was, therefore, a complete analogy in private law; when provocation resulted in a case of the application of a pacific procedure to secure the vindication of the right infringed. There not one of the prohibited acts, in which case aggression could not take place on any ground one of the prohibited acts without being considered an aggressor, or else provocation was defence, in which case the latter, through the very fact of being in such a position, could commit either provocation consisted of an act which had placed the victim in a position of legitimate M. Politis had made this clear on May 25th, point, there was complete agreement. The situation was the same in international relations. brought about—that was to say, the special situation known as legitimate defence. On this by reason, however, not of the act of provocation itself, but of the situation which it had been especially demonstrated by the fact that it made no allowance for provocation. It was essential. First of all, M. di Soragna had said that the fragility of the system proposed had been more especially demonstrated by the fact that it made no allowance for provocation. Roosevelt's message and in Mr. Norman Davis's speech of May 22nd, M. Politis thought that, for his own part, however, M. Politis was bound to say, no less frankly than M. di Soragna, it was only third parties who could weigh the respective pros and cons and take a decision. For his own part, however, M. Politis was bound to say, no less frankly than M. di Soragna, that the latter had not merely failed to convince him, but, on the contrary, had strongly confirmed him in the views which he had expounded before the Commission on May 25th. What had M. di Soragna said? There were two points on which absolute clearness was essential. First of all, M. di Soragna had said that the fragility of the system proposed had been more especially demonstrated by the fact that it made no allowance for provocation. The latter, he maintained, played a very important part in the system of law. It played an important part in the national system, and must, in consequence, play an important part in the international system. On this point M. Politis could concur in what M. di Soragna had said, and he accepted the postulate that, in international relations, provocation should play the same part as in the relations between private individuals and between nations. M. Politis, however, hastened to add that, though he accepted this analogy, he was not prepared to agree that provocation should play a greater part in international relations than in municipal law. What precisely was the part played by provocation in municipal law? To what extent could it absolve a crime, an infringement of the rules of conduct laid down by criminal law? As far as he knew, there were only two possibilities. In the first place, provocation constituted an act which placed the victim in a position of legitimate defence, in which case the act with which the victim was charged was conditioned, by reason, however, not of the act of provocation itself, but of the situation which it had brought about. In this point, there was complete agreement. The situation was the same in international relations. M. Politis had made this clear on May 25th, when he had dealt with the following problem: either provocation consisted of an act which had placed the victim in a position of legitimate defence, in which case the latter, through the very fact of being in such a position, could commit one of the prohibited acts without being considered an aggressor, or else provocation was not one of the prohibited acts, in which case aggression could not take place on any ground whatever, and, against such an act of provocation there remained no other remedy than the application of a pacific procedure to secure the vindication of the right infringed. There was, therefore, a complete analogy in private law; when provocation resulted in a case of

1 See Minutes of the sixty-fifth meeting of the General Commission, page 516.
legitimate defence, the act was condoned; when it did not result in such an act of legitimate defence, there was no condonation. Provocation merely enabled the court to consider the case as an extenuating circumstance which, though reducing the penalty, could not entirely do away with it. In examining the instrument under consideration, moreover, this question of repression, this question of punishment did not arise, for, as M. Politis had frequently stated—

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They meant, as Article II of the Pact of Paris indicated, that the States undertook that in no circumstances would they employ other means than pacific forms of procedure for settling their disputes, so that, if provocations were to play any part, it could only be the part which it played in private law. If, however, it was desired to extend this idea of provocation in order to justify the use of force in international relations, that meant a very profound difference of opinion as regards the manner in which international relations were conceived. The arguments just put forward belonged, in M. Politis’s opinion, to the past. He claimed that the conception which he was maintaining existed already in the texts adopted, and was in harmony with the object at which the civilised world was aiming in organising peace.

The same remarks applied to the other observation with which M. di Soragna had supported the view expressed by Mr. Eden a few days previously. M. di Soragna had said: “We are asked to accept or not to accept. Obviously, everyone is free to act as he thinks fit. We are told, however, that we have no right to prevent those who would like to sign this instrument from doing so.” And M. di Soragna had gone on to observe: “But what would be the position of these third States? What would be their position in this international organism of which they are members, when they are called upon to apply rules to which certain States only have agreed? You would be placing them in an impossible position; you would be compelling them indirectly to assume the very obligations which they are not prepared to assume.” On the previous occasion, M. Politis, replying to Mr. Eden’s remarks, had quoted the example of the Pact of Locarno and had claimed that it proved that third States might find themselves in a similar position and that that position had hitherto given rise to no objection. He now received the answer: “Yes, but the Pact of Locarno lays down special rules, whereas the rules under discussion are of a general character. The comparison therefore does not hold and consequently cannot be used as an argument.”

Did that really justify so clear-cut a distinction? It was contended that, in the present case, the rules were of a general character. In what sense? In character they were general rules, but they remained special rules in so far as they were only accepted by certain parties. And if immediate agreement were impossible that was because there was too strong a tendency, in accordance with the time-honoured principles which had so far governed the world, to consider that international organs were composed of States exercising their sovereign rights uncontrolled and as arbitrarily as they wished. It had not yet become sufficiently the custom to take the view that, as their name indicated, international organs were actually organs—that was to say, entities entrusted with the exercise of a public function. If, therefore, two countries had concluded, within the limits authorised by general law, special Conventions which, though binding upon themselves, did not bind third parties, and if the application of the rules thus established gave rise to a discussion before the international organ, it appeared to M. Politis an anachronism to say: “How do you expect the members of the international organism, who are not contracting parties, to be able to apply these rules?” M. Politis was aware that the evolution of law had not yet reached this stage, but it was approaching it. Think of what took place in the municipal courts when the two parties were bound by a contract which the civil code of every country in the world regarded as the law of the parties. Was the judge entitled to say that, as a third party to this contract, he had no concern in the matter? It was more or less the same thing so far as the international organ and the members of which it consisted were concerned, to have to act in the present case. They had to apply rules accepted by certain parties and to apply them solely in the relations between those parties. The argument put forward—“If States—no as members of the organism, but as States—they had not accepted these rules was an objection which could not, in M. Politis’s opinion, be regarded as valid, from the point of view of the application of the system proposed. The consideration was raised therefore not really relevant, and it was, M. Politis thought, for that reason that it had failed to convince him. Was it desired to re-open the question of the Pact of Locarno and say that, if the rules had a special instead of a general character, they could not be applied by the third party members of an international organism? If that were the case, M. Politis would venture to point out that, after the conclusion of the Locarno Agreements, the 1926 Assembly had, by a unanimous vote, recommended all Members of the League
to take example by these Agreements and imitate them in any other regions where their application might be possible. That was more or less what the Commission was engaged in doing, and it was fortunate in having the co-operation of States which were not members of the League.

Even from the special point of view of the relations of States Members of the League with each other, the argument did not hold and, if the votes of the League had any value, M. Politis would emphasise the fact that, in 1926, the League Assembly had recommended that the Locarno Agreements be imitated wherever possible.

In conclusion, M. Politis noted with satisfaction that the great majority of the Commission had pronounced in favour of the draft Act; on a few formal points, it might require certain amendments or additions. Any delegation which so desired was free to make suggestions in this respect, so that they could be examined in due course. It was with all the greater regret that M. Politis noted that, on the other hand, a certain number of the delegations were not prepared to accept the draft instrument, not merely in so far as they themselves were concerned, but even as regarded the others; they were not prepared to agree to this draft instrument becoming a general law open to any country which was willing to accept it. On this point, M. Politis's views harmonised with those just expressed by M. Paul-Boncour; he observed that President Roosevelt's message proposed a fourth measure, and M. Paul-Boncour had pointed out a few moments ago that this measure summed up the majority of the cases enumerated in the Act which the Commission was discussing. M. Politis would further remind the Commission that, in his speech on May 22nd, Mr. Norman Davis, in commenting on this fourth measure, had said that it contained the elements of a definition, and that some day it might perhaps be possible to arrive at a clear and explicit definition of aggression. He had added that the clearest and most accurate definition of an aggressor was a State the armed forces of which were found in foreign territory in violation of treaties.

It was for the General Commission, which had applauded Mr. Norman Davis's speech, which had enthusiastically supported President Roosevelt's message, to decide whether it was prepared to prove its consistency by accepting the conclusions which the Committee had drawn from these data and embodied in the Act under consideration, or whether it wished to contradict itself by refusing to accept that instrument.

The President summed up the position in which the Commission found itself as the result of the two days' discussion on the question of aggression.

It was quite clear that two very distinct lines of thought had run through the discussion. There were those who did not desire to lay down any definition of a rigid character and those who wished to accept something on the lines of the report presented by the Vice-President. The President thought, further, that he had noticed in M. de Madariaga's speech something more in the nature of a centre position, and there were one or two suggestions made by the Spanish delegate which might be very carefully considered.

