**

**Question of Procedure.**

Mr. WILSON (United States of America) before continuing the discussion of the report (document Conf.D.140) wished to know how the Rapporteur viewed the Bureau's work at the present stage. Did he intend, at the end of the discussion, to draw up another report containing definite recommendations or merely a statement for the General Commission concerning the main lines of the Bureau's discussions? The United States delegation's attitude would depend on the Rapporteur's reply.

The CHAIRMAN thought that the discussion in the Bureau was intended to help the Rapporteur to draw up another text which would be submitted to the Bureau and would contain certain conclusions based on the statements made during the discussion.

M. BOURQUIN (Belgium), Rapporteur, wondered if this was not another example of the problem of the cart and the horse. It was very difficult at the moment for him to say what conclusion he was likely to draw from the discussion. That would depend on its results. If there were unanimity on all points, his job would be, so to speak, done, and he would only need the help of a Drafting Committee in preparing another text, but if there remained certain differences of opinion which could not be reconciled, it would be necessary to consider what method should be followed: but that method would, he thought, be closely conditioned by the result of the discussion. For the moment, he would have difficulty in expressing an opinion.

M. Motta (Switzerland) emphasised the importance of the question raised by Mr. Wilson, which, while it was a matter of procedure, might influence the conclusions reached on points of substance. The Chairman's remarks left M. Motta somewhat doubtful as to the Bureau's future procedure. The object of the present meetings was, as he understood it, to make a joint effort of conciliation and understanding so as to reach an agreement of principle on certain fundamental points. The present discussions did not, of course, commit the Governments to which the members of the Bureau belonged, in particular M. Motta himself, who had had the honour to be invited in a purely personal and friendly capacity; but he could hardly suppose that on the resumption of the General Commission all these questions would be raised afresh, without the Bureau having made an effort to solve them itself.

In his view, the present discussion should lead the members of the Bureau to form a common opinion, at least relatively, on certain fundamental questions, concerning which it might be possible to say: "This is the Bureau's opinion." Every member had naturally the right to make reservations but, if the Rapporteur had to inform the General Commission that the Bureau had found it impossible to reach even an agreement of principle on certain fundamental points, the Bureau's discussions would become practically useless.
Mr. Eden (United Kingdom), at the risk of leading the Rapporteur to think that the question of the cart and the horse was an Anglo-Saxon obsession, felt it essential to emphasise the importance of the point raised by Mr. Wilson. Much time would be gained if an immediate decision were taken as to procedure. He fully supported the Chairman’s suggestion that, as a result of the Bureau’s discussions, the Rapporteur should submit to the Bureau a new report containing certain conclusions. The Bureau would, of course, then have the right to discuss those new conclusions. That would be the speediest method of procedure.

The Chairman thought that M. Motta had misunderstood his suggestion. His idea had been that the Bureau should attempt to reach an agreement on the lines suggested by M. Motta himself. As Mr. Eden had proposed, when the new report came before the Bureau, its conclusions would be examined before the report was finally sent on to the General Commission.

M. Bourquin (Belgium), Rapporteur, supported the Chairman’s formula. If the members of the Bureau succeeded in agreeing on a series of principles, the second report would be a very simple matter and would consist purely of an extract from the Minutes. The present report was merely a preliminary document intended to prepare and facilitate the Bureau’s discussions with the object of obtaining certain concrete results at once. If these results were satisfactory, the final report to the General Commission would be quite simple. Accordingly, the procedure suggested by the Chairman could, he thought, be approved by all the members of the Bureau.

**Attributions of the Permanent Disarmament Commission (continuation).**

M. Bourquin (Belgium), Rapporteur, considered that the result of the Bureau’s discussions on the attributions of the Permanent Disarmament Commission was that the Bureau agreed to make two additions to the Preparatory Commission’s draft. The Permanent Commission would be entrusted with the preparation of the subsequent stages of disarmament and also with any executive agreements which might appear necessary to ensure the loyal application of the Convention, it being understood that several delegations took the view that this extension of the Commission’s competence should be subject to the decisions to be taken concerning its composition.

**Means of Supervision.**

M. Bourquin (Belgium), Rapporteur, said that in this matter also the basis to be taken should be the Preparatory Commission’s draft which, in suggesting the means of supervision to be conferred on the Permanent Disarmament Commission, laid down in Article 49, paragraph 1, 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”. Part IV of the draft described in some detail the particulars to be forwarded each year by the contracting parties to the Secretary-General for communication to the Permanent Commission. The information, therefore, would emanate from the Governments themselves and be sent in regularly and compulsorily. That information would in fact be the replies to the questionnaire in Part IV of the draft.

At this point, an initial question of practical importance arose: What was the information that the contracting parties were to communicate in this way? Clearly, the Bureau could not discuss the matter at that stage, since it was impossible to determine that information, so long as it was not known what obligations the States would undertake. That matter could only be settled at the end, when the whole disarmament problem had been solved and the various obligations assumed by the Governments were known.

According to the draft Convention, the data mentioned above would form the normal and principal source of information available to the Permanent Commission; but in the same Article 49, paragraph 2, the draft stipulated that the Commission could report upon “any other information that may reach it from a responsible source and that it may consider worth attention”. The Rapporteur had thought it advisable to include in his report (page 4) comments on this provision in the Preparatory Commission’s draft.

Finally, Article 46 of the draft said:

“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.”

That was the third source of information suggested by the Preparatory Commission.

During the conversations he had had with various delegations, the Rapporteur had noted that none suggested curtailing the sources of information proposed in the draft. On the contrary, the new proposals rather increased those sources by the addition of new ones. Those mentioned in the draft Convention constituted a minimum which was apparently acceptable to all. It would be advisable to make certain immediately whether that was so.

M. Rosso (Italy), before examining point by point the section of the report on the means of supervision, wished to set forth certain general considerations which would show the spirit in which the Italian delegation considered the different questions of supervision taken as a whole. This was an especially important part of the report; the points so clearly and
impartially analysed in paragraphs 19 to 38 were so important and so intricate that, before entering into details, it would be desirable to devote a few minutes to the matter as a whole.

With regard to the means of supervision, M. Rosso wished to repeat an observation he had made at the previous meeting. The Italian delegation could, à la rigueur, accept the view of those who looked on supervision as a pre-condition to disarmament. It was none the less convinced that the nature and extent of supervision and the system of its application depended on the nature and magnitude of the disarmament measures to be adopted. The Italian delegation would have preferred to begin with the examination of the measures for the reduction of armaments. That would have been the more logical procedure, but, in order not to waste time, his delegation agreed to the present discussion, although it would ask permission to explain its views on the interdependence of the various parts of the problem.

It was a well-known fact that, in the Preparatory Commission, the idea of supervision had met with greater opposition than any other. Those who had followed the Commission's work would remember the courteous but sometimes warm discussions raised by the mere mention of the word "supervision". It was not therefore surprising that the idea of supervision had not met with spontaneous sympathy. Governments had been asked to abandon certain fundamental conceptions and traditional views inspired by considerations of national sovereignty. If the word "supervision" no longer roused the same hostility, that was because it was being discussed with reference to concrete measures of disarmament. Everyone had now accepted the principle of supervision because it was expected that it would be accompanied by such measures, and Governments were prepared to sacrifice their traditional ideas on the subject if there were strong enough reasons to make them do so. Supervision would form a counterpart to, and would be commensurate with, the degree of disarmament achieved. If it were desired that the delegations should be ready to examine certain very drastic measures, they must be satisfied that the sacrifice asked of them was worth while and that in this way the Conference could achieve substantial and important measures of disarmament, since that was the Conference's precise aim.

The Italian delegation wished to suggest certain criteria which should guide the Bureau in examining the question of the means of supervision, especially with reference to paragraphs 25 et seq. The means of supervision should answer to the following conditions:

1. They must be practical—that was to say, academical conceptions which would immediately give rise to insurmountable difficulties in application and methods which it was known in advance would not work effectively should be disregarded.

2. They must not be vexatious, or liable to cause offence or unnecessary irritation. Care must be taken not to sow the seeds of dissension in a convention the object of which was the maintenance of peace. Anything likely to give rise to misunderstanding, friction or dispute must be avoided.

3. The means of supervision must not be such that they would be liable to be employed frivolously or misused. The complainant must openly assume responsibility for his action.

4. They must be of such a nature that they would apply uniformly and equally for all.

5. The examination of the means of supervision should start from the assumption of the signatory Governments' good faith. Any other hypothesis would end in a blind alley.

This was the spirit in which the Italian delegation was prepared to examine in detail the questions involved in Section II of the report.

Mr. Wilson (United States of America) warmly sympathised with M. Rosso's observations. He wished to suggest another criterion by which the Bureau should be guided in examining this problem. Apparently it was thought that, in the event of an emergency, the Permanent Commission would have all the time necessary to hear the Governments concerned and to proceed to a full enquiry. It might, however, be supposed that the actual case would be quite different. In the conditions in which the Commission was to exercise its supervision, speed was a factor which might prove to be indispensable and the absence of which would mean a gap in the work on which the Bureau was engaged. The possibility of a dangerous and urgent situation must be taken into account.

M. Sato (Japan) understood that, as M. Bourquin had furnished explanations only on paragraphs 19 to 23 of his report, the examination of the following paragraphs, "Other Proposals", was excluded for the moment. The Rapporteur had given no explanation on the other points, whereas the Italian delegate had treated the problem as a whole. M. Sato wished to know whether the members of the Bureau could examine the question as a whole or only as far as paragraph 23.

The Chairman thought that, for the time being, it would be better to concentrate on paragraphs 19 to 23; the following paragraphs would be examined later. As no further observations were offered, he took it that the contents of paragraphs 19 to 23 were approved by the Bureau and he called upon the Rapporteur to comment on the later paragraphs.
any such occurred, but the mere possibility of its employment would constitute a guarantee.

Generally speaking, the present position might be summed up as follows. Some delegations said: "We can give you supervision if you give us disarmament; others: "We can give you disarmament if you give us supervision". The psychological standpoint was not quite identical, but the two formulae might be superimposed on one another when the two denominators of the problem were known.

To revert to the subject of the observations made by the delegates of the United States of America, the United Kingdom, Italy and Japan, the various elements of the disarmament problem necessarily held together, but hitherto the discussions had been clouded by uncertainty on this point. No delegation suggested a separate convention regarding supervision. The sole object at the moment was to carry out certain preparatory work which was to be utilised by the General Commission, and which would be incorporated in a general convention, the other sections of which would be devoted to disarmament proper. At the present stage, the members were advancing general ideas, suggestions and objections, because all were collaborating in the same work; but there need be no anxiety lest they might find themselves bound by any immutable commitments assumed now, supposing later they were deceived in their hopes with regard to disarmament proper.

He would deal next with the other proposals concerning the means of supervision available to the Permanent Disarmament Commission.

The first proposal did not seem likely to raise objections, since it was a corollary of the draft itself and merely made good an omission in the draft, which was doubtless due to inadvertence. If, in keeping to the terms of the draft concerning the despatch of information by the Governments the Permanent Commission would be entitled to nothing but the Governments' written replies to the questionnaire, it would in many cases be unable to utilise such material. A questionnaire was often interpreted in different ways by the national administrations responsible for the replies, and the particulars received by the Permanent Commission would not even be comparable. There had been numerous examples of this at the Disarmament Conference itself. There was also an occasional tendency to inertia and negligence on the part of some administrations, so that these particulars which, according to the draft, would form the principal data at the Permanent Commission's disposal, might be of no use to it at all, unless—and this was the aim of the new proposal—the Permanent Commission had the right to ask Governments for supplementary information, either in writing or verbally, and always subject to the undertakings which they had signed.

The Chairman noted that the members of the Bureau agreed to accept paragraph 25 of the report.

M. Bourquin (Belgium), Rapporteur, passed next to the paragraphs concerning "Local Investigations". None of the delegations consulted by the Rapporteur had stated that it rejected systematically and a priori the idea of local supervision. Nevertheless, various delegations were reserving their attitude on this point until all the conditions for the working of the system of local investigations were fixed. Three questions arose:

(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?

On the first point, a number of suggestions had been submitted, which were enumerated in ascending order of severity in the report.

1. There was first the theory expounded before the Preparatory Commission by several delegations which approved of local investigations, but only at the request or, at the very least, with the consent of the country on whose territory the enquiry would be conducted. That was the least objectionable suggestion.

2. Local investigations might be conducted without the consent of that country, but only if a complaint were lodged. That was the proposal underlying the preliminary draft (document C.P.D.45(d)) submitted in 1927 to the Preparatory Commission by the French delegation, in which the idea of a Permanent Commission originated. The advocates of this formula believed that the fact of subordinating the local investigation to the existence of a formal complaint—that was to say, to the obligation on one State to assume the grave responsibility of accusing another State, would invest the local investigation with an absolutely exceptional character. In such a case, the local enquiry would be, not a normal, but an exceptional method of investigation. It should only be resorted to in very rare instances, if, even, any such occurred, but the mere possibility of its employment would constitute a guarantee.

M. Bourquin (Belgium), Rapporteur, had listened with great interest to M. Rosso's general observations and agreed with him entirely. He wished to emphasise one point which had been brought out by his colleague and which appeared to him reassuring. Since the beginning, considerable progress had been made, and the Rapporteur's conversations with various delegations had confirmed this impression. The Minutes of the Preparatory Commission's first meetings showed that there had been two opposing camps: those for and those against supervision. Now there was no opposition, except in regard to the question of methods.

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3. The Soviet delegation's draft (Article 43) did not even insist that there should be a complaint. For local investigation to be decided upon, it would be sufficient if there were "reasonable suspicion of a breach", a point which would be left to the Commission's discretion. There were obvious resemblances between this proposal and the preceding one. In the Soviet delegation's view also, local investigations would only be resorted to exceptionally.

4. The last suggestion was a far wider one; the underlying idea was that, if the local investigation were bound up with a complaint or a reasonable suspicion, it would be liable to cause particular annoyance to the country concerned. The better way would be to provide for regular automatic investigations on the spot. This was a quite different approach to the question: local investigations would be made periodically and automatically in all countries and would no longer be bound up with a definite complaint. Clearly, in such cases the investigations would have to cover the whole series of treaty obligations and they would be much wider in scope. A local enquiry instituted on the basis of a complaint or a reasonable suspicion would have to deal with one particular point, but, under the fourth suggestion, the purpose of the inspection would be to ascertain how the Convention was being applied generally, and the Commission of Investigation would have to be given a field of action co-extensive with the limits of the Convention itself.

He had confined himself to describing the four proposals submitted. While he felt that, on the other points, he had discerned certain main trends of opinion, and mentioned these in his report, on this particular question opinions differed, and he could not at first sight single out any proposal which would be supported unanimously.

M. Politis (Greece) asked for an explanation. The Rapporteur had submitted four solutions in ascending order. It might seem at first sight that they were alternative solutions. Could they not be regarded as cumulative? For instance, could the system of periodical investigations not be supplemented by that of exceptional enquiries when a complaint was lodged or reasonable suspicion arose?

M. Bourquin (Belgium), Rapporteur, thought that the first suggestion could not possibly be reconciled with the others as, according to it, an investigation could only be held with the consent of the country concerned, and that ruled out the other solutions. He believed, on the other hand, that there was no incompatibility between the suggestion to hold investigations in the case of a complaint or reasonable suspicion and the proposal to have regular periodical and automatic investigations. Regular inspections would mean that they were held at specific times, but it was not said that at a given moment, when no provision was made for inspection, an incident might not arise which would justify a complaint or a suspicion of a breach and would therefore lead to an investigation.

M. MoreSCO (Netherlands) thought it would be advisable for the delegation responsible for the suggestion in paragraph 32 (regular and periodical investigations) to give additional explanations of the system and of the motives underlying its suggestion. It appeared that the problem would not have been examined under all its aspects if this method also had not been suggested. As the Rapporteur had said, it did not exclude the use of the two other systems (the cases of a complaint and reasonable suspicion).

The chief advantage of regular and periodical supervision would be to convince the nations of the sincerity and efficacy with which the Convention was applied. There were objections to the proposal, particularly that mentioned by the Rapporteur—namely, that an investigation of that kind might assume excessive proportions. But a solution could undoubtedly be found. There were, nevertheless, other advantages, secondary perhaps, but still weighty. In the first place, the normal character of the inspections would remove from them the irritation caused by local investigations; there was, secondly, the practical advantage that a definite procedure would from the outset be established for carrying out the local investigations. If a complaint were lodged at a moment of tension and the procedure had to be improvised, many difficulties would arise and the country concerned might take refuge behind formal objections. If, on the other hand, regular local investigations had been conducted for some years past and a system had thus been established and accepted, loss of time would be avoided; this would meet Mr. Wilson's wish.

Undoubtedly, regular investigations would be attended by practical difficulties, but there would be time to find practical, simple and inexpensive solutions. Such investigations would make it possible to judge whether the documentation provided for in the Convention achieved its purpose—that was to say, allowed of effective supervision. A measure of uniformity would be achieved in the methods of compiling the statistics, for, at the beginning, different methods would clearly be employed. This had been particularly noticeable in the Technical Committee of the National Defence Expenditure Commission. Regular investigations would make it possible to unify these methods. Only in certain countries would regular local investigations be held annually. The choice of subjects would have to be limited, and possibly the Permanent Commission itself might decide on such limitation. These various points would be discussed later. For the time being the principle was all that need be considered. If the Bureau received it favourably, the Rapporteur or a Drafting Committee might prepare a formula defining its practical application.

General Burhardt-Bukacki (Poland) thought that the powers of the Permanent Disarmament Commission, as outlined in the draft Convention, were too narrow and that they should be considerably extended. On this point, M. Bourquin's report contained certain
interesting suggestions which would make good certain deficiencies in the draft and could be unanimously accepted by the members of the Bureau.

Among the suggestions made, the Polish delegation noted in particular that referring to regular and periodical investigations. Local investigation should be the central point in the supervision of armaments as limited by the Convention. His delegation would be sorry if no provision were made on this subject, as otherwise the powers of the Permanent Commission would be very restricted and less effective than they might be. If the Permanent Commission were merely to use information supplied by Governments or obtained more or less fortuitously under the circumstances specified in Articles 47 and 49 of the draft, it would be unable to secure the faithful and loyal execution of the Convention. The Commission would be extremely embarrassed in examining controversial cases if it had merely to accept the statements and rejoinders of the Governments concerned and could not obtain information on the spot. It should be in a position to go to the fountain-head and obtain information in entirely objective circumstances.

After studying the four solutions proposed, the Polish delegation was in favour of the last, that which went furthest, in making investigation the normal wheel in the machinery of supervision. On the point whether such regular investigation should cover the whole or part of the execution of the Convention, it would be better to give the Permanent Commission itself considerable latitude. Knowing the position on the basis of the reports, the Commission could specify the points calling for regular supervision. This system, naturally, would be supplemented by local investigations held as a result of a complaint or because there was reasonable suspicion of a breach.

M. MASSIGLI (France) felt that, after the Rapporteur's explanations, there could be no doubt that local investigation was the crux of the problem of supervision. The French delegation had already pronounced in favour of local investigation. Since, during the discussions in the Preparatory Commission, it became evident that no agreement could be reached as regards measures which went very far in the direction of disarmament, it had been admitted that it was possible to adapt supervision to the material to be supervised and consequently to have recourse only to general supervision. The idea of supervision on the basis of documentary evidence had therefore taken the place of local investigation. Since then, the qualitative reduction of armaments having been contemplated, the situation had been reversed; the question of supervision on the spot had regained its importance and the Conference had included this principle in its resolution of July 23rd.

How could this supervision be applied? The explanation was given in M. Bourquin's report which offered a choice between two easily reconcilable positions. It was desirable, however, to discuss in the first place a previous suggestion whereby local investigation could only be undertaken with the consent of the country concerned. He was gratified to note the reference which this proposal showed for the principle of national sovereignty, but he did not believe that logically a country could be asked to permit supervision, as it would make arrangements so that, when the Commission arrived, everything had been put in order. It must be borne in mind that, when they agreed to a drastic limitation of their right to arm, nations would also have to accept other limitations of their sovereignty and allow commissions of enquiry to carry out the necessary investigations on the spot.

There remained, therefore, two cases to be distinguished: (1) the case of an exceptional investigation, (2) the case of a periodical—say annual—investigation as suggested by the Netherlands delegation. There were two proposals regarding the exceptional investigation: an investigation opened on the ground of a complaint lodged by a Government and an investigation decided upon by an ordinary vote of the Commission, in accordance with the Soviet proposal. These two formulæ, as a matter of fact, were similar, but M. Massigli would support rather that of the Soviet Government. If it were necessary to make a complaint in order to justify an investigation, what would be the actual position? On this point, paragraph 30 of the report should be read in conjunction with paragraph 33. Would the investigation be opened immediately a complaint was lodged? Clearly not. It would first be necessary to make sure that the indications given were substantiated; the investigation would then be finally decided upon by the Commission on a majority vote.

There was only one difference between the two suggestions: when a complaint was lodged, there would be two opposing States, in other words a political dispute would be created. Under the second proposal, there would be no conflict between two countries between whom stood a commission. The suspect State would be faced with the Commission which considered it necessary to clear up a point and went to the spot to do so. That was why he preferred the second solution; it deprived supervision of any political character and would have the advantage of causing less excitement in the country where the supervision was carried out.

The idea of supervision based on a complaint originated from the uncertainty which still existed as to the composition of the future Disarmament Commission. If the latter consisted of independent individuals, it was clear why a complaint would be necessary, but if it were composed of Government representatives, each of whom brought his own documentation, the whole aspect of the question changed. The source of the request for investigation certainly would be known, but it would seem much more natural, and that was another reason why he would prefer the Commission to be composed of Government delegates. The distinction between the two proposals was very slight, and it would certainly be possible to reach agreement on them.

Periodical investigation had great advantages. There might be apparently insignificant facts which might not appear to justify sending a commission of enquiry, but which, by their
recurrence, tended to give rise to a breach of the Convention. If such facts could be established only by an exceptional enquiry, there would be some reluctance in undertaking it. If, on the contrary, it were agreed that a commission could periodically hold a general investigation, it would be easier to rectify the omissions, which, by their recurrence or multiplication, might lead to a dangerous de facto situation.

The principle of periodical investigation was a new one, an idea to which several Governments were not yet accustomed, but M. Massigli wondered whether it might not be possible in this matter also to have a graduated system of obligations. Alongside the obligations applying to all Powers, there would be regional obligations, the result of conventions which were also regional, under which States would accept in their relations with one another the principle of a periodical investigation every year or every two years.

It would also have to be decided whether the investigation should cover the whole system of obligations or whether the Disarmament Commission would be required each year to state the point with which the investigation would deal. As M. Politis had pointed out, there was no real incompatibility between the principle of regular and that of special investigation. The latter would clearly always be necessary, but he thought it was both desirable and possible to organise a system of periodical investigation also, at least for any States which might accept closer obligations towards one another.

Mr. Eden (United Kingdom) wished to explain his Government's attitude to this specially important section of the report.

His Government took the view that, if an itinerant permanent commission were given unlimited rights of investigation in the different countries, difficulties and possibly even dangers might ensue. It would therefore be unwise to support this proposal, for the following reasons. Much of the work of an itinerant commission of enquiry of this kind would be superfluous and cause unnecessary friction. It would mean a loss of time and consequently of money. Delegates who had attended the proceedings of the Fourth Committee of the Assembly would probably not be anxious to encourage the League to adopt such a method.

An alternative proposal which had been made was that supervision would operate automatically when a complaint was lodged with the Disarmament Commission. The drawback of such a procedure was that it might encourage the lodging of complaints which were insufficiently justified, but precautions could be taken against such abuses. The United Kingdom Government would prefer this method to that of periodical and regular investigation.

Although it was hardly the moment for making proposals, Mr. Eden could say that his Government's idea was that an authorised body should have the right to decide whether or no it was necessary to open an investigation on the complaint lodged. An opinion could hardly be expressed on this point so long as the composition of the Disarmament Commission was unknown. If it consisted of independent individuals, the United Kingdom Government thought that in that case there would have to be an appeal to a higher authority consisting of Government representatives. This point would have to be decided when the composition of the Commission itself was under consideration.

The Chairman inferred from certain of the statements that this portion of the report needed closer examination and suggested adjourning the matter until the next meeting. Meanwhile, members of the Bureau would have time to discuss with one another and with the Rapporteur the difficulties mentioned.

The continuation of the discussion was adjourned to the next meeting.
factors played a preponderating part in the question. The Bureau should be guided by that experience, for its task was very similar to that of the Consultative Commission. He was in favour, therefore, of commissions of enquiry paying regular visits to the territory of all the contracting States in turn and as part of their normal duties; that would solve the question of the absolute equality of the contracting States and would make it possible for the League to ascertain the actual state of armaments and the spirit prevailing among the population.

Should a State possess information entitling it to say that any other contracting party was not complying with its obligations under the Convention, it would be able, through the competent organs of the League and with due discretion, to direct the attention of the Commission of Supervision which, on the occasion of its periodical visit, could ascertain, while obviating any friction or avoiding exciting one State against another, whether, and, if so, to what extent, the information in the possession of the applicant State was in accordance with the facts. Judging by past experience, he was very much afraid that, unless there was a system of regular periodical investigation in all States, any enquiry decided upon in isolated cases would always be of a highly political character, would irritate the nation concerned and its allies, and might thus cause international relations to become strained.

In that connection, it was essential also to clear up the question of the right of any Member of the Council and of the Government of any State Member of the League to apply to the Council to exercise the rights of investigation conferred upon it by the Treaties of Peace. Provision had already been made for a local enquiry in the case of a complaint and that enquiry could take place even without the consent of the defendant State. M. Kunzl-Jizersky considered that, in view of the principle that all Members of the League enjoyed equal rights, those various possibilities should be extended further.

He declared himself in favour then of regular supervision, to be carried out periodically in the territory of all the contracting States. Should peace be threatened, special local investigations would also be carried out at the request of the State concerned.

M. Sandler (Sweden) desired first to stress the importance attached by the Swedish delegation to the proposal in paragraph 32 of M. Bourquin's report that commissions of enquiry should be entitled to visit the territory of all the contracting States in turn and as part of their normal duties. Without reverting to the reasons adduced in the course of the discussion in favour of that proposal, he would simply point out that the adoption by the Conference of provisions such as the one to which he referred would help to confer on the system of supervision a very high degree of efficacy and would to a large extent deprive it of any vexatious character.

As he understood the proposal, the local investigations would be carried out in each country in turn—that was to say, the Permanent Commission would be bound to carry out its investigations in every country once within a given period to be decided—every two or three years, for example. On the other hand, it would be a mistake, he thought, to contemplate investigations to be carried out according to a pre-established plan and in an order known and published in advance, as the measures of supervision would thereby lose much of their efficacy.

Again, everyone seemed to be agreed that the system of permanent regular supervision should, when necessary, be supplemented by ad hoc supervision in special cases. The question then arose as to the conditions under which special supervision should be allowed. Must there be a formal complaint before the investigation could be carried out or would a spontaneous decision of the Permanent Commission suffice? The case of complaints should, in M. Sandler's opinion, be provided for in the future Convention. Apart, however, from any formal complaint, the Permanent Commission should, he thought, have the right itself to order local investigations, proprio motu. The Soviet delegation, in its proposal, had made the right to institute local investigations contingent on there being a reasonable supposition that there had been an infringement of the Convention. M. Sandler very much doubted the expediency of inserting such a restriction in the Convention. It would have the disadvantage of conferring on the measures of supervision a character which would render them much more difficult to carry out.

The fact that the right to institute local enquiries was made subject to the conditions suggested by the Soviet delegation would be tantamount to announcing in advance, to the world in general, that this or that State was the object of suspicions deemed by the Permanent Commission to be well founded, a situation which, in M. Sandler's view, would stress the gravity of the measures of enquiry contemplated.

If, on the other hand, the Permanent Commission were left, without being bound by explicit stipulations, to institute local enquiries as might be necessary, those enquiries could be carried out much more easily and in a less sensational manner. The framing of rules for the exercise of the right of supervision would be sufficient safeguard against possible abuses. Any decision, more particularly in regard to the exercise of that right, would be contingent on an adequate majority vote by the Permanent Commission. M. Sandler laid special emphasis on the importance of making the rules for supervision really effective and added, with reference to an observation submitted some days previously by Mr. Wilson, that the idea of efficacy necessarily implied that of rapidity.

M. Sato (Japan) was among those who were anxious for a practical and equitable system of supervision to be applied generally in all the countries signatories to the future Convention. The Permanent Disarmament Commission was of course the body pre-eminently fitted to exercise such supervision. As regards local investigations, he could not express an opinion...
until all the relevant details, such as the extent of the investigations, the means to be employed, etc., had been fully decided. He desired, however, to take advantage of the opportunity, in order to give his opinion briefly on the question of local investigations.

The proposed Convention being of a general character, it had seemed essential to emphasise the necessity for the general application of the system of supervision designed to ensure the proper execution of the Convention. He could not question the efficacy or the possibility of the world application of such a system of supervision.

In his statement concerning the French plan, M. Paul-Boncour had pointed out the necessity for adapting this or that international regime to the requirements of this or that part of the world. M. Sato thought that the position was the same as regards local enquiries, since, if it were to be practicable and equitable, such a system of supervision must take into account the requirements and circumstances of the region to which it was applied. It seemed superfluous to say that different portions of the globe, such as Asia and Europe, were situated in very different circumstances and faced by very different requirements.

It might perhaps be objected that there could never be a system admitting of universal application, since the same requirements and the same conditions were not found all over the world. M. Sato would reply that this was possible; that the provisions of the draft Convention represented a practical and equitable system of supervision of general application and that there should be added to those provisions others which were their natural corollary.

He added that the Japanese delegation would reserve its opinion with regard to local investigations until all the relevant details had been decided.

Mr. Wilson (United States of America) agreed with M. Bourquin that it was the view of the majority of the delegates that the outcome of all the discussions on supervision would depend on the type of supervision adopted. M. Bourquin had been at great pains to reassure the delegates, and Mr. Wilson thought that it was possible to be perfectly frank regarding the forms of supervision proposed in the report.

Periodical supervision had met with some favour among a large number of countries which felt that it offered advantages as regards both themselves and their neighbours. Mr. Wilson did not think that what they had in mind was a measure of absolutely universal application since, in view of the geographical remoteness of certain countries, supervision carried out in their territory would not be of any great value and would, moreover, be very expensive. On those grounds, it would not be justified.

Paragraph 29 (a) of the report provided that local investigations would only be possible at the request, or at the very least, with the consent of the country whose conduct was called in question and on whose territory the enquiry would be conducted. That provision obviously did not go far enough to allay the apprehensions of States represented at the Convention. One solution would be for the investigations to be carried out at the instance of a particular State, or on the Commission’s initiative and responsibility. He admitted that, before the discussion, he had been entirely in favour of the system of complaints, but that first impression had been somewhat shaken after the explanations given by the various delegations, particularly the French and Polish. The advantages of the system consisted mainly in the fact that, before any request for an enquiry could be agreed to, it must be properly grounded. That would involve a series of formalities which would bring home to the applicant State the responsibility it was incurring, and would constitute a guarantee that the Commission would not have to deal with frivolous complaints; there was, however, the risk of creating between countries a feeling of hostility, which the Press would not be slow to foster.

The second system, whereby the Commission would itself have the power to decide whether an enquiry should be instituted, also offered advantages, but he wondered whether it would not involve the same procession of Press campaigns and hostility between the countries concerned. In his view, then, the complaint system offered the fullest guarantees. In any case, it would be necessary to contemplate some procedure preliminary to the opening of the enquiry, on the lines of the United States procedure under which the grand jury proceeded to a rapid examination of the cases and decided whether adequate reasons existed for an enquiry.

One point did not seem to have been studied as attentively as it should have been—namely, the position of the country against which the complaint had been lodged, the country in regard to which the Commission had decided to institute an enquiry. During the intermediate period, that country would be the object of all sorts of accusations both in the Press of the applicant State and in the Press all over the world. There was a saying “no smoke without fire”, and some vestige of those charges, however false, would stick. It was essential then that a country whose conduct was called in question should have some means of protecting itself. Every State must have the right to ask for an investigation to be carried out in its territory, and such a request must be complied with immediately. He would go even further and say that, if any country thought that the Press of another country was carrying on a defamatory campaign against it and publishing facts calculated to lead to the belief that it was not complying with the clauses of the Convention, it must have the right to demand that a commission of enquiry be sent immediately to its territory, in order to establish its innocence.

M. Bourquin (Belgium), Rapporteur, said that, judging by the trend of the discussion, it seemed that agreement might now be possible in regard to supervision. Opinions had matured and drawn closer to one another—for instance, on the particularly thorny question of local investigations which seemed now to have been agreed to in principle, though various secondary details still had to be settled.
To expedite the discussion, he thought he could define a series of propositions on which agreement had been reached.

The composition of the Permanent Commission was one of the central points, and agreement appeared to have been reached in favour of a Commission consisting of Government delegates, on which all the contracting Powers would have one representative, but which would set up sub-committees to prepare its work. The plenary Commission would thus simply have to express an opinion on the reports submitted by its sub-committees.

The Commission would have power to decide to institute local investigations. Its decisions would be taken by a qualified majority.

There had been two formulæ between which to choose. Was an enquiry to be instituted as the result of a complaint or on the Commission's own initiative? In point of fact, the two solutions were very similar, since, if the Commission consisted of Government delegates, the initiative for a local investigation would in any case have to be taken by an applicant Government.

The complaint would simply add to the solemnity of the request for an enquiry. The Rapporteur would himself prefer to adopt the principle of a spontaneous decision of the Commission. He had the impression, however, that the complaint system was more in keeping with the views of certain delegations. He accordingly suggested the following text:

"If a complaint is lodged, local investigations may be decided upon by the Commission by a two-thirds majority."