It had been suggested that the Commission should try to close the discussion, but the President was afraid that that was quite impossible, and he would point out that the invitation extended by the Chairman of the Committee on Security Questions towards the close of his speech should be acted upon. He suggested accordingly that Mr. Eden, who had taken a very definite position on one side, M. Dovgalevsky, who had taken a definite position on the other and who had been responsible for the first motion introduced seeking to provide a definition of aggression, and perhaps, M. de Madariaga, might consult with M. Politis; the President could not help thinking that if that were done it might be possible, without destroying the work of the Committee, to get something through on the lines of its report, but not quite so rigid as the present wording. At any rate, the President would like to see that suggestion tried before the question of aggression was discussed a second time, as he hoped it would be not more than a few days hence.

If that were agreed, the question would arise what business should be taken at the next meeting. The part of the report at present under discussion contained a third annex which set out provisions of an optional character. There had been no criticism of this part of the report, and the President proposed that the Commission should take it as the first business for its next meeting and, in view of its optional character, dispose of it speedily. The Commission might then take Part III of the report dealing with the very important question of a European Security Pact.

The President strongly hoped that the Commission would follow the plan he had suggested, as it would enable the Vice-President to have the conversations in view and, if possible, to bring forward some arrangement on which general agreement might be obtained. That procedure would, he believed, expedite the Commission's work.

M. DOVGALEVSKY (Union of Soviet Socialist Republics) observed that the President had just proposed that a further effort be made to reconcile the two conflicting trends of thought revealed at the meetings of the Committee and General Commission respectively. To be frank, M. Dovgalevsky was not optimistic as to the possibility of reaching a satisfactory result. Nevertheless, he did not wish it to be said that they had shrunk from a last attempt. It was for that reason that he would not oppose the President's proposal. He asked, however, that the General Commission should allow a period of three or four days for this attempt at reconciliation, in order that the question might immediately come up again before the Commission, which could then proceed to take a vote.

Mr. Eden (United Kingdom) felt he need hardly say that he gladly agreed to the President's suggestion that the delegates mentioned should do their best, under the skilful chairmanship of the Vice-President, to find some method of overcoming the difficulty in which the General Commission clearly found itself. The United Kingdom delegation would be happy to do all it could to that end. He would have thought that the correct place for the proposal as to the definition of the aggressor was its present position (end of Part I) in the draft Convention. It would not, he considered, be right to take individual items from the draft Convention and give them an earlier second reading. The Commission should complete the first reading of the whole draft Convention and then have the second reading as originally arranged. He would regret to see any part of the draft given preferential treatment, since, if that were done, each delegation would be apt to have its own preferences.

M. Nadolny (Germany) was in complete agreement with Mr. Eden. He thought that the latter's remarks might give satisfaction to M. Dovgalevsky; it would thus be possible to discuss and settle this question before the second reading.

M. Dovgalevsky (Union of Soviet Socialist Republics) said that when he had originally put forward his proposal, he had not thought it necessary to state the arguments in its support; now, however, he desired to do so.

The Soviet proposal relative to the definition of the aggressor had been laid before the Conference at the beginning of February, as a motion entirely independent of the draft Convention which the Conference was at present discussing. That was why the procedure applied to the definition of the aggressor had been different from that adopted in the case of the United Kingdom draft, and M. Dovgalevsky was asking that it be continued. He therefore maintained his proposal that three or four days be allotted for the negotiations. If M. Nadolny wished to have this period somewhat extended—to a week, for example—M. Dovgalevsky would not object, but he asked the General Commission to name a period, on the expiry of which the draft Act on the definition of the aggressor would again come before the Commission for general discussion.

The President did not think it possible to discuss the matter any further at the moment. More than one speaker had said that the Commission could not begin to give preferential treatment. He would, however, suggest a means of meeting M. Dovgalevsky. It was that there should be fewer and shorter speeches on the second part of the Convention—i.e., Parts IV and V—upon which the Commission would soon be starting. These two parts had already been through the Drafting Committee and the Bureau, and should not therefore require very much time. Part III could not be completed until it was known what the remainder of the Convention would be. That meant that, in a very few days, the Commission would begin the second reading of Part I. There were at present three articles in Part I to which there were no amendments, and the fourth article would depend upon the results of the consultations in question. It would therefore be far better if M. Dovgalevsky would accept the position suggested by the President, who could assure the Soviet delegate that everything would be done to finish Parts IV and V as soon as possible, after which the Commission would begin the second reading of Part I, when votes would have to be taken on all questions on which amendments had been submitted.

Count Raczynski (Poland) apologised for making suggestions after the President had done so. He nevertheless considered that, after the brilliant speeches to which they had listened, the members of the Commission would have little doubt that the question under discussion was something in the nature of a preliminary question and that it would be necessary for them to face their responsibilities and decide for or against. After the speeches to which they had listened, he considered that such a discussion would be essential and extremely valuable before the debate on Part I of the United Kingdom draft. There was also a technical reason: the Soviet proposal had been laid down as long ago as February; it had therefore preceded the United Kingdom plan. In considering that the discussion should take place, Count Raczynski was, however, actuated rather by reasons of principle than by any formal reasons.

Mr. Eden (United Kingdom) pointed out that the Commission was working on a basis which had been generally approved by itself and that basis was the draft Convention. The Commission was discussing the subject because of the desire, with which, naturally, he did not in any way quarrel, of the Security Committee to place the definition of the aggressor in a special position in the draft Convention. He would have thought that the normal place for further discussion was in the proposed place in the draft Convention. He would regret any departure from the basis which the General Commission had accepted, since it might lead to confusion later.

The President noted that Mr. Eden had supported the statement which he, the President, had put forward in the interests of the work in hand, and, in view of the explanations that had been given, he hoped M. Dovgalevsky and his supporter, Count Raczynski, would not press their suggestion to a division. It would create a rather unfavourable impression if the Commission could not agree upon a little matter of procedure in the way which the President had suggested, a way which he hoped might lead to a peaceful settlement of the differences between the two parties, which had been revealed in the discussion.
M. DOVGALEVSKY (Union of Soviet Socialist Republics) acceded to the President's request, but nevertheless reserved his right to raise again the question of the immediate examination of the proposal regarding the definition of the aggressor in the course of the first reading of the United Kingdom plan if the conversations were unduly protracted.

The President said that if M. Dovgalevsky did not hold out too hard when the Vice-President was carrying on his negotiations, it would probably be possible to get all the sooner a settlement of the question satisfactory to the Soviet delegation. He thought, therefore, that, on that understanding, the Commission might adjourn.

SEVENTIETH MEETING

Held on Tuesday, May 30th, 1933, at 11.45 a.m.

President: The Right Honourable A. HENDERSON.

126. REPORT OF THE COMMITTEE ON SECURITY QUESTIONS: ACT RELATING TO THE ESTABLISHMENT OF FACTS CONSTITUTING AGGRESSION. 1

M. POLITIS (Greece), Chairman of the Committee on Security Questions, said that the Committee had had no difficulty whatever in preparing the Act relating to the establishment of the facts constituting aggression which was before the Commission, thanks to the sound basis provided by the Belgian delegation 2 and also to the very clear and detailed explanations given by M. Bourquin, whom M. Politis had pleasure in thanking, on behalf of the Committee and himself, for his very valuable help.

The Act embodied an extremely simple system, the characteristic of which was that it was essentially optional. It would enable States desiring to do so to set up a body for establishing the facts, a body which would be prepared at any moment to proceed without delay to make an impartial investigation. That body was a commission of five members, selected by the States which desired to set up such a body from a list of ten persons drawn up by an international organ—the League Council or the Permanent Disarmament Commission. The Commission in question would act only at the request of the Government concerned and for the purpose of establishing certain facts which it was important to ascertain within the territory of that State. Having established those facts, the Commission would prepare a report and send it to the two bodies concerned—the Secretary of the Permanent Disarmament Commission and the Secretary-General of the League. The facts thus established would be a valuable guide to the body called upon to determine the aggressor.

The Committee on Security Questions had expressed no opinion as to the place which should be allotted to the Act in question. It would appear that the idea of the United Kingdom Government (Article 6 of the draft Convention) was that it should be regional and should form one of the annexes mentioned in Article 6—Annex X. But the system worked out by the Committee was so elastic that it could very well be adapted to a universal agreement. There did not seem to be any reason why it should not be so adapted, as the system was not compulsory, and even for those who accepted it its application would be essentially optional. Whether it took the form of a general or regional act, the system would always be of undoubted value. The main point was that it should be approved by the Conference and should be embodied in its documents. It would undoubtedly derive international standing, both as a result of its approval by the Conference and of its connection with the important international bodies which would be required to draw up the list from which commissions for establishing the facts would be constituted. It would be a modest but very useful wheel in the machinery for the organisation of peace.