He would further add, as Mr. Wilson had proposed, a provision recognising the right of any contracting State to ask for an enquiry in its territory in order to dissipate an atmosphere of suspicion. In the last-named case, no majority would be necessary. It would simply represent the exercise of a right belonging to the Member States, and the Commission would be bound to comply with such a request. To the text which he had just proposed, he would therefore suggest adding:

"Local investigations shall be organised by the Commission, if the State in whose territory they are to be carried out so requests."

Those texts, it was understood, would be universal and would be incorporated in the Disarmament Convention, due account being taken of M. Sato's reservation.

Consideration would also be given, as M. Paul-Boncour had suggested, to the possibility of establishing additional conventions which would enable the original Convention to be supplemented by regional pacts open to all States and providing for local investigations to be carried out periodically and automatically, as part of a normal procedure, in accordance with the formula proposed by the Netherlands delegation.

M. MoreSCO (Netherlands) thought that, in submitting proposals to the General Commission on this subject, the Bureau should avoid linking up the idea of local investigations too closely with the idea of regional agreements; it was not yet possible to tell exactly what part such agreements would play in the general system.

The principle had been accepted of periodical enquiries for States which would have agreed to such enquiries beforehand. The Convention would contain a clause similar to Article 36 of the Statute of the Permanent Court of International Justice, which provided that a State might recognise the jurisdiction of the Court in advance for certain specific disputes. That provision would not preclude the possibility of regional agreements whereby the States would agree to submit to periodical enquiries.

M. Massigli (France) was gratified to note that the Bureau was nearing agreement. Naturally, the delegates were not required to commit themselves definitely, and reserved the right to revert to any particular point.

As regards periodical supervision, he thought that the same result could be achieved by one or other of the two formulæ proposed by M. Bourquin or M. MoreSCO. Nevertheless, whatever might be the advantages of the system of complaints, thanks to the guarantees it offered, he thought it would be inconvenient to lay down the principle that the procedure of local investigation could only be instituted as a result of a complaint. Under the Convention, the Commission must be left free to decide on an investigation on its own initiative, in order to make sure that all the signatories were equally interested in the observance of the Convention. While any Government which felt itself menaced must be entitled to set the procedure in motion, the Commission itself, as the guardian of the Convention, must be allowed, on its own responsibility, to institute local investigations. He proposed then that M. Bourquin's text be modified as follows:

"...if a complaint is lodged by a Government or if the Commission considers it necessary."

M. Massigli thought further that the two-thirds majority suggested for invalidity of decisions represented a maximum. The proposed general Convention would bind a large number of States; all the Governments would be represented on the Permanent Commission, but it was probable that only a small number would be regularly represented at the meetings. It would therefore be seriously inconvenient to require that decisions should be passed by a large majority. The abstentions might paralyse all action. He proposed accordingly the following text:

"Decisions shall be taken by a two-thirds majority of those present."
Mr. Eden (United Kingdom) appreciated the Rapporteur’s efforts to meet the views of the United Kingdom delegation. The original proposal had been that the Disarmament Commission should consist of independent experts. That was what the Preparatory Commission had had in mind. It would have been difficult for the United Kingdom Government to agree to the proposal that the decision regarding the opening of investigations should be left to the experts, as it considered that a Government should take the responsibility of requesting an investigation. As the Commission was to consist of Government delegates, the position was considerably altered, but he could not say what would now be the attitude of his Government and could not make any statement until he had consulted it. The question of the majority required to enable the Commission to take a valid decision depended upon the procedure agreed upon in this respect.

He was still in favour of the principle of a complaint being lodged by one or more Governments, although he recognised that this procedure might give rise to Press hostility, etc., in the countries involved. Any complaint, whether official or unofficial, would always bring the same difficulties in its train, and he did not think, therefore, that this was a sufficient objection. He emphasised the necessity for guarding against complaints on insufficient grounds and against the consequences of a clash of personalities on the Commission. For that reason, he thought it preferable for the complaint to emanate from the Governments themselves.

He had no objection to the suggestion that certain States should be permitted to agree among themselves to organise a periodical investigation in their territories. Full freedom should be allowed in this matter. Similarly, he thought that the proposal to allow, as Mr. Wilson had requested, a State to ask for an investigation in its territory, in order to dispel a certain atmosphere of suspicion, was a necessary safeguard.

M. Pilotti (Italy) thought that the composition of the Commission, as contemplated in the Rapporteur’s last proposal, was calculated to allay any misgivings felt by States and made the question of the complaint much less important, since it was now proposed that the Commission should consist of Government representatives.

He did not agree with M. Massigli as to the majority required for a valid decision. The two-thirds proportion which M. Massigli regarded as a maximum, was, he thought, liable to considerable variation according to the angle from which the matter was approached. If, as in the Preparatory Commission’s draft, a quorum of two-thirds of the members was required to enable the Commission to transact business, the majority would be progressively reduced. Everything depended upon the rules laid down for the transaction of business. The qualified majority was a mathematical function of the number of members constituting a quorum. He would therefore reserve his Government’s opinion on this point.

On the other hand, he approved the suggestion that a State might invite an enquiry. Neither had he any difficulty in accepting the suggestion that, by a special convention, certain States should agree to a periodical investigation in their territories, although he doubted the advisability of including in the general structure of the Convention a provision whereby certain States would undertake an obligation, from which other States, the number of which could not yet be determined, would be free. The system of periodical supervision was of no value unless it was general and in that case the difficulties already mentioned would arise; if the idea were simply to have an agreement between certain States, of what use would it be and what weight would it have, particularly in the eyes of public opinion?

It was true that M. Bourquin had endeavoured to obviate this difficulty by providing for another convention to be concluded between certain States. These States might conceivably accept this more severe system of supervision, but, if the whole system were adopted in the form described by the Netherlands delegate, he could not help asking what would be the use of this additional obligation.

M. Bourquin (Belgium), Rapporteur, thanked the members of the Bureau for the way in which they had received his proposals. He thought there was now a sufficient measure of agreement to enable him to sum up the position. On the first proposal—namely, that relating to the composition of the Commission—the members were agreed. As regards the second proposal, supplemented by Mr. Wilson’s suggestion that any State should have the right to ask for an enquiry in its territory, no objection had been raised.

With reference to the third proposal, agreement also appeared to have been reached, apart from Mr. Eden’s reservation, which he hoped would be withdrawn. A supplementary convention or a special provision in the general Convention, similar to Article 36 of the Statute of the Permanent Court of International Justice, would make it possible for certain States to accept a periodical investigation. In this connection, two suggestions had been made; that of M. Moresco to the effect that this possibility might be expressly provided for in the Convention, and another that it should take the form of a separate provision. He thought that no decision should be taken at the moment, as this might be premature. When there was a clear idea of the general structure of the Convention, and if the principle of superimposed conventions was accepted, such a provision could, of course, be inserted in one of those conventions. If, on the other hand, it were decided to adhere to the principle of a single convention, it would then doubtless be possible to adopt M. Moresco’s suggestion, but the time had not yet come to take a decision on that point.

The fourth proposal was that the Committee might decide by a qualified majority to open an investigation on the spot, either on a complaint being lodged by a Government or...
on the initiative of the Commission itself. If the question were analysed, it would be found that all delegates agreed that the Commission had the right in certain circumstances to decide to open local investigations in a certain country. It still had to be decided whether those investigations should be based solely on a complaint.

Moreover, what was to be the qualified majority by which a decision to carry out investigations could be taken? Was this to be two-thirds of the members or two-thirds of those present? He would like to have time to think over this question. He thought, however, that, at the present juncture, the fact that agreement had been reached on the principle that the Commission, by a qualified majority still to be determined, would be competent to organise local investigations should be placed on record. When the question was re-examined, it would be seen whether the word "complaint" should be retained or whether it should be replaced by the term "at the request of".

In view of the progress that had been made in regard to these various fundamental proposals, he had no doubt that agreement would also be reached on the secondary provisions, if the delegates were given a few days to think the matter over.

The Chairman thought that, as sufficient agreement in principle had now been reached in regard to the four proposals submitted by the Rapporteur, M. Bourquin might proceed with the preparation of his draft which would again be submitted to the Bureau later.

M. Bourquin (Belgium), Rapporteur, added that the Bureau would be called upon to take a decision on certain less important points. Among the means of supervision mentioned was workers' supervision referred to in paragraph 35 of his report, the organisation of which in certain factories was provided for in the Soviet draft. Moreover, in paragraph 36, mention was made of the addition to the draft Convention suggested by Count Carton de Wiart, to the effect that all contracting States should undertake to refrain from inflicting penalties upon persons disclosing infringements of the Convention.

The decision taken by the Bureau as regards the composition of the Commission solved the problem as a whole, but there still remained one or two points of detail, in particular the question of incompatibility, which he thought could easily be settled, now that it was proposed that the Commission should be composed of Government delegates. Another less important question was that of experts and substitutes.

M. Stein (Union of Soviet Socialist Republics) explained the proposal for workers' supervision mentioned by M. Bourquin in paragraph 35 of his report. In 1928, the Soviet delegation had, in its draft Disarmament Convention, made certain proposals concerning labour control over the observance of the Convention, as it was convinced that this was the most effective and reliable form of control. These proposals should be regarded as a proof of the interest taken by the Union of Soviet Socialist Republics in control. The supervision exercised by the workers in certain factories, as laid down in Article 44 of the Soviet draft, would afford an assurance that there were no secret arms concealed from public knowledge. No one could be better informed than the workers employed in the factories and no one had greater interest than they in preventing another war.

M. Sandler (Sweden) noted that the main idea underlying the Soviet draft was to obtain the collaboration of the workers, of their organisations, in order to ensure the strict application of the Convention. He thought also that collaboration on the part of the workers should be organised on a voluntary basis. It was desirable to discover the best means of utilising public opinion for the purpose of strengthening control. The workers played an important part in the formation of public opinion, and he thought that this matter should be considered again when paragraph 47 of the report was discussed.

M. Bourquin (Belgium), Rapporteur, agreed with M. Sandler's suggestion. During the conversations which he had had with the various delegations before drawing up his report, he had acquired the impression that the idea of workers' supervision should not be rejected, but that certain difficulties would be involved. It was not easy to express that idea in an organic formula which would work well in practice. It would be possible to adopt the formula in the Soviet proposal and to contemplate the organisation of workers' supervision by the workers' factory committees or by other organs of the trade unions, but it would be necessary for these workers' committees to exist, to be organised, officially recognised and to have some official status. The international obstacles which had already been encountered in attempting to obtain the collaboration of labour organisations in the administration of the International Labour Office would probably be encountered here too. The appointment of employers' and workers' delegates had given rise to insurmountable difficulties, because trade unions differed in the different countries. In order to find a formula capable of international application, it had been necessary to have recourse to Part XIII of the Treaty of Versailles and to provide that delegates should be appointed by Governments in agreement with their labour organisations. The same difficulties would arise in regard to the organisation of a specifically labour control. Nevertheless, the idea of utilising this control on behalf of disarmament had received the attention of certain delegates, and some general idea of the means of doing so should be evolved. He would point out in this connection that the Convention already contained an appropriate provision. It had been laid down that the Commission could examine information
received, not only from Governments, but from any other source. This provision would to some extent meet the wishes of the Soviet delegation.

M. Sandler's suggestion might also be helpful, but it must not be forgotten that the solution must be sought as it were on a side track, since, as he had just pointed out, the main road was blocked.

M. Stein (Union of Soviet Socialist Republics) pointed out that, in the case with which the Bureau was dealing, it was not called upon to decide details but to agree upon a question of principle. The Soviet delegation had proposed that supervision should be exercised by the workers who were in a position to obtain first-hand knowledge, because such supervision would be exceptionally effective. It would not be difficult in his opinion to pronounce upon the principle, leaving the details of application on one side.

M. Pedroso (Spain) said that it would be illogical for him not to support the Soviet proposal, since workers' supervision had originally been advocated by M. de Madariaga in the Committee on the Private Manufacture of Arms. It was chiefly from the point of view of the private manufacture of arms that workers' supervision was essential.

Mr. Eden (United Kingdom) desired to know what was the principle under discussion. What were the Governments asked to do? It had been suggested that workers' supervision should be organised. For the most part, the delegates represented the Governments of countries where labour was already organised. There would be no doubt that, if the trade unions objected to the manufacture of certain articles, their voice would soon be heard. Did the question apply solely to countries where labour was not organised? Was it suggested that Governments should discuss the establishment of organisations such as those proposed by the Soviet delegation in countries where they did not yet exist? This point must be cleared up before any decision could be reached. In the United Kingdom, the workers' organisations mentioned were already in existence and he wondered what more could be done by the United Kingdom Government in this matter.

M. Massigli (France) said that, while he did not wish to discard the suggestion out of hand, he would like to stress the difficulties involved. The Bureau was discussing international supervision. The Soviet proposal, however, referred to national supervision. Moreover, he wondered whether workers' organisations in all countries would be free to exercise, even in defiance of their own Governments, the proposed supervision.

The Soviet proposal referred in particular to the factories for the manufacture of arms and the chemical factories. Those were special aspects of the problem of supervision. As provided in paragraph 38 of M. Bourquin's report, there was no doubt that the Convention would contain a provision referring to the supervision of chemical weapons and the manufacture of arms. It was, however, the duty of the organs dealing with these problems to study the question. The Bureau, therefore, might request the competent Committees to prepare a report on the particular aspects of supervision in so far as it is related to the questions with which they dealt.

In any event, M. Massigli thought it impossible at the moment to reach a conclusion upon the principle embodied in the Soviet proposal.

The Chairman thought that a misunderstanding had arisen regarding the meaning of the word "supervision". The Bureau had decided in principle that the Commission should consist of Government representatives. Was another form of supervision contemplated? Personally he did not see how two forms of supervision could exist side by side. That would not preclude a provision that labour organisations should have free access to the Governments and that a complaint made by them could be submitted to the Commission. This right should be inserted in the Convention. By exercising it, labour organisations would be playing their part in the work of supervision. For instance, it might be laid down that organised workers or their representatives could appeal to the Commission if they had knowledge of any breach of the Convention.

M. Bourquin (Belgium), Rapporteur, wished to add that Count Carton de Wiart's proposal, which was designed to guard against the infraction of penalties on persons disclosing infringements of the Convention, had the same object in view and would give rise to no difficulties in practice. It had already been approved by many Governments.

He also drew M. Massigli's attention to the special forms of procedure for supervision referred to in paragraph 38 of his report for the purpose of ensuring the observance of the Convention in certain respects, particularly in the matter of the manufacture of arms. If the competent committees considered it expedient to introduce any practicable methods of technical supervision, the door was not closed to their suggestions by the provisional decision taken by the Bureau. The latter would also request the special committees to give careful attention to these special methods of supervision.

M. Pilotti (Italy) felt obliged to make a reservation in this connection. It was true that the special committees could examine the most appropriate procedure for supervision in connection with their technical specialities, but they had met with two difficulties relating to certain more general questions which they could not settle themselves and which would have to be settled by the Bureau and the General Commission. There was, for example, the question of stocks. In regard to these matters, special committees could only make suggestions for certain means of action.
M. BOURQUIN (Belgium), Rapporteur, said that there were still a number of minor points to be examined before the Bureau could be said to have completed its discussion of the question of supervision. He proposed that these various points should be studied at the beginning of the next meeting—in particular the question of incompatibility and that of experts and substitutes.

The CHAIRMAN was happy to note the great progress made in regard to the question of supervision as a result of the discussion of the report. Certain conclusions had emerged from this discussion, which the Rapporteur would again submit to the Bureau before they were transmitted to the General Commission.

The continuation of the discussion was adjourned to the next meeting.

TWENTY-THIRD MEETING (PUBLIC)

Held on Tuesday, November 8th, 1932, at 3.30 p.m.

Chairman: Mr. HENDERSON.

27. QUESTION OF SUPERVISION: REPORT BY M. BOURQUIN (BELGIUM) (continuation).

Composition of the Permanent Disarmament Commission.

M. BOURQUIN (Belgium), Rapporteur, pointed out that, in addition to the questions of incompatibility (paragraphs 54 to 57 of the report, document Conf.D.140), experts and substitutes (paragraphs 58 to 60) and internal organisation, the Bureau had to deal with paragraph 47, concerning a proposal for a small Committee consisting of independent persons. In the course of conversations with various delegations, the Rapporteur had noted that the proposal, originally submitted by several of them, was fairly sympathetically received. The proposal was not incompatible with the decision adopted by the Bureau on the previous day that the Permanent Commission should consist of Government delegates, since the suggestion now was to set up, side by side with the Permanent Commission, a Committee entirely independent of Governments. The small Committee's powers would be quite distinct from those of the Permanent Commission. It would consist of from eight to ten persons and would have no part in the exercise of the powers entrusted to the Permanent Commission. The Permanent Commission's reports, it would be remembered, were to be addressed to the Council and to the signatory States. They would also be addressed to the small Committee which would be, to some extent, an organ of public opinion and whose duty it would be to direct the Permanent Commission's attention to any fact that might enlighten the latter in the exercise of its task. It would not therefore take part in the actual supervision.

If the principle of that small Committee were adopted, the Bureau would have to settle two questions: the number of its members, and the authority by whom they were to be appointed. As they would be independent persons, they could not be nominated by Governments. Various suggestions had been put forward: that the members should be designated by the Disarmament Conference itself, or by the League Council, or by the Governing Body of the International Labour Office, or by the two last-named bodies jointly. Both those questions, however, were of secondary importance, and the first point to be settled was the actual principle of the setting up of a small Committee on those lines.

Mr. WILSON (United States of America) observed that, in the Preparatory Commission, when the question of the Permanent Commission had been under consideration, it had first been agreed that the latter should consist of independent, impartial persons, remote from any suspicion of being subject to Government influence or of being moved by ambition to remain long in office. The Permanent Commission then was not to be composed of Government representatives. After more exhaustive examination, that suggestion had appeared to be impracticable, and a return had been made to the idea of official Government representatives. The original idea was now being taken up again in a different form. It was at first sight an attractive proposition, but the question arose as to whether anything would really be added to the value of the Permanent Commission by setting up a small Committee on the lines proposed, or whether, on the contrary, the result would not be to hamper the Permanent Commission in its work.

The Permanent Commission was to be entrusted with very grave duties. It would have to watch over the working and application of the future Convention, to prepare for revision,
when necessary, and to deal with any complaints that might be lodged. In short, it would have in actual fact to decide at times between peace and war. The Bureau must therefore carefully weigh any decision it might take in the matter.

The work of the small Committee would have the same publicity as that of the Permanent Commission. While possessing an official status, the Committee would bear no responsibility. It would watch over the activities of the Permanent Commission and might submit criticisms and destroy the effect of any decisions taken by that body. Again, it had been said that the smaller Committee would afford a means of concentrating public opinion on the activities of the Permanent Commission. But would not the Permanent Commission itself also be in contact with the rest of the world? It was difficult indeed to see how the Committee would add to the effectiveness of the Convention, and the United States delegate was afraid that a decision to set up such a body would only mean adding a fifth wheel to the coach.

Mr. Eden (United Kingdom) shared Mr. Wilson’s doubts as to the desirability of the suggestion under discussion. The setting up of a further Committee seemed to him superfluous. If the object was to allow for the representation of public opinion, did not any Government elected by the people represent that people, so that a Committee, appointed by Governments, ipso facto expressed the opinion of the peoples? He would prefer to leave the question to the Permanent Commission to decide. If the machinery were to work satisfactorily, it could never be too simple. If the Permanent Commission thought it necessary to double itself in that way, it would certainly be wise enough to say so, but it would be better to avoid any duplication of machinery, unless that was manifestly necessary. Experience would no doubt show that it was safer to adhere to the method adopted on the previous day.

M. Sandler (Sweden) thought that the suggestion in paragraph 47 of the report deserved special attention. It implied setting up an organ of public opinion. Without the constant organised support of public opinion in every country it would, in point of fact, be difficult to ensure the application of the Convention. He accordingly entirely supported the main idea put forward by the Rapporteur.

M. Pedroso (Spain) also emphasised the importance of the suggestion in paragraph 47. That suggestion was in the nature of a compromise solution, based on the fact that several delegations had proposed supervision by the workers. In his opinion, the presence of a small Committee of that kind, side by side with the Permanent Commission, would make it possible to concentrate any useful information. Undoubtedly a large part of public opinion was concentrated in the activities of the workers’ organisations.

M. Massigli (France) appreciated the considerations underlying the suggestion referred to by the Rapporteur and supported by the last two speakers. Personally, he would like to know a little more clearly what was expected of the small Committee proposed, what its rôle would be and the extent to which it would be entitled to intervene in the work of the Permanent Commission. The reports and documentary material of the Permanent Commission would be communicated to it, but supposing, for instance, that a complaint had been lodged with the Permanent Commission and that the latter had closed the affair, would the smaller Committee have the right to demand that the case should be reopened? In other words, would that Committee constitute, as regards the Permanent Commission, a supervisory organ over and above the Governments which appointed the members of the Permanent Commission, or would it simply constitute a fresh source of information in the meaning of the provisions of Part VI of the draft Convention?

M. Bourquin (Belgium), Rapporteur, pointed out that the suggestion had not been submitted by the Rapporteur. As M. Pedroso had said, it represented something in the nature of a compromise between the suggestions made by some of the delegations he had consulted. Several of those delegations had clung to the idea of a Permanent Commission of independent persons and had been a priori entirely opposed to the idea of a Commission of Government delegates. That, moreover, had formerly been M. Bourquin’s own attitude, and he had voted on those lines in the Preparatory Commission. After reflection, however, he had lately come to realise that it was impossible to pursue that course and that it would be necessary to enter unhesitatingly upon the course adopted by the Bureau on the previous day. In his conversations with the delegations, he had endeavoured to demonstrate the preponderating reasons in favour of a Commission of Government delegates, and in this way had arisen the possibility of setting up, side by side with the Permanent Commission consisting of Government experts, a small Committee of independent persons. That was really an additional measure, and was regarded as a compromise by those who were in favour of a Permanent Commission of independent persons.

The question raised by M. Massigli was very important from the standpoint of the attitude to be finally adopted by the Bureau. If the Rapporteur had rightly interpreted the views of those with whom he had spoken, the small Committee would simply constitute a source of information and nothing more. It would take no part in the exercise of the powers conferred on the Permanent Commission, nor would it supervise the latter’s activities in the legal sense.
It would do no more than might be done by anyone, since any private individual would have the right to submit to the Permanent Commission a petition, which the latter might or might not take into consideration according to whether it judged it to be of a serious or frivolous character. The small Committee would have the advantage of concentrating to some extent the documentary material at the disposal of the Permanent Commission and of directing the latter's attention to facts which it thought should be noted. The Committee's work would, it must be assumed, be performed with all due conscientiousness. The setting up of such a body would thus constitute a guarantee as regards the working of the Permanent Commission, but legally the latter would not be required to attach greater importance to the information it received through the Committee than to that from other sources.

M. Motta (Switzerland), while recognising the interest and importance of the suggestion referred to by the Rapporteur, felt that he could not regard it as of really fundamental importance. Personally, if he had the advantage of a general movement in favour of the idea, he would have no difficulty in supporting it, but the discussion appeared to show that there was a certain distance. Personally, if he found that there was a general movement in favour of the idea, he referred to by the Rapporteur, felt that he could not regard it as of really fundamental importance. It might be possible to consider leaving it to the Permanent Commission itself, but the question would have to be discussed further. It was quite admissible that the two groups in question represented on the Governing Body of the International Labour Office should be authorised to appoint the members of the Committee. The point was not one of vital importance.

Secondly, as regards the composition of the Permanent Commission, M. Motta had at first been in favour of a Commission of independent persons, relatively few in number, to be appointed by the League Council. Reflection had subsequently led him to adopt the conclusions which had been decided upon by the Bureau the previous day, but he thought that if there was not a certain measure of incompatibility between the two ideas. The Rapporteur had said that the suggestion regarding the setting up of a small Committee represented as it were the residue left over from the original idea. If the Committee were set up and constituted a source of information of a special kind, a means, in short, of filtering certain information, what would happen when a dispute arose between the small Committee and the Permanent Commission? Such a dispute would arise directly the small Committee raised a specific question with which the Permanent Committee decided not to proceed. Inevitably, the Committee would cast a kind of suspicion over the Permanent Commission. Was that desirable? M. Motta would not venture to answer that question. He simply wished to point out that, in his view, it was not one on which unanimity could be achieved in the Bureau. The latter should accordingly confine itself to mentioning it in the report and refer it to the General Commission.

M. Piotti (Italy) wished to submit an observation of a purely legal nature connected with the question with which M. Motta had dealt under its moral aspect, or, if that were preferred, from the angle of expediency. From a legal standpoint, seeing that the Bureau had, on the previous day, adopted the system of a Commission of Government representatives, that system should be logically followed up, implying as it did a whole series of consequences. It entered the sphere of international relations, since the body in question was one whose members would cause decisions to be taken by submitting requests as emanating from their Governments. Admitting for the time being that every delegate would be free to utilise this or that source of information, he wondered whether an entirely different notion could be admitted. It had been possible to conceive of a Commission of a more or less judicial character, consisting of a small number of eminent persons appointed by the Council and acting, as it were, as a tribunal. If a Commission thus constituted were allowed to avail itself of the assistance of a special Committee consisting of workers and employers—that was to say, of representatives of industrial groups, there would be no departure from that system. If, on the other hand, a small Committee were set up side by side with a Commission of Government delegates, M. Piotti wondered whether that would lead to satisfactory results. Inevitably, the bounds of inter-State discussions would thereby be overstepped, discussions which would, moreover, certainly be on a friendly footing, one delegate, for example, calling the attention of another to some particular point. M. Piotti did not see what contribution representatives of industrial groups could make towards such a discussion. The Rapporteur had explained that the draft Convention already provided that the Permanent Commission could utilise any authorised source of information. It would be well to define what was meant by that. The small Committee contemplated might of course constitute one of those authorised sources of information, but it would feel itself to be invested with
some measure of authority, and it seemed likely that rather than be of use to the Permanent
Commission it might disturb the latter in the regular performance of its duties.

M. Motta had pointed out that it did not seem likely that unanimous agreement would
be achieved on this proposal. M. Pilotti hoped that it would not be thought that he was
opposing an idea to which certain delegations seemed to attach importance. He only urged
that the matter should be duly weighed and that it should not be forgotten that a simple
system based on one certain class of ideas was always preferable to a system compounded
of the residue of other ideas.

M. Bourquin (Belgium), Rapporteur, supported M. Motta’s proposal. He agreed with
him that the question was not one of vital importance, and felt that it could be left in suspense
for the time being, since that would not, of course, prevent the Bureau from working out the
questions on which agreement had already been reached, so as to submit concrete proposals
to the General Commission. He felt then that the Bureau should refrain from any decision
on this question, which should simply be mentioned in the report. It was very probable that,
after reflection, unanimity would ultimately be achieved.

There now remained to be examined only the question of experts and substitutes.
The question of incompatibility no longer arose, once it had been decided that the general
framework should be that of a Commission of Government delegates. That problem then,
if not definitely settled, was at all events to be referred to the General Commission together
with the question of the small Committee.

M. Sandler (Sweden), while reiterating the importance he attached to the setting up
of a Committee which would be, as it were, an organ of public opinion serving to tighten up
the application of the Convention and to concentrate the indispensable voluntary efforts in
each country, supported the provisional solutions suggested by M. Motta and the Rapporteur.

M. Bourquin (Belgium), Rapporteur, observed that the draft provided that members
of the Permanent Commission might be assisted by technical experts. The question had been
raised whether it might not be expedient to form a “college” of experts which would remain,
in that capacity, at the disposal of the Permanent Commission itself. The members would
no longer be experts belonging to the different delegations, but a Committee of Experts of
the Permanent Commission. Again, if the members of the Permanent Commission had the
right to be assisted by technical experts, it seemed essential to provide that the latter could
act as substitutes. The Permanent Commission would certainly have to split up into sub-
committees, and each Government would have to be represented simultaneously on those
various sub-committees. The system of substitutes would be the best solution in the circum-
stances.

M. Pflügl (Austria) said that, while it was true that the organisation of the Permanent
Commission would depend largely on the nature and contents of the Convention itself, it
was none the less true that the acceptance by the delegations of the institution of supervision
would clearly depend to a large extent on the composition and internal organisation of the
Permanent Commission. Consequently, the Austrian delegation, while supporting the decisions
taken on the previous day, would reserve its final attitude until the discussions in the General
Commission. While the composition of the Permanent Commission as already adopted was
in the main perfectly acceptable, since all the contracting parties would be represented on
that body, it was essential that all the States represented on the Permanent Commission
should be able to take an equal part in the execution of supervision. From a technical stand-
point there appeared to be difficulties, but those were more apparent than real. The Austrian
delegation reserved the right to submit proposals during the discussion in the General Com-
mission.

M. Massigli (France) felt that the two questions raised by the Rapporteur lost much of
their importance if the Permanent Commission were composed of Government representatives.
It was for each delegation to decide whether it required the assistance of experts on any point.
As regards the question whether there would be a “college” or simply a list of international
experts, it would be better to leave the matter to the Permanent Commission to settle. If
a more elastic formula than the existing one could be found for Article 42, and the Permanent
Commission could be given greater latitude as regards its own procedure, so as to enable it
to take such measures as might be necessary to ensure its satisfactory working, it would be
unnecessary either in the Bureau or in the General Commission to decide technical questions
which it would be very difficult to settle so long as it was not possible to have a general view
of the future Convention.

M. Dovgaleski (Union of Soviet Socialist Republics) said that the Rapporteur had
been good enough on several occasions to refer to articles taken from the Soviet proposal put
forward in 1928 and renewed at the Disarmament Conference. He would like to take the
opportunity to pay a tribute to the masterly and impartial manner in which M. Bourquin
had carried out the delicate and difficult task entrusted to him.

The Chairman, with the assent of the Rapporteur, had told the Bureau at its twenty-
first meeting that the present discussion was merely a preliminary exchange of views, at the
conclusion of which steps would be taken to prepare a new report, the object of which would
be to formulate conclusions. Those conclusions, after having been discussed by the Bureau, would be carefully sifted by a Drafting Committee, whose task it would be to draft the rules for the Permanent Supervisory Commission; those rules would then be discussed by the General Commission. The Soviet delegate thought he was right in suggesting that the stages through which the rules of the Permanent Commission would have to pass were not entirely defined by that procedure. As a result of the method adopted by the Bureau of discussing supervision before the matter to be supervised had taken shape, there would, even after these numerous stages had been covered, be work to do before the rules for the Permanent Commission could be finally completed. It might be anticipated that the Conference would certainly return to the chapter dealing with supervision in order to bring it into conformity with the reduction of armaments, after the method and extent of this reduction had been defined.

The delegations therefore had a very long and sometimes broken road to follow in their joint efforts to put the Permanent Commission on foot. It was largely for that reason that the Soviet delegation felt that it could safely reserve its opinion on the various proposals mentioned in the report or brought forward during the present discussion.

The Soviet delegation had aimed at a reduction of armaments which should be as effective and extensive as possible—even at disarmament pure and simple—and had endeavoured to provide for the observance of the provisions adopted by as efficient and workable a system of supervision as could be devised. Such was the Soviet delegation's attitude from the beginning, and such it would always remain.

Having made this clear, M. Dovgaleski was inevitably led to put a question which, it would seem, should logically not arise—namely, should the means for ensuring the proper working of a system be discussed before or after the discussion of the system itself? It was and always had been the Soviet delegation's conviction that this question admitted of only one reply, and he had been pleased to observe, during the earlier meetings of the Bureau, that several delegates were of the same opinion. To do good work, it was necessary first to agree upon what it was desired to achieve, and then to consider how to provide the best means for attaining the end in view. Only a few days previously, the Bureau had noticed in similar circumstances the justifiable objection raised by the Rapporteur when one of its members had proposed to open his report by a discussion of the composition of the Permanent Commission and to proceed subsequently to an enquiry into its duties and powers. M. Bourquin's sturdy logic had won him on that occasion the assent of the members of the Bureau. But was not the position the same as regards the whole work of the Conference?

The Soviet delegation could, therefore, only regret that the Bureau had decided to proceed in the reverse order. It was said that when the first limited liability companies were formed, notices were often published asking well-disposed persons to become shareholders in a limited liability company, the objects of which would be subsequently revealed. Was there not some risk of the action of the Bureau resembling to some extent that of the simple-minded persons who had swallowed that bait?

However that might be, and while maintaining its point of view, the Soviet delegation had always been anxious not to hold up the Conference by adopting an uncompromising attitude. It was none the less true that it found it difficult, while taking part in the current exchange of views, to do so to good effect. Not only was it difficult for the Soviet delegation in the present circumstances to express a definite opinion upon the various paragraphs in the report, but the same was the case also as regards certain of the Soviet delegation's own proposals which, as in the case of M. Bourquin's report, had been taken separately and unsystematically. As M. Dovgaleski had had occasion to say on previous occasions, the Soviet proposals formed a harmonious and organic whole, the various parts of which were intimately connected. The powers and methods of supervision as conceived in the Soviet plan were only a natural and logical corollary of its views on the general problem of disarmament.

The Soviet delegation was influenced by an earnest desire for peace and by the unshakable conviction that the outlawry of war could only be achieved by complete disarmament, or at least by as considerable a reduction as possible of armed forces, and it had endeavoured to achieve this disarmament by as practical and effective a system of supervision as possible. But a system of supervision could not be considered an und für sich. The benefits of supervision did not reside in itself. On the contrary, a supervisory system might well become the cause of serious disputes, if it was not in harmony with the matter to be supervised. For those reasons, the Soviet delegation was compelled to adopt an attitude of reserve, and to avoid expressing a definite opinion on the various questions regarding the constitution of the Permanent Commission until the extent and the system of the reduction of armaments had been defined a little more clearly.