In these circumstances, M. Politis expressed the hope, on behalf of the Committee, that the General Commission would unanimously accept the Act, subject to the place subsequently to be allotted to it in the documents of the Conference.

The President said that, as no one wished to speak, he took it that the Commission was prepared to give a first reading to these optional articles in Annex III.

Agreed.

to follow the Council’s recommendations. In order to remove the difficulty of such a system, and a state of war, with all the obligations it entailed, was imposed on the State that was willing because, up to the present, one of the objections to the system provided for in Article 16 was that countries that were at a distance from the scene of the dispute and were interested only to a very limited extent in the States involved in it would hesitate to accept the Council’s decisions or recommendations. As the Commission could see, limitation of assistance in that region would be a new idea, but it was based on an already existing one, and that in two ways; first, by laying down a detailed and exact definition of the aggressor, in order to facilitate the application of Article 16 and the fulfilment of the obligation to give mutual assistance, which had already been assumed in virtue of the agreements in force. The second way in which the obligation was reinforced was that the recommendations which the Council might have to make, under Article 16, paragraph 2, would be binding upon the contracting parties to this European Pact. As a rule, in the general law of the League of Nations, these recommendations were optional. The States merely undertook to consider them conscientiously and were free to take a final decision. These recommendations of the Council would, of course, have to be unanimous, the parties to the dispute being excepted.

The third element of elasticity in the system was that it was proposed to leave the participating States free to limit the application of their commitments in the matter of assistance, either as regards area or the extent of their contributions. A State could, in acceding to the Act, say that it accepted the obligations embodied therein in a given region but not throughout the whole area. It could also be decided to what extent, by means of what forces or effectives, or with what material, that State would be prepared to give assistance in that region. That appeared to be a new idea, but it was based on an already old decision of the Assembly of the League. On September 26th, 1927, the Assembly had adopted a very long resolution which said, in conclusion, that an invitation should be sent to the States asking them to inform it of the measures which they would be prepared to take, irrespective of their obligations under the Covenant, to support the Council’s decisions or recommendations in the event of a conflict breaking out in a given region, each State indicating that, in a particular case, either all its forces, or a certain part of its military, naval or air forces, could forthwith intervene in the conflict to support the Council’s decisions or recommendations. As the Commission could see, limitation of area and limitation of military assistance were there mentioned, and the same idea had been taken up in connection with this third element of elasticity with which the system was endowed.

Finally, the fourth and last element of elasticity was the distinction to be established between the idea of assistance and the idea of belligerency. That point deserved attention because, up to the present, one of the objections to the system provided for in Article 16 was that countries that were at a distance from the scene of the dispute and were interested only to a very limited extent in the States involved in it would hesitate to accept the Council’s recommendations under Article 16, paragraph 2, fearing that, in accepting them or in giving military assistance, they would themselves be involved with all their forces and with all the consequences entailed when war was declared.

In the sense given to Article 16 in the past, assistance meant becoming involved in a war and a state of war, with all the obligations it entailed, was imposed on the State that was willing to follow the Council’s recommendations. In order to remove the difficulty of such a system,
it was proposed to say, with regard to the relations between the contracting parties, that it would be understood that, in the event of a dispute, a country which, in fulfilment of its obligations, gave the promised assistance would not be regarded as an enemy by the opponent of the country to which it had given assistance—I.e., as being in a state of war with that country. In this way, the risks were restricted and it was easier for a country to fulfil its obligation of assistance.

That, in a few words, was the structure of the system. It was supplemented by what was said on the last page of the texts annexed to the report with regard to the proposed new form of Article 6 of the United Kingdom draft. That article was intended to determine the legal situation, in respect of the annex—or even of the other annex if it were included in Article 6—of the States parties to the General Convention which had not accepted the European Security Pact. Those States would not, of course, assume any direct obligation. Not having signed the European Pact, they would not be bound by it directly; at the same time, they would be bound to accept the consequences involved by the fact that the annex was connected with the General Convention for the Reduction and Limitation of Armaments, of which it was intended to form a part.

What were those consequences? They could be reduced to the two following: first, these third Party States must, in their relations with the countries which had accepted the European Pact, take account of the rules laid down, that was to say, they would take these rules as the basis of any decisions they might be called upon to take under Article 2 of the new text supplied the week previously by the United Kingdom delegation—in other words, in the international body, the Council or the Assembly, as enlarged by the addition of third parties. In the event of a dispute between two States which had accepted the European Pact, these States, parties to the Convention but not parties to the Pact, would have to apply, in respect of those two States, the rules laid down in the Pact. That was the first consequence.

The second was that the third-party States would have to give an undertaking—an undertaking which the United States of America had announced its intention of assuming—to refrain from any action that might hamper the effect of any collective action initiated, in so far as the relations of the contracting parties were concerned, in virtue of the European Pact, and not to recognise any fait accompli due to any infringement of an international undertaking by the State regarded as the aggressor.

The text of Article 6 had been prepared before the earlier articles of Chapter I of the draft had been modified. But as Sir John Simon had submitted a new text for Articles 2 to 5, M. Politis thought it would be possible greatly to simplify the Committee’s text of Article 6. In the text before the Commission, a distinction had been drawn between States Members and non-members of the League, with a view to defining the respective legal positions, under the European Pact, of States parties to the General Convention but not to the Pact, and to defining their position if it should become necessary to apply the European Pact as between the contracting parties. With the new text of Articles 2 and 3, it would no longer be necessary, in M. Politis’s opinion, to make this distinction between States Members and States non-members of the League, and Article 6 could therefore be simplified considerably and made much clearer and more comprehensible.

Such was the general structure of the system. The proposed Pact had intentionally been made extremely elastic, as he had just indicated, in order to appeal to the goodwill of all, however weak it might be. The obligations outlined were such that all could accept them. They would only seem burdensome, he thought, to those who, he hoped, were not represented in the Commission, those who were resolved at all costs to prevent the organisation of peace in Europe.

M. MIHALACHE (Roumania) said that the States of the Petite Entente felt that they should intimate at once that they accepted most of the formulæ embodied in the European Security Pact. They regarded the Pact as a most important instrument, intended to ensure, within the European framework, effective protection against all acts of violence, against any attempt to attack by force the very valuable legal benefits guaranteed to the States under the League Covenant and the Pact of Paris, which all the parties to those instruments had a duty to respect, to maintain and, if necessary, to restore.

It was obvious that new elements in international law, which had not existed in the past and the absence of which had to some extent stood in the way of effective assistance, had facilitated the task of the Committee on Security Questions. Those elements were, on the one hand, the prohibition to resort to force in settling international disputes, a prohibition which followed explicitly from Article II of the Pact of Paris and from the declaration on non-recourse to force adopted by the Political Commission, and, on the other hand, the possibility of having a definite criterion for determining the aggressor when such resort to force occurred. Those were the essential factors of security, for the operation of a system of assistance would be greatly facilitated by a definite criterion for defining the aggressor.

That was why, as M. Titulesco had said at the General Commission’s meeting on May 25th, the States of the Petite Entente wholeheartedly acceded to the Act relating to the definition of the aggressor and to the clear and precise proposals of the Soviet delegation in that connection.

1 See Minutes of the sixty-third meeting of the General Commission, page 494.
In studying the European Security Plan, the States of the *Petite Entente* had been glad to note that the Committee had already considered the practical effect of the definition on the putting into effect of the obligation of assistance. In embodying the definition of the aggressor in the European Pact, the Committee had intended in that way to harmonise the first part of its work, which was on a universal plane, with the second part, which was devoted exclusively to security within the European framework. It had thus made possible the application, in connection with assistance, of points 1, 2, 3 and 5 of the definition of the aggressor and the explanations, relating to that definition, contained in the report.

Taking into account at their real value these new elements, which would facilitate the granting of assistance, the States of the *Petite Entente* believed that any complication due to a desire to employ conventions embodying juridical ideas and systems not entirely concordant with the present development of international law should be avoided. For that reason, they were obliged to make the most formal reservations as to the provisions of Article 2 of the European Security Pact, which contained an undertaking to accede to the General Convention to improve the Means of preventing War.

With regard to Chapter II of the European Security Pact, it was obvious that the States of the *Petite Entente* would have preferred a bolder solution—namely, the conclusion of a treaty containing a general undertaking to give assistance, even if, in the present circumstances, it were limited to Europe. They were aware, however, of the difficulties which had led the Committee to adopt a more modest solution, a solution intended to strengthen the existing obligations with regard to assistance, as laid down either in special or general treaties.

In this connection, they considered as important, with a view to strengthening the system of sanctions, the provisions of the European Security Pact in virtue of which the recommendation with regard to military, naval or air effectives, in accordance with Article 16 of the League Covenant, was considered to be obligatory. They realised that the Committee had made the European Pact very elastic, leaving the signatory States free to limit as they thought fit the nature and extent of the assistance they undertook to give.