(At this stage, M. Politis took the Chair.)
M. BOURQUIN (Belgium), Rapporteur, agreed with M. Massigli that it was better to leave to the Permanent Commission the regulation of the question of the "college" of experts. In general, he was of opinion that it would be advisable to make the rules of the Commission as elastic as possible.

Internal Organisation.

The Chairman said that there still remained the question of the internal organisation of the Commission, but there did not appear to be any great advantage in discussing this matter. It was understood that, in the final report, M. Bourquin would retain this chapter of the present report and complete it in the light of recent discussions. He observed that the Bureau had now completed the examination of M. Bourquin's report. In the name of all his colleagues, he wished to express his sincere thanks to M. Bourquin, whose unremitting search for clarity, combined with his zeal and conciliatory spirit, had undoubtedly enabled very great progress to be achieved.

28. PROHIBITION OF CHEMICAL WARFARE AND VIOLATIONS OF THE PROHIBITION TO USE CHEMICAL, BACTERIOLOGICAL AND INCENDIARY WEAPONS: REPORT BY M. PILOTTI (ITALY).

M. PILOTTI (Italy), Rapporteur, proposed to comment very briefly on his report (document Conf.D.142), and to deal more particularly with its conclusions.

The report began by a historical sketch of the question. It was to some extent the result of the work of the Special Committee summoned in May to enquire into the question of what uses or methods of chemical and bacteriological warfare could be included in the definition of qualitative disarmament, already adopted in principle by the General Commission. The Special Committee had drawn up a definition of this nature, and its conclusions had been adopted by the General Commission in its resolution of July 23rd, 1932. On September 22nd, 1932, the Bureau had instructed M. Pilotti to submit to it a report on the action to be taken on the proposals of the Special Committee, and also on a point which that Committee had not considered—namely, what sanctions should be provided for any violation of the provisions prohibiting the employment of these weapons and methods of warfare.

Some general considerations followed. It was perhaps important that the Bureau should have in mind during the discussion the distinction drawn by the Special Committee between appliances and substances which might be totally prohibited as such, and, on the other hand, appliances and material of which it was possible to prohibit only the employment.

The report contained, further, the four following chapters:

I. Absolute or Relative Character of the Prohibition;
II. Prohibition of Preparations for Chemical, Incendiary or Bacteriological Warfare;
III. Supervision of the Observance of the Prohibition of Preparations for Chemical Warfare;
IV. Sanctions in the Event of the Use of Chemical, Incendiary and Bacteriological Weapons.

To each of these chapters, there was a corresponding conclusion.

The Rapporteur proposed to examine in order each chapter together with the relevant conclusion.

(Mr. Henderson reoccupied the Chair.)

I. Absolute or Relative Character of the Prohibition.

M. PILOTTI (Italy), Rapporteur, pointed out that the 1925 Protocol regarding the prohibition of chemical warfare did not formally lay down any condition of reciprocity on which such prohibition should be dependent. This condition had, however, been expressly mentioned by some of the States which had ratified the Protocol, and it was also mentioned in the Preparatory Commission's draft. Nevertheless, some doubt had been expressed both in the General Commission and in the Special Committee as to the advisability of laying down any such condition. If any country desired to reserve the right to use chemical warfare against an opponent which employed it, it would evidently be necessary for such a country to make preparations therefor; this would prevent any decision upon the prohibition of preparations for chemical warfare. As the general opinion seemed to be in favour of such a prohibition, the Rapporteur had thought that he might come to a provisional conclusion in favour of absolute prohibition—that was to say, prohibition unaccompanied by the condition of reciprocity.

The effect of the introductory section to the various paragraphs in Conclusion No. 1 was that the contracting parties would undertake not to employ chemical or bacteriological weapons, even against an enemy which was not a party to the Disarmament Convention. The object of the prohibition thus laid down, as was clear from the various subsections in the first section of Conclusion No. 1, was in accordance with the definition given by the Special Committee, which was necessarily general in character, although sufficiently precise. It did not specify the appliances or substances which were prohibited or whose use was prohibited, but simply stated that prohibition covered substances which produced certain effects. The Rapporteur had not thought it necessary to suggest that the Special Committee should be
asked to draw up a list of such substances, as such a list must necessarily become incomplete very soon, owing to the technical progress made in industrial chemistry. It might be advisable to insert in the Convention, purely for purposes of illustration, a list of the principal appliances and substances in existence at the present time. Such a list could only be drawn up by the Special Committee which would have to be summoned for the purpose, if it were considered desirable, as this Committee included the best qualified persons from the technical point of view. In the Rapporteur’s opinion, such a list would be of no very great use, and its only result would be to attract the attention of the public ignorant of chemical matters.

M. Massigli (France) expressed his appreciation of M. Pilotti’s report, which contained the original opinions and proposals as regards Chapters II, III and IV. The general formula at the beginning of Conclusion No. 1 was dependent upon the decisions to be taken, if not on Conclusion No. 2, at least on Conclusions Nos. 3 and 4. It was stated at the end of Chapter I that penalties would have to be effective. If such a result unfortunately proved impossible, it would undoubtedly be necessary to discuss afresh the principle of absolute prohibition. Provisionally, and subject to any observations which he might have to make on Conclusions Nos. 3 and 4, M. Massigli gladly accepted the Rapporteur’s proposals.

Mr. Eden (United Kingdom) agreed with the French delegate. The provision at the beginning of Conclusion No. 1 depended to some extent on Conclusions Nos. 2, 3 and 4. If no practical agreement could be reached on the questions of sanctions and supervision, it was understood that the discussion on Chapter I would be reopened.

The Chairman was of the opinion that the matter might be regarded as still open. The observations of M. Massigli and Mr. Eden were entirely legitimate and should be borne in mind when the Bureau discussed the other conclusions.

M. Pilotti (Italy), Rapporteur, was in entire agreement with the delegates of France and the United Kingdom. It was, in fact, with this idea that he had inserted the following paragraph at the end of Chapter I:

“I should perhaps add that, in my view, if the absolute character of the prohibition is to be respected, and if the States are to regard it as a settled principle governing their conduct, the forms of control provided for must be as satisfactory as possible, and, above all, the penalties must be effective.”

Mr. Wilson (United States of America) expressed the hope that the Chairman and his other colleagues on the Bureau would be good enough to excuse him from taking part in the discussion for the time being. Communications between his Government and his delegation were difficult at this time and he would be glad if he might have permission to return, if he so desired, to Chapter I of the report after having got into touch with his Government.

He might perhaps make a suggestion to the Rapporteur. In the list of gases mentioned in paragraph I of Conclusion No. 1, mention was made of tear gases. The United States representative had pointed out to the Special Committee the advantages of the employment of this gas by the police, for whom it was an effective and humane weapon. There was no question of its use in time of war, but the United States delegation would have difficulty in undertaking to give up the preparation and employment of this gas for local police purposes.

The Chairman thought that the observations made by M. Massigli and Mr. Eden on the point of procedure would satisfy Mr. Wilson also.

M. Motta (Switzerland) quite understood the reservations made by the delegates of France and the United Kingdom, and by the Rapporteur. Subsequent discussions must lead to a satisfactory solution of the question of supervision and sanctions. Nevertheless, he was grateful to the Rapporteur for having drawn up the first part of his conclusions in the form adopted in the report. This was an absolutely vital problem from every point of view, and M. Motta was pleased to note that the Rapporteur and his colleagues, subject to the legitimate reservations that had been made, had taken up a definite position in favour of absolute and unconditional prohibition. If this principle were accepted, it would be a great advance in human welfare. He was glad to observe that the definitions and exceptions which were proposed raised no objection among the members of the Bureau. It was thanks to the Rapporteur and to all those who had already dealt with this matter that the Bureau had reached that stage to-day. The essential point was that it should become a principle of international law supported by the conscience of the whole world that chemical and bacteriological warfare was outrageous and barbarous.

The Chairman observed that the first recommendation of the Rapporteur was provisionally accepted.

The continuation of the discussion was adjourned to the next meeting.
TWENTY-FOURTH MEETING (PUBLIC)

Held on Wednesday, November 9th, 1932, at 4 p.m.

Chairman: Mr. HENDERSON.

29. PROHIBITION OF CHEMICAL WARFARE AND VIOLATIONS OF THE PROHIBITION TO USE CHEMICAL, BACTERIOLOGICAL AND INCENDIARY WEAPONS: REPORT BY M. PILOTTI (ITALY) (continuation).

I. Absolute or Relative Character of the Prohibition (continuation).

Mr. WILSON (United States of America) said that he wished, not to go back on the decisions taken on the previous day, but to obtain an explanation concerning the interpretation to be given to them. In Section III of the first part of his report (Previous Developments), M. Pilotti admitted that the prohibition of chemical, incendiary and bacteriological warfare involved other technical and legal questions. Moreover, on the previous day, the Bureau had decided in favour of the absolute prohibition of chemical warfare. It was consequently faced with certain difficulties. If the prohibition was of an absolute character, but did not extend to all States, there was reason to fear that very great difficulties would be encountered when the time came to take decisions on Chapters II, III and IV of the report, since the possibility of chemical warfare would have been allowed to remain. If, on the other hand, the principle of the absolute and universal prohibition of all chemical warfare were accepted, the situation would then be quite different. In that case, as M. Motta had stated, the Conference would be affirming a new principle of international law, which encouraged the hope that humanity would enter upon a brighter era. In any event, the final consideration of this question by the United States delegation depended upon the universal application of such a prohibition.

M. PILOTTI (Italy), Rapporteur, was under the impression that the question had been settled exactly in the manner indicated on the previous day by M. Motta—that was to say, that the prohibition should be regarded as absolute and universal. As no objection had been submitted, he had concluded that this view was accepted by the other members of the Bureau.

M. MOTTA (Switzerland) was strongly of opinion that the prohibition should be universal, a character which it would retain, even if one or two States did not accept it. He had pointed out on the previous day that what was being done in regard to chemical and bacteriological warfare simply represented the solemn confirmation of international law, which bound even those who did not accede to the Convention. In the Peace Treaties, this form of warfare was considered to be condemned by the conscience of mankind; the prohibition was therefore regarded as existent prior to the Peace Treaties. Further, the 1925 Protocol had already obtained a certain number of signatures, and merely confirmed this virtually pre-existing principle.

The Swiss Government had doubted whether it was necessary to submit the Protocol to the Federal Assembly, as it was a matter of confirming a pre-existing principle; for practical reasons alone the Federal Council had decided to bring the Protocol before the Federal Assembly, by which it had been unanimously approved. Even if it were not possible to carry out the principle in its entirety, that principle would none the less remain a living fact. The reservations put forward on the previous day by the representatives of France and the United Kingdom were certainly inspired by good intentions, but his own feeling was that the principle remained in any case, because it was already implanted in the conscience of mankind.

M. MASSIGLI (France) wished to make it quite clear that, in his opinion, there could be no doubt in the matter. As M. Motta had stated, this was a rule of international law which it was proposed to formulate. Any other course would be an actual reversion to a stage preceding the 1925 Protocol, in which bacteriological warfare had been purely and simply condemned. It was because he had believed the matter to be settled that M. Massigli had made his reservation on the previous day. The General Commission's resolution of July 23rd, 1932, stipulated that "rules of international law shall be formulated in connection with the provisions relating to the prohibition of the use of chemical, bacteriological and incendiary weapons and bombing from the air, and shall be supplemented by special measures dealing with the infringement of these provisions". Consequently, there could be no doubt as to the intention of the Conference to formulate a rule of international law. He was anxious to make this point quite clear, so that it should not be thought that France's acceptance was conditional. He had simply wished to point out on the previous day that the decision taken must have weighty consequences which would necessarily present themselves in connection with Chapters II, III and IV of the report.
M. Sato (Japan) recalled that, on the previous day, the first point of the Rapporteur’s conclusions had been accepted, after discussion, on the understanding that other questions would be studied first, and in particular the question whether the prohibition should be absolute or relative. As the question had again been raised by the United States delegate, he would like to define the Japanese delegation’s point of view. M. Sato had noted in M. Pilotti’s report certain points of paramount importance, such as the detailed study of the prohibition of preparations for chemical warfare and the enforcement of this prohibition accompanied by appropriate sanctions. The suggestions put forward showed that very great progress had been made as compared with previous proposals.

This fact had given him great satisfaction, but his delegation was of the opinion that even the guarantee furnished in the report would not give satisfactory results. The prohibition to import and store chemical substances referred to in Section I of Chapter II of the report would not be as effective as was hoped in the case of a country where the chemical industry was highly developed. Such a country could always produce the prohibited substances in a very short space of time and in large quantities. If training for defence were allowed, as provided for in Section II of Chapter II, each contracting State would be led to study the means of progress had been made as compared with previous proposals.

As it was firmly convinced that the majority of the countries represented at the Conference desired to establish a system which would effectively guarantee the application of the prohibition of chemical warfare, the Japanese delegation proposed the absolute prohibition of this type of weapon without any exception. It was anxious that not only defensive material and training but also recourse to the use of chemical weapons should be prohibited even by way of reprisals. He was afraid that these stipulations, like those concerning preparation and training for defence, would produce an opposite effect to that desired, since they would involve in peace-time preparations for chemical warfare and training for attack in case it should be necessary to make reprisals.

As regards sanctions in the event of the infringement of this prohibition, the Japanese delegation was aware of the difficulties which their establishment would involve. It nevertheless desired a careful study of the question with a view to finding sanctions which would be sufficiently severe and effective to achieve the object in view.

Mr. Eden (United Kingdom) was anxious to avoid any misunderstanding in regard to what he had said on the previous day. He had had no intention of making a reservation concerning Chapter I of the report, but had wished to point out the importance of discussing Chapters II, III and IV before a final decision was taken on Chapter I, if it were proposed to retain any form of chemical warfare. His suggestion, therefore, simply referred to the proper order of discussion.

The Chairman said that he had understood the reservations made by the representatives of France and the United Kingdom exactly in the sense which they had now indicated.

M. Bourquin (Belgium) emphasised the importance of the problem under discussion. Like M. Motta, he was convinced that there existed a principle of international law prohibiting recourse to chemical weapons in time of war. This was a principle the existence of which was independent of any convention and which it was advisable to reaffirm. The purpose of the Convention was to organise and add something to this principle: in the first place, by prohibiting preparations for chemical warfare, which was logical, and by providing a system of sanctions which, according to the form in which it was established, might have profound repercussions in the domain of reprisals. Before signing a Convention which was intended to add something to the existing provisions, it was natural to consider whether the prohibition in question should be universal, or whether, on the other hand, the sanctions contemplated would afford adequate protection to the signatories of the Convention against defaulting States. Hence the necessity for discussing the later chapters in the report first.

II. Prohibition of Preparations for Chemical, Incendiary and Bacteriological Warfare.

M. Pilotti (Italy), Rapporteur, explained that, in connection with this chapter, the question raised by M. Sato—namely, that of preparations for defence—immediately arose. In his report he had provisionally admitted, after consulting the various delegations, that prohibition should not go so far as to prevent States from protecting themselves against the use of gases by a possible enemy. Defensive measures (manufacture of masks, drill, utilisation of masks, etc.) had accordingly not been prohibited in the report, but the use of those defensive appliances presupposed the possibility of manufacturing gases for experimental purposes. It was true that this manufacture would be on such a small scale, being confined to laboratories.
that it would not be necessary for the Convention to deal with it. However, in view of the new light thrown on the question by M. Sato's proposal, it became necessary for the Bureau to take a decision.

Another question was whether the rule of international law prohibiting chemical warfare should be regarded as of such a radical character as to prohibit the training of troops in the use of means of defence. For his part, he agreed with M. Sato that the prohibition should be as radical as possible, and he would even go so far as to say that defence should not be contemplated and that the same attitude should be adopted towards chemical warfare as towards bacteriological warfare, the possibility of which had not even been admitted. The Bureau must take a decision on this point.

He thought that there was very little to say about the prohibition of offensive material, and that conclusion No. 2 proposed at the end of his report would meet with unanimous approval. It should be noted that, in the report, he had stated that it might be expedient again to convene the Special Committee to draw up a list of appliances and substances designed solely for the purposes of chemical warfare. This list would not be final but would merely serve as an example. It would allow measures to be taken against certain patented appliances and would make it known that the manufacture of such appliances was illicit. The list in question could only be drawn up by the experts on the Special Committee, who had special qualifications for the purpose.

The prohibition to manufacture, import, export or be in possession of chemical appliances and substances designed solely for the conduct of chemical, incendiary and bacteriological warfare thus raised no difficulty. But the prohibition to manufacture, import, export or be in possession of chemical appliances or substances suitable for both peaceful and military purposes, with intent to use them in war should occasion arise, might lead to certain difficulties of interpretation. It was provided in the conclusion which he was suggesting that "the contracting parties shall declare the quantities of such appliances and substances required by the armed forces for purposes other than that of injuring an adversary (e.g., disinfection)". It had been pointed out in the Special Committee that certain appliances which might be used in chemical warfare were commonly used in the army for purposes other than that of warfare. An exception must accordingly be provided for some of those appliances and for quantities appropriate to the requirements of each army, whence the necessity of the declaration mentioned in the proposed conclusion.