While it was desirable that a sufficient number of States should accede to the Pact, its efficacy would also depend upon the nature and extent of the assistance which each State was prepared to give. In Europe at any rate, security must not be cut up into blocks.

It was hardly necessary to point out that the *Petite Entente* would prefer a system of assistance sufficiently sound and general to ensure the effective help to which any State victim of an aggression had an indisputable right. Resort to force must be prevented both morally and materially.

Efforts must therefore be made to organise peace by providing means of giving greater assistance in the event of aggression, for it was the very absence of such assistance that had brought about the competition in armaments. The certainty therefore that all States would be able to obtain effective assistance would in itself encourage a considerable reduction in armaments.

The States of the *Petite Entente*, therefore, regarding the proposed European Pact as the first stage in the right direction towards security and anticipating that ultimately it would evolve in the direction of universality, accepted the general principles upon which the Pact was based in the conditions mentioned above.

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

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### SEVENTY-FIRST MEETING

*Held on Tuesday, May 30th, 1933, at 3.30 p.m.*

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President: The Right Honourable A. HENDERSON.

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128. **REPORT OF THE COMMITTEE ON SECURITY QUESTIONS: EUROPEAN SECURITY PACT**

M. Rutgers (Netherlands) said that the draft European Security Pact contained in the first place rules for the application of Article 16 of the League Covenant. The principal articles of Chapter II—Articles 6, 7 and 8—dealt exclusively with the obligations arising out of Article 16. They contained a definition of recourse to war mentioned in Article 16 and determined the extent of the application of that definition.

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1 Document Conf.D./C.G.108 (a), Annex IV.
The Netherlands delegation felt such considerable doubts in regard to these provisions that it could not at the present moment accede to Chapter II of the Pact under discussion. Its doubts and hesitations referred both to the definition contained in the Pact and to the geographical delimitation of its sphere of application.

As regarded the definition, he pointed out that, only yesterday, the General Commission had considered the Act relative to the definition of the aggressor. The definition contained in that document was not in all respects identical with that in the European Pact. According to the former, a blockade would constitute an act of aggression, but, according to the European Pact, it would not do so. Consequently, a blockading State would, according to the first document, be designated as the aggressor, while under the European Pact it would not be regarded as such. The blockading State might even, when the blockade had already been applied, be committing one of the acts mentioned in Article 6 of the European Pact by, for instance, attacking an aeroplane belonging to the State responsible for the blockade while that aeroplane was flying over its territory. According to the European Pact, that State must be regarded as an aggressor, so that there would be two aggressors, one of which (the one responsible for the blockade) would have a right to receive prompt assistance from the other contracting parties. That diversity of definition seemed more likely to mislead public opinion than to guide it and to have nothing to recommend it from any point of view.

There was a second objection to the definition proposed: the danger that it might compromise the application of Article 16 of the Covenant. The definition contained in the European Pact would only apply to the States signatory to the Pact. If recourse were had to arms as between two States, one of which was a signatory to the Pact, the Council would be obliged to take account of two different conceptions of Article 16: that of the common law and that of the European Pact, which were not identical. That might result in the country which was a signatory of the European Pact being regarded as having had recourse to arms in violation of its obligations under the European Pact, while the other State might be regarded as having had illegal recourse to arms according to the conception underlying Article 16.

An interpretation of Article 16 was being introduced which could not be regarded as an amendment to the Covenant adopted in accordance with the regulations governing amendments. That interpretation would only be applicable to part of the Members of the League, and the Covenant would thus be so fundamentally broken up that it would be impossible to restore its lost harmony.

As for the geographical delimitation of the sphere of application of the Pact, what criterion would be applied? Would it be the geographical position of one of the parties to the dispute, or the place where the aggression was committed? According to paragraph 2 of Article 7 of the European Pact, the assistance thus promised was due by a contracting State to the contracting States situated in a particular area. It followed that it was solely the geographical position of the State victim of the aggression which constituted the criterion and not the question whether the aggression had been committed in a specific region or had been committed outside Europe, either by an attack on a warship or merchant ship outside Europe or by the invasion of an overseas territory.

That question was of the greatest interest to certain States which, while situated in Europe, possessed overseas territories, the security of which was of no less importance than that of the mother country.

On February 7th, in his speech in the General Commission, M. Beelaerts van Blokland had asked how it would be possible to draw up a logical plan of mutual assistance which did not offer the same guarantees for the territories situated in Europe and for those situated overseas.

In addition to the question whether the guarantee of the European Pact would hold good when the aggression had been committed outside Europe, there was the question whether the guarantee would also involve assistance outside Europe. M. Beelaerts van Blokland’s remark that no logical plan was conceivable which did not furnish the same guarantees for overseas territories applied to such a case also.

Another comment had been submitted by M. Beelaerts van Blokland in the same speech before the General Commission. He had stated that it would be very difficult for him “to agree to a Convention which left our English friends outside the European family”.

To reassure Mr. Eden, M. Rutgers hastened to add that, if the Netherlands Government were engaged on draining the Zuyder Zee, it had no intention of draining the North Sea. The insularity of the United Kingdom, which was incontestable, was a geographical notion, but the same did not apply to isolation, which was rather a political notion. If the fact of being surrounded by water made the United Kingdom an island, the United Kingdom still remained part of the world and, first and foremost, of Europe. To the Netherlands Government, it was unimaginable that there could be any reason whatever why it should sign a European Pact which did not apply to the United Kingdom. In order to establish such a distinction a geographical notion was not enough; there must be political factors. Nor could it be argued that, up to the present, the United Kingdom had shown any strong desire to be bound by a pact of that kind, since, in this matter, the Netherlands were in precisely the same position.

Such were the main reservations which the Netherlands delegation felt obliged to submit at the present stage. There was, however, in the European Security Pact one factor which

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2 See Minutes of the thirty-second meeting of the General Commission, page 245.
might induce the Netherlands Government to overcome certain of its hesitations, and that was the stipulation that, in the case of the European Pact as, moreover, in that of the League Covenant, the Council’s recommendations must be unanimous. That provision was the more important as the Members of the League which might be called on to lend assistance would, if not represented on the Council, be required, in each case affecting them, to send a representative to the Council in accordance with Article 4 of the Covenant, and such representative would have the right of veto, to adopt the expression used in the commentary upon the League Covenant submitted to the British Parliament.

In concluding his speech of February 7th, to which reference had already been made, Jonkheer Beelaerts van Blokland had stated that:

"... The Netherlands delegation will not reject out of hand any new proposal for strengthening mutual assistance, but it cannot contemplate the acceptance of such a proposal except on the express condition that the General Disarmament Convention to be concluded at the same time represents, to a very appreciable extent, the achievement of the aim for which we have come together—not only the limitation, but also the reduction of armaments."

If security were a touchstone for certain delegations, disarmament was a touchstone for others.

In spite of the above reservations, the Netherlands delegation did not desire to say that the proposed Pact was definitely unacceptable, but it would be understood that those reservations were sufficiently serious to prevent it from intimating at once that it accepted the Pact.

Count Raczyński (Poland) desired first to pay a further tribute to the work of the Security Committee, and to associate himself with the well-deserved eulogies addressed more than once to Mr. Politis.

Count Raczyński thought it necessary to say that the opinion expressed in the Security Committee by the Polish Delegate, with regard to the Convention with a view to strengthening the Means of preventing War, mentioned in paragraph 61 of the report before the General Commission, coincided exactly with the view of the Polish delegation. That opinion, moreover, had been shared by certain other members of the Committee; and again, at the General Commission’s previous meeting, the same opinion had been stated with great force and conviction by the distinguished Roumanian statesman, who had spoken on behalf, not only of his own country, but also of the three States forming the Petite Entente.

The Polish delegation considered that the Convention with a view to strengthening the Means of preventing War, drawn up in 1931, no longer corresponded to the present evolution of international law. That Convention had been drafted at a time when the dividing-line between war and recourse to force was still being courageously drawn. That distinction, moreover, had never had the Polish Government’s approval. Since then, international endeavour had been directed towards assimilating all recourse to force with recourse to war in the strict sense of the term. That had been the trend of the discussions in the Political Commission which had a short time previously voted a resolution prohibiting all recourse to force. In the same connection, he might quote Mr. Roosevelt’s important message in which any use of armed forces outside the national territory was expressly condemned. The same principle had been reaffirmed a few days ago by the United States representative to the Conference.

Finally, the Act on the definition of aggression, drawn up by the Committee on Security Questions and fully endorsed by the Polish delegation, also made violation of territory the principal criterion of aggression.

The Convention with a view to strengthening the Means of preventing War did not seem to be in complete harmony with the principles underlying the above-mentioned international acts. It was based on a distinction between an invasion creating a state of war and an invasion which would, apparently, leave the peace practically intact. It went even further, as Article 5 did not regard as an aggressor a State which, in spite of the Council’s injunctions, might refuse to evacuate foreign territory invaded by force. For such a contingency the Convention merely laid down a presumption of aggression.

If the signature of the European Security Pact were to be conditional upon prior accession to the Convention with a view to strengthening the Means of preventing War, that would render the participation of States non-members of the League much more difficult, if not impossible. This possibility, therefore, should be avoided, especially as the prohibition of recourse to force was intended to be incorporated in the European Pact.

M. Sépahbodi (Persia) said that, at the first discussion of the European Security Pact, the Persian delegation had formally stated that it could in no circumstances accept the text of Article 1 of that Pact, which dealt with non-recourse to force. Its main objection was to the words “among themselves” used for the European Powers, this being calculated to give the impression that force might be used outside Europe. At that time, the Persian delegation had been promised that the question of extending the text to all the Powers would be considered. The text now submitted, however, was a replica of the old one. The Persian

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1 See Minutes of the fifth meeting of the Political Commission, page 23.
2 See Minutes of the fifty-ninth meeting of the General Commission, page 461.
delegation therefore requested the General Commission to keep its promise by inserting the relevant article in the text applying to all countries or to delete the words "among themselves", which were likely to cause ambiguity, especially as their omission would make no change in the legal effect of the article in question.

Cemal Hösino Bey (Turkey) said that, at the first reading, the Turkish delegation had supported the Persian delegation's proposal, and that it again associated itself with the statement just made by M. Sépahbodi.

That same principle of universality had, moreover, been mentioned in President Roosevelt's message. The Turkish delegate hoped that the Commission would take that principle into account and that non-recourse to force would also be recognised by it as a universal measure not limited to any one continent.

Ahmed Khan (Afghanistan) supported the point of view of the Persian and Turkish delegates, as it had done on previous occasions.

Mr. Norman Davis (United States of America) observed that, in the course of the debate, the question had been raised as to whether or not the so-called "no-force pact", which figured as Article I of Annex Y, should be given universal application rather than confined to Europe. He recognised that it was quite natural that that question should be raised in view of the proposal which the President of the United States had made with regard to a pact of non-aggression, the purpose of which was to ensure peace in a world which had set its face towards peace through agreeing to substantial measures of disarmament. It might be useful at the present point to recall the exact nature of President Roosevelt's suggestion. After stressing that a first step should be taken as outlined in the United Kingdom plan, to be followed up by successive steps according to a procedure and a time schedule to be agreed upon, President Roosevelt had stated that the peace of the world must be assured during the whole period of disarmament, and therefore he had proposed a further step, concurrent with and wholly dependent on the faithful fulfilment of disarmament and subject to existing treaty rights. He had then added:

"That all the nations of the world should enter into a solemn and definite pact of non-aggression;
That they should solemnly reaffirm the obligations they have assumed to limit and reduce their armaments, and, provided these obligations are faithfully executed by all signatory Powers, individually agree that they will send no armed force of whatsoever nature across their frontiers."

There was no doubt that the fundamental purpose sought by the "no-force pact" and the "non-aggression pact" was the same. President Roosevelt, in his message, had clearly indicated that the measure which he proposed was contingent upon substantial measures of disarmament and that it was the Conference's first task to reach agreement on such measures of disarmament and, contingent upon their being reached, solemnly to reaffirm that armed forces should not be sent to disturb the peace. Mr. Norman Davis had no intention, however, of reopening the old debate as to the order of precedence.

In dealing with its problems in the order which had been established, the Conference was at present considering a matter which was closely related in purpose and in scope to the non-aggression pact proposed by the President. While reserving a more complete statement of his Government's views for the second reading, he felt that the draft of Article I of Annex Y, if expanded so as to have universal application, would not be incompatible with the intention of the President's proposal for a pact of non-aggression.

Mr. Eden (United Kingdom) said he had no doubt that every member of the General Commission appreciated to the full, not only the significance of President Roosevelt's original declaration, but the help which Mr. Norman Davis had given so generously at the present meeting by his guidance in respect of the problem under discussion. There could be no doubt of the close relation between President Roosevelt's statement and Mr. Davis's declaration at the present meeting, on the one hand, and, on the other hand, the problem of the extension of the declaration of "no resort to force" from Europe to the world.

The General Commission would recollect that the original proposal for a European declaration had come from the United Kingdom Government, and Mr. Eden desired immediately to express his gratitude to Mr. Norman Davis for the manner in which he had assisted it in that aspect of its work. He would only suggest that, so far as the problem of that extension was concerned, the Commission should have an opportunity to study the situation confronting it, so that it might perhaps reach complete agreement before the second reading.
Referring briefly to two other aspects of the speech made by M. Politis at the previous meeting, Mr. Eden said that, if he had understood him aright, he agreed with him, all the more in view of the declaration just made, that Article 2 of Chapter I would perhaps be better placed elsewhere.

He would further add that the new draft of Article 6 raised the question of the definition of the aggressor, as to which, as the General Commission was aware, some of its members had been asked to undertake certain work. Pending the result of that work, he must reserve his Government’s position in respect of the two articles.

M. PAUL-BONCOUR (France) reminded the Commission that, at the meeting on May 29th, 1933, he had said in advance that his Government supported unreservedly the proposals before the Commission. He sincerely trusted that similar acceptances would be received.

The explanations which the Commission has just heard showed that those proposals had had an excellent reception and that it even appeared that a request were being made for their extension. Needless to say, the French delegation fully supported that extension. The French Government was very much in favour of a pact of non-recourse to force, of non-aggression, worded in the most precise terms possible, and universal in character. The more definite its terms, the better the French Government would be satisfied.

This desire for universality, however, must not be allowed to submerge the main object of the text before the General Commission—namely, that, in accordance with Article 6 of the United Kingdom plan, the Powers which consider it necessary for their mutual security and in the interests also of disarmament might conclude between themselves, in view of the fact that they were neighbours in a specific region of the world, more especially in Europe, a more explicit contract adding to the declarations and to the Pact of non-aggression and non-recourse to force the assistance which they would mutually give one another, if—eventually which could never be completely excluded—notwithstanding declarations and notwithstanding pacts, any one of them was attacked.

The proposals submitted by the Committee for Security Questions contained, he thought, two ideas. The first was general in character: non-recourse to force—that was to say, a new definition added to the Pact of Paris and preventing any further ambiguity in regard to that Pact, which, moreover, so far as the French delegation was concerned, had never given rise to any difficulties of interpretation. It was in respect of that general idea that there seemed to be a wish, which the French delegation fully shared, that non-recourse to force should not be confined to one region of the world but extended to all signatories throughout the whole world.

The second idea was that of mutual assistance, to be defined beforehand, under certain specified conditions. It was because mutual assistance must be defined beforehand and be given under specific conditions, because such aid, such assistance could be promised and effectively rendered owing to geographical propinquity and was more difficult to contemplate, at any rate beforehand, if it had to apply all over the world, that mutual aid was more difficult to realise. M. Paul-Boncour thought his interpretation coincided with that of M. Politis. He would regret it if, in the desire for universality—a desire which could be satisfactorily met by extending Article 1 to the whole world—it were forgotten that there was another and very precise idea in the proposals, namely, the contract of mutual assistance which might be concluded between certain nations which were particularly exposed or more united because of their propinquity.

M. Paul-Boncour had been much gratified to find in these proposals the continuation and even the repetition of proposals which had been adopted by previous Assemblies, in particular, the resolution voted by the 1927 Assembly following on the work of the Third Committee, when Lord Onslow, the representative of the British Empire, and he himself had agreed in considering that one of the most desirable forms of mutual assistance was the intimation given in advance to the Council that, on the day when it would make such recommendations, certain specified nations would undertake forthwith to put certain specified forces at the disposal of the State in whose favour those recommendations were made.

In the French delegation’s view, the proposals made derived directly from that Franco-British proposal adopted by the 1927 Assembly. That revealed continuity, which was always a very great advantage in all institutions, particularly in one like the League of Nations, which was taking shape daily. That was why M. Paul-Boncour earnestly urged that, even before the second reading when proposals would be adopted or rejected, this initial discussion should reveal the intention of a certain number of nations to conclude with one another a pact of mutual assistance, to which, so far as she was concerned, France was fully prepared to adhere.