In M. Pirotti's view, it was self-evident that any provisions relating to organisation could apply only to the contracting parties. That, however, was not the case with sanctions, for in such cases it was the laws of war that applied, and it was a matter of course that those laws should apply even to States which were not signatories to the Convention. There could thus be no question of limiting sanctions to the contracting States. It would have to be decided what sanctions could be applied both to signatory and to non-signatory States guilty of violating the prohibition to employ chemical or bacteriological weapons.

M. Politis (Greece) asked the Rapporteur to explain what practical importance he attached to that part of his report. On studying, in Chapter II, the passages relating to defensive organisation, some of the provisions seemed to be such as to cast doubt on the practical value of the prohibition. Measures were to be taken, for example, to prevent preparations for chemical appliances and substances suited exclusively to the conduct of chemical, incendiary and bacteriological warfare. It seemed, however, from the explanations given in the report itself that, even if applied in toto, such provisions would not constitute a serious obstacle to chemical warfare. It was the same also as regards the prohibition relating to chemical appliances and substances suitable for both peaceful and military purposes, with intent to use them in war should occasion arise. That prohibition would be somewhat difficult to apply, since it depended, after all, on the use for which the substances and appliances in question were intended. It was very difficult to say in advance what might be the intentions of those in whose possession the substances and appliances happened to be. Of the three prohibitions embodied by the Rapporteur in his conclusions to Chapter II, there remained thus only the third, relating to the instruction and training of armed forces in the use of chemical, incendiary and bacteriological weapons and means of warfare.

M. Pirotti (Italy), Rapporteur, said that he was well aware of those difficulties. In proposing the various prohibitions in his report, he had argued that, as a number of weapons, such as guns of a specific calibre, was covered by certain articles of the Convention, it was permissible to consider prohibitions of a like character relating to substances and appliances intended for chemical warfare. Personally, he was in favour of an explicit prohibition of all appliances and substances connected with chemical warfare. He had, moreover, made a point of warning the Bureau against any illusions in regard to the practical scope of the various prohibitions.

He had pointed out more particularly that the prohibition relating to appliances exclusively suited to the conduct of chemical, incendiary and bacteriological warfare did not constitute a serious obstacle to chemical warfare, since the appliances in question could be very rapidly constructed if the country did not already possess them. He thought, however, that it was desirable, as a guide to public opinion, to declare that States were not entitled to possess appliances of that character.
The situation in regard to substances suitable for both lawful and illicit use was somewhat different. He certainly had not meant that the prohibition should apply to any intention to use such substances for warlike purposes; but what he had meant to make plain was that it was unlawful to be in possession of the appliances and substances in question if they were intended for purposes of war. One means of strengthening the prohibition was to require States to declare what quantities of such appliances and substances they required for current army purposes.

M. Sato (Japan) observed that he had very little to say on the subject of the provisions relating to offensive material. On that point he endorsed the terms of the report.

As regards defensive material, the Japanese delegation, as he had already said, was in favour of the absolute and universal prohibition of all noxious gases. That did not mean, however, that populations should be left without any means of defence against possible gas attacks. But the fact of studying the means of defence against gases necessarily involved a study of the methods of attack. If some way could be found of restricting the scope of such studies to defence without studying the methods of offence, the Japanese delegation would have no objection. It wondered, however, whether that was feasible and entertained very grave doubts on the subject. The Rapporteur had suggested that the testing of defensive material might be carried out on a restricted scale, in the laboratory, for example. M. Sato realised that tests would first be carried out in the laboratory, but pointed out that many experts were of the opinion that laboratory tests were not sufficient when studying the question of protection against dangerous gases. The Japanese delegation had, moreover, come to the conclusion that tests of that kind inevitably led to a study of methods of attack and that abuses were probable. That was why it was in favour of prohibiting even the use of defensive material. If such a prohibition were really strictly enforced and if it were made internationally compulsory, it would be unnecessary to consider even the study of the means of defence.

M. Massigli (France) thought that M. Politis' question and the Rapporteur's reply made clear the gravity of the problem. He entirely agreed with M. Pilotti that provision should be made in the Convention for the prohibition of all preparations for purposes of chemical warfare. He wondered, however, whether, before approving the Rapporteur's conclusion as it stood, the Bureau should not make an effort to come closer to the problem. It might perhaps be expedient to consider whether, by a technical examination of the question, the difficulties could not be further circumscribed.

M. Sato had said in his impressive statement that the Conference should go the whole way and prohibit even defensive preparations. M. Massigli wondered whether that was feasible; he would be glad to have a competent opinion on the subject. He recalled, as an illustration of his point, that some years previously an incident had occurred which had stirred the whole of Europe: the whole of one district in a certain city had been poisoned by toxic gases emanating from the stocks of a manufacturer of chemical products, who, for reasons which he would not examine here, sold at the same time protective masks. It was possible—no doubt it was still possible—to obtain at one time, and for a modest sum, a mask and samples of the principal gases. Could such practices be tolerated?

Without going so far as to prohibit all preparations of defensive material, M. Massigli wondered whether it would not be possible to prohibit private manufacture, which might lead to such surprising results. The indiscriminate manufacture of defensive appliances and experimental material for those appliances—no matter where, no matter by whom—could hardly be admitted. It would be desirable to provide for strict Government supervision and international supervision.

Nor must there be any illusions as to the scope of the prohibitions. Bacteriological warfare had been totally prohibited, but in this field also a practical impossibility existed. In one country represented at the Conference, experiments had been carried out, for purely scientific purposes, necessitating the preparation of tuberculosis bacilli by tens of kilogrammes in order to permit of chemical analysis of the bacillus. What would happen if the mass production of dangerous bacilli took place in a number of countries?

Again, the appliances peculiar to chemical warfare differed very little from others. Gas shells were very like other shells. Gas reservoirs were quite ordinary receptacles. The form of projector used was very similar to that of appliances for the release of non-poisonous smoke. When it came to the question of prohibiting material which could be used for peaceful or for warlike purposes, alike, the difficulty became even greater. In this connection, reference might be made to the stocks of a manufacturer of chemical products, who, for reasons which, he would not examine here, sold at the same time protective masks. It was possible—no doubt it was still possible—to obtain at one time, and for a modest sum, a mask and samples of the principal gases. Could such practices be tolerated?

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Finally, was there any difference between instructing a unit in the release of non-toxic smoke for purposes of cover and training the same unit in the release of toxic gases? In both, the same considerations as regards wind direction, the humidity of the air, etc., would be taken into account. As a matter of fact, no special training was needed for releasing gases.

His purpose in submitting these various observations was not to criticise the principle of the prohibition of preparations for chemical warfare, but because he wondered whether it would not be possible to make it less illusory; the consequences would be clear when the question of the sanctions provided for in Chapter IV arose. He urged that the Bureau, while accepting the Rapporteur's conclusions, should refer the question to the Special Committee and ask it whether it would be possible to formulate more definite rules in the matter, so as to ensure more effective prohibition.
Mr. Wilson (United States of America) observed that the Bureau was reverting to the discussions which had claimed its attention at the beginning of the session. He was glad to know that all the members of the Bureau concurred in the United States delegation's opinion as regards the question of the universality of prohibition. The final test would be the verdict of the General Commission, which, he hoped, would realise that the law underlying prohibition should apply throughout the world.

The United States Government, as he had already declared in connection with Chapter I, was, as regards the prohibition of the use of chemical methods of warfare, entirely in favour of the principle of universality. Whether or not that could be accomplished was a question which must be determined in the future and on which they should have guidance from the discussion in the General Commission.

However, whether universal prohibition as an accepted tenet of international law were recognised or whether there was a general renunciation on the part of a large number of States, the Bureau had to face certain questions in regard to Chapter II of the report upon which Mr. Wilson very earnestly desired the opinion of his colleagues. He realised that he was touching on the same technical aspect of the problem as M. Massigli. Chapter II provided for the prohibition of preparations, but Mr. Wilson was very doubtful as to just what was the scope of that chapter. All the delegates had been concerned with the effects of the unrestricted use of means of chemical warfare, and the Rapporteur had recognised in his report that the prohibition of preparations would not apply to means intended for the protection of individuals against its effects. Mr. Wilson felt that it was extremely important to ascertain whether sufficient consideration had been given to the matter of preparation, and wished to express some of his doubts in the hope that they might be removed.

When considering the problem of protection against the unlawful use of means of chemical warfare in violation of whatever agreement was ultimately reached under Section I, the question immediately arose as to whether the means provided—i.e., gas masks—for the protection of the individual were sufficient. Was it not necessary to go further and provide for group protection? If so, that immediately raised, not only the question of training individuals and groups for immediate protection, but also the question as to the means provided. Were the means for the resanitation of gas areas to be wiped out? If not, by what means might those areas be resanitated? For that purpose, could groups of men be trained and material maintained for doing away with the effects of gas which had been illegally used? If not, under what authority should those people be trained? By whom would the material be provided? Where and how would the necessary experimentation be made to provide for such action? Was it proposed to do away with gas hospitals and with the specialised training of doctors to handle what were commonly known as "gas casualties"? If not, where and how should those doctors get their training? What limits should be placed upon laboratory experiments for training purposes?

Mr. Wilson raised those questions because, as far as he knew, they had not yet been discussed, and personally he felt very strongly that they should be freely and completely discussed before an attempt was made to consider the advisability of accepting the prohibition of preparations as indicated under Chapter II of the report. The question was so serious, and action which might be taken at the Conference might have such far-reaching effects, that he believed, as a matter of sound judgment, that the whole subject should be considered in detail. He felt that the Special Committee, as indicated in the report, had confined itself primarily to the question of the prohibition of the use of chemical warfare and had not examined, as being outside its competence, questions such as he had raised. It appeared to him, however, that, in considering the subject of protection from gas, the field of that protection must be defined. That being done, it was necessary to determine the means within that field by which protection could be afforded, and the means, of course, embraced the consideration, not only of material, but also of personnel. Having determined the field of protection and the means, it was then necessary to decide how those means might be utilised and the steps in preparation for such use that could be authorised. It was not, he felt, until those questions had been discussed and solutions found that the Bureau could really take final and definitive action upon the report, which dealt primarily with the use of chemical warfare.

Lastly, Mr. Wilson had raised the question of tear gas on the previous day, and asked the Rapporteur if he could not insert in paragraph 2 of conclusion No. 2 a reference to the use of such gas for local police purposes, and in paragraph 3 a provision authorising the training of the police in its use. The question was of great importance to the United States delegation, but the method of preserving this principle was one, he thought, which might well be left to the Rapporteur to handle.

He was prepared to support M. Massigli’s suggestion that the Special Committee be asked to carry out a technical study of the question, since it was difficult to take any decision until it had been exhaustively studied.

Mr. Eden (United Kingdom) agreed with Mr. Wilson that, to be really effective, the prohibition must be general. That aspect of the problem would have to be examined in due course.

On behalf of his Government, he accepted the basic principles which had just been under discussion, but he had been very much impressed by the French delegate’s comment on the technical aspect of the question. He was prepared to support the Rapporteur’s first recommendation, but confessed that he did not know what were the chemical appliances and
substances suited exclusively to the conduct of chemical, incendiary and bacteriological warfare. In order to form an opinion on the subject, the assistance of the Special Committee referred to by the Rapporteur was essential. It was probable, indeed, that the Bureau would require that assistance on more than one occasion, at various stages in its work.

Paragraph 2 of the Rapporteur’s recommendation seemed likely to lead to difficulty, more particularly in connection with the words ‘with intent to use them in war should occasion arise’. It was difficult to form an exact idea of what was meant, despite the explanations and definitions given by M. Pilotti in his report. As Mr. Eden understood that passage, the prohibition of substances not suitable for peaceful purposes would apply to the possession of those substances, even for defensive purposes. Subject to the observations he had submitted, his Government accepted all the conclusions proposed by the Rapporteur in this matter, though he thought it essential to consult the Special Committee.

M. MOTTA (Switzerland) felt sure that everyone must realise the extreme complexity of the problem. It was exceedingly difficult to translate the principle of prohibition into reality and a technical examination of the question was indispensable. The Rapporteur had drawn a distinction between material exclusively intended for warfare and material suitable for both peaceful and military purposes. All the delegates felt that even substances which were at present intended exclusively for warlike purposes might, in time, be used in a different way. There was thus practically no real distinction between the two categories. There, again, the assistance of the Special Committee was indispensable.

On one matter, however, he felt that the Bureau should reach agreement, as it would serve as a guide to the Special Committee. He had been very much attracted at first by M. Sato’s suggestion that provision should be made for the radical prohibition of all offensive or defensive material for chemical warfare, the purpose being to prevent any possible offensive action. On reflection, however, he had wondered whether it would not conflict with the moral sense, conflict with human nature, to claim that an individual or a State should cast prudence to the winds and renounce the idea of self-defence simply because the notion of surrender might lead to the danger of attack. He could quote the case of a General Staff which at first had fully shared M. Sato’s opinion, and of a Government which, after adopting the same principle, had realised that it was impossible to renounce all defensive preparations. If international relations were entirely pacific, by following M. Sato’s suggestion a danger would be eliminated, but it would be long before that state of lasting peace occurred, and that was why he thought that it would be well to consult the Special Committee, informing it at the same time that the Bureau felt that defensive material and defensive methods could not come within the scope of prohibition.

M. BUERO (Uruguay) agreed with M. Motta, Mr. Wilson and M. Massigli. The Bureau did not possess the technical information which would enable it to decide what should be embodied in the Convention. M. Sato’s allusion to the possible abuses arising out of an authorisation to manufacture defensive material reminded him of something that had happened at the League on the occasion of the Conference in 1925. One delegate had made a survey of the expenditure included in the budgets of the principal States for preparations for chemical warfare, and had stressed the magnitude of the sums devoted to those particular studies. One after another, the representatives of each of the nations in question had risen and stated that the studies relating to chemical warfare were for defensive and not for offensive purposes. The difficulty of deciding, in that sphere, what was offensive and what was defensive was so great that M. Buero felt that the Bureau should not settle the question for the moment, but should leave it open pending the opinion of the technical experts.

The CHAIRMAN noted that, as a result of the important discussion which had just taken place, the Bureau was unanimously of opinion that it should apply for assistance to the Special Committee. He hoped, however, that it would not think of referring the matter to that Committee before deciding definitely what questions were to be referred to it. He would ask the Rapporteur to draw up a list of the questions and to submit them to the Bureau at its next meeting.

He added that Mr. Wilson had raised a number of important points and had asked that they should be carefully examined. The passage in Mr. Wilson’s speech giving a survey of those various points would be distributed to the members of the Bureau.

The Chairman drew special attention to the magnitude of the programme which had thus been drawn up. It would, he thought, have to be examined with some caution, since, in view of the close relationship which existed, as the Rapporteur had noted, between prohibition in time of peace and prohibition in time of war, it was essential not to give back with one hand what had just been taken away with the other.

M. PILOTTI (Italy), Rapporteur, agreed with the Chairman. He noted that the meeting, which had opened in an atmosphere of optimism, was ending in an atmosphere heavy with doubt and scepticism. He desired accordingly to reassure the delegates. His report had stressed the difficulties of the question and also brought out its full gravity. But it had been conditioned by the resolution of July 23rd, 1932, and the Rapporteur had been bound to stress the point that, in this matter, the Bureau was faced with the desire expressed by the General Commission that the Protocol of 1925 should be completed by rules of international law. That fact was not without importance in determining the measures to be taken in a case of violation in time of war and the sanctions to be applied. M. Pilotti was convinced that a further advance on the
Protocol of 1925 was possible, particularly in the matter of sanctions; he hoped that that Protocol would be supplemented by rules relating to preparations for chemical warfare. It remained to be considered what those rules would be.

The first question which arose, as M. Sato had pertinently remarked, was whether, and if so to what extent, preparations for defence against gases should be allowed. In that connection, M. Massigli had proposed, and the Bureau had agreed, that the Special Committee should be asked whether any technical means existed which could allow of defensive preparations being admitted without simultaneously allowing preparations for attack. On that point, the Bureau could not come to any decision before ascertaining the Special Committee’s opinion.

M. Massigli and Mr. Eden had further stressed the difficulties arising out of the case of appliances and material exclusively suited to the conduct of chemical, incendiary and bacteriological warfare. M. Pilotti proposed to ask the Special Committee for a list of such appliances and substances. He had applied to the Red Cross, which had studied those questions in the previous year and had been able to give him examples. Cases of appliances and material exclusively suited to the conduct of chemical, incendiary and bacteriological warfare were somewhat rare, but they did exist and must be taken into account.

The question of chemical materials kept in stock with the intent to use them in war, should occasion arise, had been raised again. In that connection, he wished to point out that it was not the actual intention that was to be prohibited and that such intention, if it were to be covered, must be proved by external evidence. The evidence would refer, for example, to the quantity of material in stock, the nature of that material, etc.; evidence of that kind was indispensable, for mere intention could not be made subject to measures of compulsion.