M. POLITIS (Greece), Chairman of the Committee on Security Questions, wished to define the position which emerged as a result of the discussion. He noted, in the first place, with extreme satisfaction that, after the statement just made by Mr. Norman Davis, it might be hoped that the rule laid down in Article 1 of the draft European Security Pact would become universal. That was particularly gratifying to M. Politis, because, when he had spoken in the debate on the French constructive plan, he had been careful to observe how strange it would be if, in the matter of legality, there should be two classes of countries in international relations.
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It was not submitted as an independent text-on the contrary, it was very closely connected
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M. Politis wished to clear up a query which had been put regarding the provision in paragraph 2 of Article 7, where it was stated that the assistance promised should be due by a contracting State to the contracting States situated in a particular area. M. Rutgers had asked whether that meant the country's territory in Europe or possibly also its non-European possessions. Did it mean acts of aggression occurring in the area in question, or even outside that area, but which would nevertheless be a breach of a European country's rights? The reply was simple; the system here contemplated aimed at organising mutual assistance between European States. It would only be applied to a conflict in which the aggressor and the victim were both European countries, and if, as in the case referred to by M. Rutgers, they were European countries with non-European possessions, there would have to be a special clause to enable the obligation of assistance to be extended to their non-European possessions. That regional limitation, therefore, applied to the relations between European States when they were implicated as aggressor or victim in the same conflict and in respect of occurrences in their territory on the European continent.

M. Politis had already explained that this diversity of systems was self-explanatory, because an attempt was made in one of the two Acts to give a general definition of the aggressor, quite irrespective of the practical consequences, whereas the sole purpose of the second was to fix those practical consequences when the aggressor was being determined.

It was true that, from the psychological standpoint at least, it would be worth while considering whether uniform rules could not be established so as to obviate complications of interpretation or in the mere impression which the public might have of the result of the Conference's work. He did not, however, share M. Rutgers' fear that the system of the League Covenant, particularly of Article 16, might be weakened. An answer to M. Rutgers might be found by expanding the idea of the relativity of treaties and by showing that the rules which would be laid down in the European Pact would only apply to the relations between the contracting parties and that, if a dispute arose between a contracting party and a third party, the European Pact would not come into play; the common system of law as embodied in Article 16 would therefore receive full and complete application.

On the other hand, it appeared impossible to say that the fact of including in the European Pact a list of characteristic cases of aggression would be likely, in practice, to undermine or hamper the application of Article 16, because, when these cases were perfectly straightforward, there was no reason to suppose that, even without a written definition of aggression, the League Council would not consider, for example, territorial invasion as a definite case of aggression.

When, on the other hand, the case was complicated, the possibility of doubt which he had recently described would arise and, in that event, the Council's freedom of judgment would enable it to avoid the complications referred to by M. Rutgers.

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M. Politis had been gratified to note that, in spite of his reservations, M. Rutgers had not definitely stated that the plan was unacceptable, and that he made eventual acceptance of it by his Government conditional on its being linked up with a general convention for the reduction of armaments. That was exactly the spirit in which the draft Pact had been prepared. It was not submitted as an independent text—on the contrary, it was very closely connected with disarmament itself.

As to the comments on Article 6, M. Politis readily associated himself with the view expressed by Mr. Eden. There could be no discussion, even at the first reading, of this text, since its tenor depended on the final decision as to the definition of the aggressor. It would, therefore, be understood that when the General Commission found, as he hoped, a compromise wording for the definition of the aggressor, it would be possible to draft this text in such a way as to be acceptable to all.

The President thought the Commission could not do better than to leave the matter over until the second reading. He had asked the Vice-President to look at the articles again in the light of the discussion that had taken place. M. Politis had admitted that, after Mr. Norman Davis's statement, some of the articles could be dispensed with, and it would be all the better if he considered the text from that standpoint and perhaps circulated a draft, omitting the articles which were unnecessary, for discussion at the second reading. It was understood, of course, that the reservations made during the first reading were noted.

Articles 42 to 46.

[The provisions of this part will depend in the main on the limitations and restrictions imposed by the other parts of the Convention. It does not seem necessary therefore to draft them now. It is only necessary to note that Articles 34 and 35 of the draft Convention will have to be reproduced.]

The President pointed out that, in view of the above statement, Part III would have to be held over until the articles had been prepared and circulated.


The President drew attention to the corrigendum to document Conf.D.157 to replace the articles in the draft Convention. Those articles had been through the Drafting Committee and had also been approved by the Bureau, so that it should not be necessary to spend much time on them. No amendments to Part IV had been tabled.

M. Rutgers (Netherlands) observed that, as the United Kingdom delegation had said, in particular, in the corrigendum to document Conf.D./C.G.157, its text was based on a text of the Drafting Committee of the Bureau. The United Kingdom text, however, embodied a provision which was not in the text of the Drafting Committee: he referred to the first paragraph of Article 47, which contained the words: "The use of chemical, incendiary or bacterial weapons as against any State, whether or not a party to the present Convention, and in any war, whatever its character, is prohibited", followed by: "This provision does not, however, deprive any party, which has been the victim of the illegal use of chemical or incendiary weapons, of the right to retaliate, subject to such conditions as may hereafter be agreed".

The question of reprisals had been considered by the Bureau, which had decided to adjourn all discussion regarding sanctions, including the discussion of the question of reprisals. The Drafting Committee had therefore not dealt with questions of retaliation.

The Special Committee on Chemical, Incendiary and Bacterial Weapons had, however, taken the view that the exercise of the right to retaliate must be conditional on the use of the chemical and similar weapons by the adversary having been previously established. A whole section of Part IV dealt with the establishment of the fact that use had been made of chemical and similar weapons. In the Special Committee's opinion, the chief object of such investigation was to establish beyond a doubt that the chemical weapon had been used and to furnish a basis for the exercise of the right to retaliate.

The United Kingdom delegation proposed that the right to retaliate should be recognised, subject to such conditions as might hereafter be agreed. M. Rutgers asked whether the United Kingdom delegation would consider changing these words at the second reading and replacing them by the condition contemplated by the Special Committee, that is to say, the previous establishment of the fact of use of the chemical weapon by the adversary.

There was no need to labour this point unduly. Everyone realised that this question of reprisals was extremely serious and would become still more so if a State had the right to resort to reprisals without the facts having been previously established beyond a doubt.

M. Rutgers therefore considered it important to insert this provision in the body of the Convention and to amend the text in the sense he had indicated.

Mr. Eden (United Kingdom) said he was very grateful to M. Rutgers for raising this point. The Netherlands delegate was perfectly correct in saying that the words of the United Kingdom draft were not the precise words of the text prepared by the Drafting Committee; nor, indeed, did they claim to be, since the text was based generally on the conclusions of the Drafting Committee.

With regard to the particular point raised, Mr. Eden seemed to remember that an argument had been put forward in the Bureau against M. Rutgers' proposal concerning the establishment of the "fact of use" by the adversary on the grounds that it might involve considerable delay, that much would depend upon the method employed, and so forth. Perhaps he might be allowed to refer to the Minutes of the discussions to see what could be done to meet M. Rutgers' point before the second reading.

2 See Minutes of the thirty-fifth and thirty-sixth meetings of the Bureau, pages 129 et seq.
Mr. Wilson (United States of America) said that the views of the United States delegation were already well known, but he had three points to raise.

The first had already been mentioned by M. Rutgers and replied to by Mr. Eden, and Mr. Wilson need not repeat it.

The second applied to Article 52. During the debate on that subject, a great many speakers had felt that there was no real necessity for its provisions, in view of the fact that the only thing on which one could depend was the goodwill and good faith of the contracting nations. That applied particularly to paragraph 2, which dealt with "intent to use them [appliances or substances suitable for both peaceful and military purposes] in violation of the prohibition contained in Article 48." Mr. Wilson did not see any way of adopting legislation based upon intent in the respective countries, and was afraid it would be a very clumsy procedure, one which would lead to difficulties with the legislative bodies. He asked Mr. Eden to be good enough to consider the problem and to see whether, in his opinion, all of Article 52 was really necessary.

Thirdly, with regard to Article 54, Mr. Wilson repeated that, in his country, the use of lachrymatory gases for police purposes was very widespread. He understood that a partial list showed that some 350 banks in the country were equipped with gas appliances to resist attack by brigands. Gas was also used on armoured motor-cars for the transport of specie, and by the municipal, State and Federal police. If, therefore, the furnishing of information on this matter were made a contractual obligation in accordance with Article 54, the United States would be totally unable to carry it out. Mr. Wilson did not believe the Federal authorities would be able to obtain the information short of taking a complete census of the United States. If Mr. Wilson's country signed the obligation, it would run the grave risk of being reproached for bad faith if it were unable to communicate the information. He did not think, therefore, that the United States would be able to undertake such an obligation.

M. Nadolny (Germany) recalled that, during previous discussions on this question, the German delegation had expressed the opinion that the use of chemical weapons and gas should be completely prohibited, even as a measure of retaliation. As the question would be further discussed at the second reading, M. Nadolny would intimate his views regarding it at that time.

M. Fotitch (Yugoslavia), speaking on behalf of the delegations of the Petite Entente, stated that these delegations intended to propose an amendment with a view to the deletion of paragraph 3 of Article 47. They considered that, when a party had violated its undertaking not to use chemical weapons, the authorisation to retaliate might lead a country to use such weapons at a particular moment if it thought that it would gain an advantage by employing the chemical weapon which it had in reserve for the purpose of reprisals. The delegations of the Petite Entente held that the prohibition of chemical bombardment must be absolute, and that only collective sanctions must be applied to enforce this prohibition. As M. Marin-kovitch had stated at the meeting on April 13th, 1932, it was essential to take such steps as would ensure that the use of that prohibited weapon would be prejudicial to the State employing it, and this object could only be attained by collective sanctions.

M. Paul-Boncour (France) said that he could endorse and even enlarge upon the remarks just made by M. Rutgers and could also support M. Fotitch's statement. He pointed out, however, that the question of sanctions did not arise only in connection with chemical warfare, but in connection with the whole of the Convention. Sanctions were necessary, not only to enforce the prohibition of chemical warfare and of preparations for that warfare, but in case of any breach of the Convention. M. Paul-Boncour felt bound to speak on this particular point precisely because M. Rutgers' arguments, and particularly M. Fotitch's remarks, had brought out the idea of the collective character of reprisals and sanctions. These collective sanctions were, in M. Paul-Boncour's opinion, the only ones which should be contemplated in the Convention which the General Commission was drawing up, the only ones which were in accordance with the aim and spirit of the League of Nations. As, however, the delegations were asked to consider of what these sanctions might consist, he would strongly emphasise that they must not only be provided in connection with chemical warfare, but must apply generally to any violation of the Convention. When the General Commission had succeeded—with difficulty, no doubt—in building up a Convention, in establishing texts, in introducing limitations and reductions, the question of supervision, which was to be discussed very shortly. But even when the organs of control found that the Convention had been violated, what would the signatory States do? What collective measures would be provided in the Convention? M. Paul-Boncour urged his colleagues to give their attention to this point without delay.

Mr. Eden (United Kingdom) thought it was quite clear that the chief point in Part IV with which the Commission was likely to have to deal at the second reading was retaliation. It would, therefore, be advisable, perhaps, for members to refresh their memories in regard to

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1 See the Minutes of the General Commission, Volume I, page 65.
the previous discussion so that they might be in a position to come to a decision. The rest of the chapter seemed to be generally approved.

As to Article 54, that, if he might so call it, was Mr. Wilson's article and everyone appreciated the special circumstances. The article had to be read in connection with Article 48, which contained the general prohibition of the use of lachrymatory gases. If Mr. Wilson would propose an amendment which would meet the point of view of the United States delegation, Mr. Eden would be glad to see whether the General Commission could approve it.

As to Article 52, paragraph 2, Mr. Eden was in agreement with Mr. Wilson, but that might only be an Anglo-Saxon point of view, and he did not like to suggest suppressing it at the present stage. If, prior to the second reading, other delegations would consider their position and there proved to be a considerable measure of agreement, the Convention would, he believed, gain by the omission of the paragraph.

Count Raczyński (Poland) agreed with the French delegate's remarks. Poland shared the view that the question of sanctions should be treated from a general standpoint and not only in connection with that part of the Convention which the Commission was discussing at the moment. The Polish delegation would, however, put forward its views on the subject at the second reading.

The question was of particular importance in its relation to chemical, incendiary and bacterial weapons by reason of the fact that materials which were normally inoffensive could be very easily transformed into these particularly dangerous weapons. Moreover, States whose industries were highly developed had great facilities for using these terrible weapons.

The President noted the reservations that had been made with regard to Part IV and hoped that those who desired to make changes would submit their amendments for the second reading.


The President pointed out that the articles of Section I (Permanent Disarmament Commission) had been examined by the Drafting Committee and the Bureau.

M. Paul-Boncour (France) stated that, as far as Part V in general was concerned, the French delegation intended to put forward amendments of considerable importance, which would probably be deposited on the following day.

The President quite understood that there would be amendments to Part V, if only for the purpose of strengthening supervision, but thought there would be ample time for M. Paul-Boncour to table his amendments before Part V was reached in second reading.

Mr. Eden (United Kingdom) ventured to suggest that if there were important French amendments, as he knew there were, it would be of help to the general progress of the work if they could be discussed before the second reading.

Mr. Wilson (United States of America) supported Mr. Eden's proposal.

The President pointed out that, as a number of private conversations would have to be held before the Commission could seriously tackle Parts I and II, the General Commission would not meet for a few days.

SEVENTY-SECOND MEETING

Held on Thursday, June 1st, 1933, at 10.30 a.m.

President: The Right Honourable A. HENDERSON.


The President said he had to report that, in view of the coming World Economic Conference and the amount of work which was still before the General Commission, he had considered it desirable to convene a meeting of the Bureau to establish the future programme
of work. That seemed to the President all the more justified as, in view of the calls made on him by the World Economic Conference, the Secretary-General was anxious to know the programme in good time in order that he might be able, if the Conference decided to continue its work during the World Economic Conference, to obtain the necessary personnel.

The Bureau had examined the situation thoroughly and had unanimously decided to make the following recommendations to the General Commission:

1. That there should be an adjournment of the General Commission after the termination of the first reading and before the Commission began the second reading of the draft Convention.

2. That the duration of the adjournment should be until June 27th, the President having authority to advance or prolong it in accordance with requirements.

3. That, during the adjournment of the General Commission, the Bureau should meet in private to prepare the text for the second reading of the draft Convention and should undertake such negotiations, by means of sub-committees or otherwise, as might be necessary for the purpose.

4. That the technical Committees at present at work should continue their discussions.

5. That the draft Convention submitted by the United Kingdom delegation and accepted as a basis of discussion by a formal decision of the General Commission should be accepted as the basis of the future Convention. This acceptance would be without prejudice to amendments or proposals submitted before or during the second reading, particularly as regarded additional chapters concerning the manufacture of and trade in arms and budgetary limitation.

M. Fotitch (Yugoslavia) ventured to make specific reservations with regard to part of the procedure recommended by the Bureau.

He was prepared to accept all its recommendations except No. 3, with regard to the Bureau's powers. He desired to emphasise that his observations in this connection were animated solely by a desire that the Conference's work should be carried on in such a way as rapidly to achieve success. At the same time M. Fotitch must very frankly admit that he also desired—and considered this absolutely legitimate—to be able to take part, at the moment when fundamental problems were to be examined, in all the discussions to which they might give rise, not in the manner suggested in the Bureau's recommendations, but absolutely fully and in a spirit of complete freedom.

M. Fotitch was under the impression that Recommendation No. 3 attributed greater powers to the Bureau than had been anticipated when it was constituted and its composition settled, and he did not really understand how the Bureau would discuss the amendments that had been moved. Would it have to seek to bring about a compromise among all the amendments, some of which had been submitted by delegations which had not the honour to belong to the Bureau and had proposed amendments on very important points or had announced that they intended to present amendments on other points, also very important? Taking his own country as an example, M. Fotitch said that the Yugoslav delegation intended, in particular, to hand in amendments to the chapters on effectives and material. If the Bureau endeavoured to bring about a compromise on these questions, would it ask the Yugoslav delegation to come before it to discuss its amendments? M. Fotitch could not support such a procedure. In as far as he was concerned, he was quite prepared to continue to work, even if to do so meant that all the delegations must stay at Geneva, but, whatever method was adopted, it was absolutely necessary that he should be in a position to defend the interests of his country with a view to harmonising them with the general interest.

Cemal Hüsnü Bey (Turkey) said that, after hearing the President's explanations, he was compelled to make a declaration similar to that of M. Fotitch with regard to the Bureau's powers. The Turkish delegation accepted the United Kingdom draft as a basis for the Convention, subject to the amendments it had put forward, or would have occasion to put forward during the second reading. Further, he would venture to repeat once more the principle that the Turkish delegation had had the honour to express on other occasions—namely, that the Government of the Republic did not regard itself as bound by any decision taken by any body in whose discussions and decisions the Turkish delegation had not taken part and to which it had not given its consent. The Turkish delegation would study any proposal with the goodwill and spirit of conciliation it has always evinced.

Colonel Riazi (Persia) said that the Persian delegation supported the delegations which had already expressed their point of view, and informed the General Commission that, as the Persian Government was not represented in the Bureau, it did not think that the preparation of a new text for the draft Convention by that body could bind the States not represented. The text would be valid only within the limits of the observations and amendments which the Persian delegation had hitherto submitted to the Conference. If the majority of the Commission were in favour of the proposed procedure, the Persian delegation reserved all its rights with regard to the new draft, with a view to obtaining further instructions from the Persian Government.
The President considered he ought to make one or two remarks at this stage. He would not have summoned the Bureau at that time had he not realised that there were certain difficulties requiring very careful and delicate negotiation, which he was quite sure could not be carried out in a body of the size of the General Commission.