Mr. Wilson’s suggestions must be closely examined at the next meeting, as some of them might help to define the points at issue; others would have to be referred to the Special Committee. As regards tear gas to be used by the police, the reply was already embodied in M. Rutgers’ report to the General Commission, as follows:

“While admitting the validity of these reasons against permitting the use of certain gases in international warfare to the exclusion of others, one delegation desired to point out that tear gas, considered separately, did not, in fact, answer the third criterion of the resolution of April 22nd, 1932: that the use of this gas for police purposes could not be open to any objection; and that, in some circumstances, such a use of this gas would even be preferable to other methods which involved bloodshed. This point of view was accepted by the Committee, although it was still of opinion that tear gas should not be considered separately from the point of view of its use in warfare, since there were serious practical objections to any discrimination between gases.”

The technical experts had stressed the difficulty of establishing a definite line of demarcation between tear gas and poison gas. The Convention would not exclude the use of tear gas by the police.

The continuation of the discussion was adjourned to the next meeting.

TWENTY-FIFTH MEETING (PUBLIC)

Held on Thursday, November 10th, 1932, at 4.15 p.m.

Chairman : Mr. HENDERSON.

30. PROHIBITION OF CHEMICAL WARFARE AND VIOLATIONS OF THE PROHIBITION TO USE CHEMICAL, BACTERIOLOGICAL AND INCENDIARY WEAPONS : REPORT BY M. PILOTTI (ITALY) (continuation).

M. PILOTTI (Italy), Rapporteur, proposed that, pending the distribution of the questionnaire he had drawn up, the Bureau should examine the question of sanctions (Chapter IV and Conclusion No. 4 of the Report (document Conf.D.142)).

M. PILOTTI’s proposal was adopted.

IV. Sanctions in the Event of the Use of Chemical, Incendiary and Bacteriological Weapons.

M. PILOTTI (Italy), Rapporteur, explained that he had divided the matter into two sections, one dealing with the establishment of the fact of infringement and the other with the effects of the establishment of that fact.

As regards the establishment of the fact of infringement, he himself and the persons he had consulted had endeavoured to find as rapid a procedure as possible for establishing without
delay such acts as might have occurred. The Permanent Commission would be notified by the State claiming to be a victim of the use of gas. At the same time, this State would apply to the doyen of the diplomatic corps accredited to it. The convenience of this procedure was obvious: there was always a doyen of the diplomatic corps between the two States, and it was easier to reach than any other. It would be for the doyen of the diplomatic corps to carry out the necessary investigations as soon as possible by the means at his disposal—that was to say, primarily through the military attachés of neutral countries to whom, relying on his authority as doyen, he could apply. He would ask them to form, as it were, an emergency commission which would be prepared to proceed immediately to the spot. It should also be possible for him, if necessary, to apply to experts, who in the gravest and most doubtful cases would constitute a commission with powers to decide whether gas had been used or not. The report might be amplified in this respect. As soon as he was in possession of the various reports which would be sent to him, the doyen would himself immediately draw up a report and submit it within twenty-four or forty-eight hours to the Permanent Commission, which would, of course, remain the legally competent organ. The Permanent Commission would have more extensive powers, and its competence would be recognised in advance by the State accused of having employed gas, if it were a contracting party, and, in any case, by the contracting parties as a whole. The Commission might, if necessary, extend the enquiry to the territory of the State which had made use of gas. M. Pilotti was ready to answer any question which might be put to him to supplement what was stated in the report on this matter.

The next question was that of sanctions, in other words, the effect of the establishment of the fact that gas had been employed. These sanctions were based on an idea that was more or less implicit—that is, that the use of gas warfare would not be very difficult to establish. There would probably be doubtful cases, but they would not constitute the majority. If a State resolved to infringe the Disarmament Convention, it would obviously endeavour to obtain from that act the best possible results and would make such ample use of the prohibited weapon that it would be a comparatively easy matter to establish the fact of its use. It was not likely that any real difficulty would arise unless the other State immediately retaliated by using the same weapon or if they both accused each other of having violated the Convention. It would, M. Pilotti thought, be better not to deal with such a contingency at the moment in the hope that it would not arise, or, if it did so, only very rarely.

What would be the effects of the establishment of the fact of infringement? The Permanent Commission, having declared that chemical weapons had been used, would communicate this declaration to all the contracting parties. As the Rapporteur had said the day before, in this part of the conclusions no distinction was made between contracting parties and other States. It was to be for the Permanent Commission to ascertain how it could get into touch with other States. The contracting parties would have a definite obligation—namely, to bring about the termination of the infringement of the Convention by every available means—that was to say, by using every measure by which pressure could be brought to bear upon a State: diplomatic representation, threat of rupture of relations, actual rupture, threat of economic retaliation, etc. It did not seem necessary to lay down a regular gradation of these means of pressure, which would vary according to the seriousness of the case and the general circumstances. Each of the contracting parties having fulfilled this obligation, there was another obligation resting on the contracting parties as a whole—namely, to meet together, though not necessarily all of them, as the summoning of a Conference would involve delay and in the interval the evil might become final.

The contracting parties would therefore meet together, or would send representatives, for a consultation. In certain private discussions which the Rapporteur had had with various delegations, the Council of the League had been suggested. It would, however, be difficult to contemplate this solution in a Convention which would include States not represented on the Council; it was true that the Council could add to itself representatives of States other than its own members. M. Pilotti had merely wished to mention this possibility in order to give an example of a rapidly summoned meeting other than the Permanent Commission itself. The contracting parties, having been thus summoned for the purpose of determining how they might proceed about the termination of the infringement of the Convention by every available means—that was to say, by using every measure by which pressure could be brought to bear upon a State: diplomatic representation, threat of rupture of relations, actual rupture, threat of economic retaliation, etc. It did not seem necessary to lay down a regular gradation of these means of pressure, which would vary according to the seriousness of the case and the general circumstances. Each of the contracting parties having fulfilled this obligation, there was another obligation resting on the contracting parties as a whole—namely, to meet together, though not necessarily all of them, as the summoning of a Conference would involve delay and in the interval the evil might become final.

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State and urge it to abstain from retaliation. The reason for the first limitation was obvious. It was essential that there should be no hasty retaliation before the facts had been proved. Furthermore, there might in a given case be such a strong likelihood of preventing the continued use of gas by the State which had begun to employ it, that it would seem to be entirely unnecessary to give permission to the attacked State to use that non-human method of retaliation, gas. It might be possible that, when once the contracting parties had met, they would find that a little pressure, economic pressure for instance, would be sufficient to induce the authorities of the aggressor to abandon the use of gas.

These considerations showed that the Rapporteur himself had no great sympathy for the idea of retaliation, and he had endeavoured to reduce this possibility to a minimum. He wished to submit to the Bureau the question whether it was possible to go still further and to abolish completely any right of retaliation. There would be this advantage in such a decision, that it would bring out still more plainly the anti-social character of gas warfare.

All warfare might, of course, be anti-social from the point of view of its effects on the civil population, but chemical warfare had such inhuman characteristics that it revolted the public conscience. Could distinction be made between bacteriological warfare, in which any possibility of retaliation was excluded, and chemical warfare? On these various points, it would be for the Bureau to give the reply which it considered most suitable for suggestion to the General Commission.

M. Massigli (France) thought that all his colleagues realised, as he did, that they were now dealing with a fundamental part of the report. The very difficulties which the Bureau had encountered on the previous day had shown that, whatever supplementary proposals might be brought forward, it would not be possible to build up an entirely effective system of prevention; the question of sanctions in all its gravity therefore arose. It was all the more urgent because scientific warfare would confer an incontestable advantage upon those taking the initiative. Unless therefore it were possible to discover a means of making it clear to a State wishing to employ such methods that the mere fact of doing so would expose it to very serious consequences, it was to be feared that such a State, which had already accepted the responsibility of breaking the covenants it had signed, would not hesitate to violate one international agreement more and employ so effective a weapon. The question of sanctions was therefore of supreme importance, and M. Massigli thanked the Rapporteur for having dealt with this problem separately, differentiating it from that of the establishment of infringement.

As regards such establishment, M. Massigli had no objection to the principle laid down. The Rapporteur had insisted upon the importance of speed. He had pointed out the necessity of ensuring that the declarations should be made by a neutral and impartial authority, and of preparing them in advance. He thought it would be easy to reach agreement on these fundamental principles. There was one question to be examined—it might perhaps be submitted to the Special Committee—namely, whether the measures proposed were adequate for the achievement of the aim in view. Would it be easy for the leader of the corps diplomatique to arrange for an enquiry on the spot unless the details were settled in advance? Subject to this reservation, M. Massigli did not think that there was any disagreement on the principle.

The question of sanctions was very much more serious, and in this matter the evil should be balanced against the remedy proposed. It was not to be imagined that, once chemical and bacteriological warfare had been branded as an international crime, any State would lay itself open to the reproach of committing such a crime unless it had decided to bear the consequences of its act. The facts must be faced. There would be no question of purely localised emission of gas. There would be a large-scale use of gas in order to obtain the advantage of a decisive surprise. Such being the risk, M. Massigli doubted whether the scale of sanctions laid down by the Rapporteur would really be very effective. Among other measures of pressure the Rapporteur mentioned the severing of diplomatic relations, but would that be a matter of very great importance to the offending State? It was said, moreover, that there should be an immediate consultation of the other States, which would decide on the measures to be adopted, but those consultations would take time; in the interval, the offending State would pursue its advantage. What would become of a small State which had been attacked by a great Power possessing vast industrial resources?

M. Massigli came next to the third paragraph in the second part of the Rapporteur's conclusions, the grave character of which must not be overlooked. In that paragraph it was stated that the State against which chemical and bacteriological weapons had been employed would have the right to use them in retaliation. In these circumstances, what would be the position? On the one hand, if no effective sanction were provided, there would be very great temptation for an attacking State to secure a decisive advantage by the use of chemical weapons. On the other hand, if individual retaliation on the part of the attacked State were permitted, it would be impossible to apply the rules for the prevention of the preparation of chemical warfare, and there would be a reversion to the condition of reciprocity in the 1925 Protocol, so that an advance would have been the use of gas.

In M. Massigli's opinion only one solution was possible, the gravity of which he realised and which, up to the present, many had refused to accept. He referred to recourse to collective retaliation. It would not be the attacked State that would have the right to take justice into its own hands, but, as in civilised societies, it would be the community of States, which would act on its behalf. The only retaliation which could be admitted must be decided upon by the community of States, under conditions to be laid down. Would chemical arms be used in retaliation? M. Massigli did not think so, but it was necessary to follow the lines he had indicated.
Mr. Eden (United Kingdom) agreed with the Rapporteur and with the French delegate as regards both the importance and the difficulty of the problem under discussion. He thought that all the members would be able to agree unreservedly to the principle of the establishment of infringement of the Convention. Provision for this was essential to any agreement, and Mr. Eden had good hopes that his Government would support any measures which would permit the facts of such infringement to be established. The provisions of practical means for bringing this about was an essential condition for achieving useful results. Unless the machinery could act very rapidly, it would be unavailing. In this respect, some very useful suggestions had been made by the Rapporteur, and it might be well to enquire whether, later in the work, other means could not be suggested for speeding up the procedure for the establishment of infringement.

This point led Mr. Eden to the question of sanctions. Should retaliation be prohibited or not? In his opinion, that would depend greatly on the machinery provided for the establishment of infringement, and on the efficiency and rapidity of its working. It must be realised that, if a Government decided to violate the Convention, the violation would not be a slight one. The Government in question would have weighed all the risks, and if it decided to commit an act which had been declared to be an international crime, its attack would quite certainly develop on a vast scale. That being so, it was possible to say to any country that it had no right to make reprisals? The reply to that depended entirely on the machinery provided. It would appear that no country really anxious to observe the Convention would be in a position to undertake immediate reprisals. It was therefore essential that the machinery provided for the establishment of infringement and the denunciation of the aggressor should be able to come into operation even before the attacked country could consider the possibility of reprisals. This matter required very careful consideration. A country which was the victim of a breach of the Convention must not be allowed to see its cities laid waste and its population decimated and finally find itself in an impossible position owing to prohibition against reprisals and to a delay in the intervention of other States.

Methods of intervention on the part of other States were considered by the Rapporteur, not in his conclusions, but in Chapter IV of his report. The French delegate considered these measures somewhat vague. The report spoke of "measures of gradually increasing pressure". In Mr. Eden's opinion, the Rapporteur had been right in using a vague expression. The measures in view must include all means of pressure from moral pressure to active pressure. The United Kingdom delegate, and this was no doubt the case with other delegates, was not at all in a position to say on behalf of his Government what sanctions it might decide upon in certain given circumstances, or what sanctions it would have to reject. It was therefore necessary to avoid any rigid definition.

There was another side to the problem. The French delegate had said that, in certain circumstances, the existence and availability of an international force would make it possible to avoid retaliation. There were cases in history in which the mere existence of such an external pressure had proved ineffective. That also was the extreme difficulty of any rigid definition. In this matter, as in the case of the Pact of Paris, the instrument to be found could only be effective to the extent to which it had moral force behind it. It would be useless to set up a machine unless there was the determination to make use of it. Efforts should be made to discover the formula which would be most likely to make impossible the use of prohibited weapons, while strengthening the determination of the peoples not to make use of them.

M. Sato (Japan) reminded the Bureau that on the previous day he had made a definite statement in favour of the prohibition, not merely of the use and preparation of chemical warfare, but also of all preparation of the means of defence, because such preparations would inevitably lead to the preparation of the means for waging chemical warfare. The Japanese delegation was in favour of the strictest and most severe sanctions, but it was not in a position to lay down the extent of the sanctions or the method to be followed for bringing them into play. The arguments which the Japanese delegate had used on the previous day applied equally well to prohibition and retaliation. If, in such cases, the use of poison gas were to be permitted, that would clearly go against training for chemical warfare and the preparation of such warfare in time of peace. To admit such a possibility would be laying the way dangerously open to the employment of such methods of warfare. For this reason, the Japanese delegate was definitely opposed to the employment of gas as a retaliatory measure.

What other sanction could be taken into consideration? That was a matter on which he was not yet able to make any definite suggestion. The French delegate had stated that a collective sanction would be effective. That was M. Sato's opinion also, but was that the only possible method? Other methods might perhaps be sought. Were collective sanctions always reliable? They depended very much on political circumstances and, even if there was the
possibility of enforcing them, they would, in some cases, be ineffective. In his opinion, all these considerations and all these possibilities should be carefully studied. He proposed that a Committee of Jurists should be asked to study this matter and prepare a solution for the problem of the organisation of sanctions.

The CHAIRMAN said that the paragraph of the recommendations dealing with retaliation had at first caused him some surprise, but that, after hearing the Rapporteur's explanations, and the various statements which had been made, he considered that M. Pilotti had been right in adopting a cautious attitude in this matter. If the right to retaliate were admitted, all the work accomplished for the prohibition of the preparation of chemical warfare might be brought to nought. The paragraph in question was one of the utmost gravity, and the Chairman thought that the Rapporteur would himself be glad to see it disappear from his report. If, after first stating that all preparation of chemical warfare was prohibited, the right of retaliation were admitted, it went without saying that States would have to prepare for the exercise of that right—that was to say, for chemical warfare, by manufacturing poison gases, getting ready the necessary appliances, training personnel, etc. The only result would be to facilitate the perpetration of an act which had been declared an international crime. The Chairman thought that it would be wiser to adopt the position taken up by Mr. Eden and to rely rather on moral force and on its development throughout the world. The essential point was to spread the conviction that chemical warfare was an abomination. The declarations of the Bureau should therefore encourage the Rapporteur to reject any idea of retaliation, and to confine himself to the prohibition of chemical and bacteriological warfare and its preparation in all forms.

M. PILOTTI (Italy), Rapporteur, was quite prepared to change his report with regard to the question of retaliation if the Bureau agreed to accept the Chairman's suggestions. He reminded members that he himself had no sympathy for the idea of direct retaliation. For the reasons put forward by Mr. Eden, it seemed to him difficult to exclude such an idea entirely, but he would raise no objection if the Bureau wished to go to the length of omitting any mention of the right of retaliation, thus leaving the solution of the question to the course of events. It appeared to him that, in the silence of the other delegations, there could be discerned a tendency against the right of retaliation. He had stated what were his own personal leanings, and these were based upon conversations which he had had with others. The report was, indeed, not entirely his own work, and he was anxious to take this opportunity of thanking those who had been good enough to assist him in this task. He would, however, be glad if it could be definitely indicated either that he should omit the reference to retaliation altogether or include one in less strong terms. He wished, on the other hand, to point out that, in his report, he had stated that sanctions should be severe, as M. Sato had demanded, and they should be all the more severe if the right of retaliation were not admitted. Following the line of Mr. Eden's suggestions, if it were desired that the right of retaliation, though not excluded in theory, would never in practice have to be exercised, it was essential that the States should be able to rely upon rapid consultation and decision on the part of the other contracting parties. He was inclined to go to the furthest possible limit in this direction, more particularly as the problem was of a general nature and was not confined merely to the question of chemical warfare. If, for instance, a State employed artillery of a calibre prohibited by the Convention, the two cases would from the theoretical and legal points of view be almost identical, but the reaction of public opinion would naturally be stronger in the case of the use of chemical weapons. For these reasons, M. Pilotti did not think it possible to anticipate in too definite a manner the conclusions of the Conference on the matter of general prohibitions. When the work was sufficiently advanced to afford a bird's-eye view of a general disarmament scheme, it would be possible to examine whether further advance could be made in the particular matter of chemical warfare.

The Rapporteur desired to reassure the French delegate. He pointed out that the sanctions which he had mentioned were certainly not negligible. It would undoubtedly be a serious matter for a State to expose itself to the breaking off of diplomatic relations as the result of a general decision of the signatory States. It would be the duty of all the contracting parties to take this decision. According to the procedure suggested in the report, when once an infringement had been established, each State would be bound by an obligation to all the others to proceed to the most effective methods of pressure. If these had not been specified by the Rapporteur, the reason was that they might vary from one State to another. There were States which were so favourably placed with reference to certain belligerents that the despatch of a simple telegram would suffice to bring chemical warfare to an end. Those were the States which supplied the State in question with its foodstuffs. This was not a frequent case, but it was not possible to go into every detail. The Rapporteur was entirely of opinion that the consultation between the various contracting parties must be as rapid as possible.

He wished to add that, in drawing up his report, he had started from the Preparatory Commission's draft. As all States would now be represented on the Permanent Disarmament Commission, this Commission might perhaps, when the case arose, be used as an organ of consultation. In his report he had assumed that a small committee would be set up. The measure since adopted was perhaps an improvement from this point of view, and might be taken account of in view of the consideration that a Permanent Commission thus composed would perhaps facilitate consultation.

The French delegate proposed collective retaliation in the widest sense of the word—that is to say, either economic or military reprisals. The Rapporteur was in entire agreement...
with his French colleague; moreover, that was the result which the consultation was intended to achieve. It was, however, difficult to state a priori, either in the report or in the conclusions, that the object of consultation would be to reach any specific solution. It might be possible to find some formula which would make it clear that the collective action of the States should take the place of individual action by each one of them.

It was also important to remember that collective retaliation was of enormous importance in cases in which the guilty State was not a contracting party. In such cases, the entire body of the signatory Powers would rise against that State with the object of compelling it to show greater respect for the rules of international law which the other States had thought it necessary to adopt in obedience to the dictates of the universal conscience.

As he had stated in his report, the problem was particularly one for Members of the League. Article 16 of the Covenant already provided for the application of certain sanctions in a certain manner; the Rapporteur did not wish to make any further remarks on that subject at the moment in view of the differences of interpretation to which this article had given rise, some wishing to extend and others to restrict its meaning, while others again desired to retain it in its present form. In any case, the Rapporteur observed that the system applied to cases in which war broke out contrary to the provisions of the Covenant. It was explained in the report that, so far as concerned merely the Members of the League, there was no difficulty in stating that, if a war broke out, even in conditions such that it was possible to regard it, not as lawful, but as having no bearing on the Covenant, the fact that a belligerent employed the chemical arm would be regarded as sufficient to enable the other Members to decide to break off relations with it. This was a general obligation for the Members of the League and, as regards chemical warfare, a still closer bond could be established between them.

The Japanese delegate had spoken of severe sanctions, and the Rapporteur was in agreement with his view. If any member of the Bureau would point out to him any sanction which was not already clearly implied in the report, he was quite ready to include it in his conclusions. Nevertheless, a graduated system of sanctions going from the rupture of diplomatic relations up to a complete rupture, and, he would frankly say, even to war, seemed to him to cover the entire series of possible sanctions. His Japanese colleague had proposed in addition that a committee of jurists should be consulted. The Rapporteur had already enquired into this matter on his own account, as one of the delegations which he had consulted had replied to him in writing that it was in favour of severe sanctions. M. Pilotti had therefore got into touch with five or six jurists selected for their eminence. The only result of long discussions over some ten days had been the measures enumerated in the report, and it had not been found possible to suggest any others.

Should the violation of the Convention not occur in a form such as to impress public opinion, the reaction of the contracting parties might be immediate and serious, but it would always be of the nature indicated in the report, and he did not see how it was possible to go further. The report, without saying so explicitly, actually alluded to a war agreed on collectively, and he did not see how it was possible to do more than allude to it. If, however, the Bureau thought otherwise, the Rapporteur was prepared to acquiesce. On other points, he thought that it would be easy to come to an agreement by adopting somewhat stricter, though not necessarily more rigid, formulae, for he agreed with Mr. Eden that a rigid formula was not advisable. He asked then that the Bureau should come to a decision on the question of the right of reprisal.

M. MASSIGLI (France) observed that, in his previous speech, he had already ruled out any idea of reprisals, even on collective lines, by the use of the chemical arm. If the deletion of the paragraph in question simply had the effect of suppressing the use of chemical weapons in reprisals, he would be prepared to agree, but that was not the case. The report only referred to consultations between the contracting parties, bringing pressure to bear, etc. Those formulae were really too vague. At the tenth meeting of the General Commission in the previous April, the Yugoslav delegate had raised the question of chemical warfare in unambiguous terms. His draft resolution, which had been referred to the Bureau, contained the following paragraph:

"Prohibition of the use and preparation of air bombardment and chemical and bacteriological warfare, even in case of legitimate defence. If, in case of hostilities, one of the parties transgressed this obligation, the Council of the League of Nations would have to pronounce its outlawry from the civilised world. In such case, all the signatory States would be obliged to render military assistance to the State victim of the transgression."

M. Massigli did not think it possible to declare that the use of the chemical weapon was an international crime and, at the same time, be content with moral sanctions or vague formulae. The facts must be faced. It might be quite a long time before the world conscience was roused, and, in the meantime, a small country would be reduced to ashes. That was why he wished to introduce in the third paragraph the idea that the collective repression of the use of the chemical weapon was a duty incumbent upon the contracting parties.

The CHAIRMAN urged how important it was that the Bureau should reach agreement on the proposal to delete the third paragraph of the Rapporteur's conclusions. The formula employed in the second paragraph seemed to him more energetic than the French delegate appeared to think. It referred to punitive action (in French: sanctions). If third States agreed...
to employ such collective action, their intervention would be very forcible. He thought that
it would be preferable to retain the conclusions up to the second paragraph inclusive and to
delete the third paragraph.

M. PILOTTI (Italy), Rapporteur, agreed entirely with the Chairman. He wished to give
the French delegate an explanation regarding the facts. The reason why he had not adopted
the Yugoslav delegation's formula was that he had had to consider, not only that proposal,
but other proposals from other delegations. Moreover, the Yugoslav formula, which was
apparently the safest, was not really so. It mentioned the Council of the League, but, in so
doing, took up a standpoint outside the general Disarmament Convention; the matter became
one for the League. Within the terms of Article 16, States Members of the League might find
reason to invoke that article in the event of resort to chemical warfare. The question immediately
arose, however, whether such warfare was lawful or not, under the terms of the Covenant as
it stood, and irrespective of any idea of bringing the Covenant into line with the Pact of Paris.
It had not been possible to overcome the difficulty arising from the fact that, under the terms
of what was necessarily a general legislative provision, it might be admitted that chemical
warfare should be employed by a State the victim of aggression. It might perhaps be said that
it was a very unlikely hypothesis that a State would thus take advantage of the fact that it
had been attacked, but provision must be made for all possible contingencies. That was what
what had prevranted the Rapporteur from proceeding on the lines indicated by the Yugoslav
delegation.

Again, he had received another suggestion from a French source. The reason that he men-
tioned it was to show how scrupulously he had acted in his capacity as Rapporteur. Under
the terms of that proposal it would be an obligation incumbent on every State—and not a
right—to see that each contracting party put a stop to the use of chemical warfare. There
was no longer any question of discussing whether such warfare might be lawful or not; the
purpose was to put a stop to chemical warfare, and it was that obligation that the French
delegate, when consulted by the Rapporteur, had endeavoured to define in a suitable form,
which the Rapporteur had tried to codify in the report in the formula regarding bringing
pressure to bear. It would, of course, be possible to employ more energetic terms, but that
actually was how the report came to mention the question of bringing pressure to bear.

M. POLITIS (Greece) thought that there was danger of a serious misunderstanding. An
attempt was being made to find general formulae to indicate the tendencies in the Bureau. It
was clear from the various statements and from the report that the crux of the problem lay
in the framing of a system of sanctions sufficiently serious to supplement the inadequacy of
the preventive measures. The report contained a very explicit passage on that point. It
stated that "the inadequacy of the preventive action should be offset by provision for more
drastic penalties"; that was the main idea. The whole system depended on repressive action
and the accentuation of such action.

The Chairman had shown that for very good reasons, if the system was to be effective,
right of reprisal must not be conferred, and the Bureau had gone on to consider the deletion of
the paragraph in the conclusions which concerned that right of reprisal. In M. Politis' view,
however, the mere deletion of the paragraph was not sufficient. To avoid all possible misunder-
standing, it was not sufficient to enquire whether a State the victim of aggression by chemical
warfare did not possess the right of reprisal, but it must be stated explicitly in paragraph 3
that there could be no possible justification for any such right. But, in that case, there arose
the irrefutable argument set forth by the Rapporteur on page 8 of his report, as follows:

"It is desirable that the State which is the victim of the breach of the prohibition
should not require to retaliate by employing the chemical weapon, and that the assistance
given it by third States should compensate it, and more, for the disadvantage resulting
from the fact that the chemical weapon has been employed against it; if, however, the
State which is the victim of the breach is not assured of receiving such assistance, and, in
particular, if the assistance is not immediate, but conditional on a consultation between
States, which may take some time, the State in question cannot be forced to refrain from
the use of the chemical weapon."

Accordingly, if members of the Bureau agreed to accept the principle of the prohibition
of the right of reprisal, they must have courage to say that accentuated measures of repression
were essential, as was also noted in the report, and that it was not sufficient to state (as in the
second paragraph of the conclusions) that there would be a consultation of third States. In
the arguments set forth by M. Pilotti one of the reasons advanced against the right of reprisal
was the consultation of third States, and that might involve disastrous delays. Again, it might
not lead to the adoption of effective measures. On the other hand, if it were declared that it
was incumbent upon the contracting parties to take specific measures, and if those measures
were definitely stated, the system would work out quite differently. That no doubt was the
idea embodied in the report, but it was not expressed sufficiently clearly. The whole economy
of the system set forth in the report would be upset if the question of the right of reprisal
were passed over in silence, and the duty devolving upon the contracting parties to take as
rapid and effective measures as possible in defence of the prohibition of the right of reprisal
were not defined more clearly than was done in the second paragraph.
M. MASSIGLI (France) said that he had little to add after the very decisive demonstration which M. Politis had given. He asked his colleagues to re-read the second paragraph as it was drafted and not an interpretation of it. How would such a provision be understood by the man in the street? Imagine the case of a powerful State suddenly resorting to chemical warfare against a weaker State? The cowardice of peoples and governments must be taken into account. It was stated that the third States would have to decide, if necessary, on the punitive action to be taken and to address injunctions or recommendations to the States at war. It was greatly to be feared that all that would simply result in a recommendation being addressed to the weaker State to yield in the face of force. The proposed text was inadmissible. It was essential to impose a clear obligation on States. He did not propose to insist on the point for the moment; but he reserved his delegation’s right to bring up the question in its entirety in the General Commission.

The CHAIRMAN pointed out to the French delegate that it must not be forgotten that there would no doubt be a general system of sanctions. Further, it was not proposed to abolish the sanctions laid down in the Covenant of the League, and in the course of the discussion the Bureau had already contemplated certain kinds of sanctions connected with the provisions of the Covenant. Obviously they would not wait until war broke out. Everything would have to be prepared, with a view to organising the necessary consultations and ensuring that no time was lost. At the same time, as the French delegate appeared to think that the discussion had not been exhaustive enough and suggested reverting to the subject in the General Commission, the Chairman thought that it would be preferable to adjourn the discussion for the moment and hoped that it might be possible subsequently to achieve some degree of unanimity.

The continuation of the discussion was adjourned.

TWENTY-SIXTH MEETING (PUBLIC)

Held on Friday, November 11th, 1932, at 3.30 p.m.

Chairman: Mr. HENDERSON.

31. PROHIBITION OF CHEMICAL WARFARE AND VIOLATIONS OF THE PROHIBITION TO USE CHEMICAL, BACTERIOLOGICAL AND INCENDIARY WEAPONS: REPORT BY M. PILOTTI (ITALY).

IV. Sanctions in the Event of the Use of Chemical, Bacteriological and Incendiary Weapons (continuation).

The CHAIRMAN said that, after the discussion at the previous meeting, which had dealt more particularly with point 4 of the conclusions of M. Pilotti’s report (document Conf.D.142), it was clear that nearly all the members of the Bureau were opposed to the recognition of the right to retaliate by the use of chemical weapons against a State which had itself had recourse to them. Opinions, however, varied considerably as to whether, if all reprisals were excluded, provision should be made, in the Convention to be concluded, for definite sanctions against a State which violated the prohibition to make use of chemical, incendiary or bacteriological weapons.

On the one hand, it was urged that the Conference should make detailed provision for collective measures of repression, while, on the other hand, some of the delegates were of opinion that their Governments might have some difficulty in arriving at a decision with regard to the sanctions which they were prepared to accept, and that the Paris Pact and the Convention itself would be valueless unless they rested upon moral force. The discussion had been adjourned without any conclusion being reached on that point and was to be resumed at the present meeting with a view to finding, if possible, a unanimous solution.

M. PEDROSO (Spain) declared himself absolutely opposed to the recognition of any right to retaliate by the use of chemical weapons, and said that he had nothing to add to the arguments already put forward by the Rapporteur. It was impossible to recognise (in a Convention which subjected to legal provisions the events of war, an institution which had already been outlawed by most of the States) a criminal act which could, under no circumstances, be said to be dictated by the common right of legitimate self-defence.

The question of collective sanctions, raised by M. Massigli, was of the highest importance, and could not have come as a surprise to the States signatory of the Paris Pact and of the League Covenant. The Rapporteur had fully recognised the value of M. Massigli’s contentions when, in his final remarks on the effects of the application of the Covenant and the Paris Pact, he had said that the States Members of the League would be free to decide among themselves by some appropriate means (special Protocol, amendment to the Covenant) that the use of the chemical weapon should produce the same effects as a breach of Article 16 of the Covenant.
Pilotti's report was an interesting attempt to find a solution, opened up far-reaching perspectives. The investigation by the Bureau was based, tended to facilitate the work in that direction. M. General Burhardt-Bukacki added that the Polish delegation had reserved the right to bring up the question of sanctions again, as it was convinced that only a solution covering all its aspects and in full knowledge of the facts after the special Committee of Experts had furnished it with the necessary information on the questions raised at previous discussions. In view of the turn taken by the discussions, however, he was obliged to intervene, especially owing to the very definite attitude adopted by the Polish Government on that question and to the initiative taken by the Polish delegation on the Preparatory Commission in the matter of sanctions and of assistance to the victims of chemical aggression.

In that connection, he quoted an article by M. Politis entitled: "The Future of the 'Convention' Law of War", in which he described the position which had arisen on the Preparatory Commission as follows:

"On the termination of the work of the Preparatory Commission (meeting of December 5th, 1930), the Polish delegation, supported by six other delegations (Belgium, Finland, France, Roumania, Czechoslovakia, Yugoslavia), stated that it reserved the right to have the question of sanctions examined by the League of Nations. It pointed out that the development of science and the growth of the chemical industries constituted a temptation to make use of them in a future war. A simple prohibition was not sufficient to eliminate that danger, but should be followed by appropriate measures designed to enhance its practical value and to render its violation more difficult, by increasing the risks to an aggressor. The system of collective reprisals would certainly be more effective, especially in the direction of prevention, but it did not seem possible to bring about at the present time. In the circumstances, all that could be obtained was an undertaking on the part of the contracting States to give a country which had been the victim of aggression suitable sanitary and medical assistance and to place their scientific resources at its disposal so as to enable it to take the most effective measures to protect itself. "That change of attitude on the part of the delegations, which had hoped at the outset to create a movement of opinion in favour of the system of collective reprisals, is very characteristic."

General Burhardt-Bukacki added that the Polish delegation had reserved the right to bring up the question of sanctions again, as it was convinced that only a solution covering every aspect of the problem could sufficiently allay the legitimate and increasing apprehension felt by all those who considered that chemical warfare was a threat to the future of the whole of civilisation. He did not desire to anticipate the replies of the Committee of Experts, but he feared that they would force the Bureau to the particularly disquieting conclusion that any control in the sphere of chemical warfare was inadequate, as the great chemical factories could always take refuge in the pretext that they were safeguarding themselves against so-called economic espionage. It followed that, in the matter of reprisals, the first thing to seek was the methods of prevention and repression. The resolution of July 23rd, 1932, on which the investigation by the Bureau was based, tended to facilitate the work in that direction. M. Pilotti's report was an interesting attempt to find a solution, opened up far-reaching perspectives.