It was quite true that all delegations were not represented on the Bureau, and that some of those not represented were responsible for amendments, but it was quite definitely his intention that whenever delegations not represented on the Bureau had moved amendments, they should be consulted—and, if necessary, called in by the Bureau—in order that their point of view might be ascertained.

One speaker had just said that he was very anxious to assist in the work; the President was also very anxious to do so, and the object of preparing a draft would be to place before the General Commission as up-to-date a text as possible—up to date in the sense that negotiations would be entered into as to certain different tendencies. If agreement were secured, the draft would be placed before the General Commission, which would be absolutely free to begin a second reading and to propose amendments. All that was clear from the statement the President had read on behalf of the Bureau.

Colonel Riazi had just said that he wished to reserve the rights of his delegation; that, however, was unnecessary: those rights could not be taken away. The draft would have to be considered in second reading from beginning to end, and divisions would only be taken when it was absolutely essential, because there was no other way of obtaining agreement.

The President hoped his observations would clear away some of the doubts in the minds of certain delegates.

M. Lange (Norway) said that the President had put certain recommendations before the Commission which the delegates had been fortunate enough to find in the Press, so that M. Lange had had time to consider them.

In as far as he was concerned, he approved the recommendations relating to procedure, but the fifth point raised a question of substance, namely, that the United Kingdom draft should be accepted, not only, as previously, as a basis for discussion, but as a basis of the future Convention. That was an extremely important question of substance. M. Lange would venture to suggest that, if it were desired to take a vote that day, that vote should relate only to the first four recommendations and that the fifth should be held over until the end of the first reading. Everyone recognised the great value of the United Kingdom draft, and it had been accepted as a basis for discussion. M. Lange thought it would eventually be accepted as a basis for the future Convention, but the discussion was not yet at an end. The Commission had before it, at present, extremely important proposals by the French delegation, which not only related to the last part of the draft, but also raised certain questions not dealt with in the United Kingdom plan.

For the above reasons, the Norwegian delegation thought it essential to reserve its attitude until all the delegations had been able to obtain an idea of the general structure of the plan likely to be accepted by the Commission.

M. Paule-Boncour (France) desired, on behalf of the French delegation, strongly to support the Norwegian delegation's observations. The proposals before the Commission could be divided into two entirely separate parts, which should be dealt with separately. On the one hand, there was a question of procedure, and, on the other, a statement to the effect that the United Kingdom proposal might be taken as a basis for the future Convention. As the Norwegian delegate had very rightly pointed out, it would only be possible to adopt a fair and considered attitude towards the second proposal when the first reading was at an end.

This was connected with a very definite question which M. Paule-Boncour had intended to put to the President before the Norwegian delegate had spoken. It had seemed to him from the unofficial communiqué that had appeared in the Press that morning that the amendments with regard to the private manufacture and supervision of arms as well as the limitation and supervision of budgetary expenditure, to the importance of which the Norwegian delegate had drawn attention, would not be considered until the second reading. It would seem to be impossible for the Commission to deal only at the second reading with two questions which, in the opinion of the French delegation and of many other delegations, should constitute an essential part of the future Convention.

M. Paule-Boncour had had occasion to say—and the French delegation would repeat it in due course—that to limit and reduce material and to prevent States from holding it as States while allowing private manufacture to replace and increase it would undoubtedly be a form of trickery with which no member of the Conference would wish to associate himself. The strict supervision of private manufacture was the necessary corollary, in the opinion of the French delegation—and, M. Paule-Boncour would repeat, in the opinion of many delegations—of all questions concerning the limitation or reduction of material. In the same way, supervision, which would be discussed later, and with regard to which the French delegation had also handed
in very detailed amendments, must necessarily include the very practical form of supervision known as budgetary supervision and limitation. Consequently, it would seem impossible to begin the second reading unless these two fundamental points had been, not settled, but explored on an equal footing with all the other parts of the Convention.

The President thought M. Paul-Boncour must have overlooked the statement he had made in the Bureau to the effect that he was arranging for a discussion, before the end of the first reading, on both budgetary limitation and the private trade in and manufacture of arms and munitions. After the report was dispensed with, it would be possible for any references to be made, or for the French delegation to submit any proposals, with regard to the private manufacture of arms. It had never been the President's intention that the question should be relegated to the second reading, and he thought he had made that clear at the meeting of the Bureau.

M. Paul-Boncour (France) said that he had only made his observations because it had seemed to him, on reading an unofficial communiqué, that the discussion was to be held over until the second reading. He had therefore felt it should be made clear that it would be taken during the first reading, in accordance with the President's intentions.

M. Rutgiers (Netherlands) said that the Netherlands delegation had no objection to the Bureau's proposal. Nevertheless, it realised that, if that proposal were accepted, the delegations which were not represented on the Bureau would be in a somewhat difficult situation. If they had amendments to move or points of view which specially interested them to put forward, would they have to remain at Geneva the whole time until the Bureau called them before it to explain their points of view and would they have to withdraw before the Bureau had taken its decisions? As far as he was concerned, there was no need for M. Rutgiers to repeat before the Bureau the observations he had submitted to the Commission, and he accepted the Bureau's proposal.

On the other hand, when the Commission had adjourned on July 23rd, 1932, it had given fairly definite instructions to the Bureau and had given it four months to carry them out. The Commission had met after those four months had elapsed, and it could not be said that the Bureau had completely carried out the instructions as contemplated by the Commission. The Commission was now about to give the Bureau much wider powers than those of July 23rd last. The Bureau would not have fulfilled its task by June 27th, and the President would have to decide whether the meeting of the General Commission should be postponed.

M. Rutgiers wondered whether the President would not be compelled to allow himself considerable latitude, much more than he would like. Would it not be better if some date, M. Rutgiers would not say what date, were fixed definitely? Such a solution would perhaps give somewhat clearer indications as to the future work of the Conference.

The President noted that there appeared to be a feeling that the Bureau was not a suitable body to carry out the work. Someone must, however, conduct what he conceived would be very important and very delicate negotiations, and, if the Commission felt that the work could not be done by the Bureau, he had only one suggestion—and that a very bold one—that it should be entrusted to the President. In his opinion, it would be the greatest mistake to try to carry it out through the General Commission.

He quite saw the difficulty and, as the work must be done, he would be prepared to undertake it, with whatever assistance he found necessary, and to meet the respective delegations as quickly as possible in order to see how far he could harmonise the different tendencies brought out during the first reading.

As to the date on which the General Commission should meet after the adjournment, he had no objection whatever to a definite date being fixed. Perhaps July 2nd might be suggested in order to give a few extra days for the completion of the work.

M. Fotitch (Yugoslavia) said the President's proposal entirely removed the objections which he had submitted on Point 3 of the Bureau's recommendation, and he accepted it unreservedly.

Cemal Hüsnu Bey (Turkey) also expressed his great satisfaction that all the negotiations would be directed personally by the President.

M. Rutgiers (Netherlands) wished to repeat that he saw no objection to entrusting this question to the Bureau. He had somewhat stressed the difficult position of delegations not represented in the Bureau solely in order to emphasise the confidence which he placed in the Bureau. With regard to other remarks in respect of the date, the President's reply had removed his doubts and he withdrew all the reservations which he had submitted.
Mr. Norman Davis (United States of America) said that, frankly, he was less interested in procedure than in disarmament. He had agreed to the recommendations of the Bureau because they seemed to meet its ideas as to procedure. His own feeling was that the President of the Conference knew better than anyone else just where the chief points of difficulty lay, what Powers were mainly interested in those difficulties, and what Powers should be brought together to remove the obstacles in the way of progress.

He was inclined to think that, if the President were given power to appoint such committees as he thought fit from time to time, more time might be devoted to disarmament and less to procedure. He believed that, even if the work were left to the Bureau, it would soon be found that it was too large to conduct some of the negotiations, and that it might have to adjourn and divide up into sub-committees. He rather liked the suggestion to leave the work entirely to the President.

M. Motta (Switzerland) did not think he was committing an indiscretion in stating how the Bureau had reached the proposal now submitted to the Commission.

The Commission should endeavour to finish the first reading as soon as possible. It would then be necessary to contemplate a second reading which should be carefully prepared by investigations, conversations, negotiations and fresh drafts. These two facts had led the Bureau to agree that an interval of some weeks was required between the first and second readings. It had been thought that the second reading might begin towards the end of the present month, that was to say, June 27th or the beginning of July. A few moments ago the President had proposed June 27th, with the option, however, of selecting an earlier or later date according to circumstances. In this case, the question necessarily arose as to what was the most suitable body to prepare for the second reading. Again, he did not think he was committing an indiscretion in stating that the first idea put forward was to appoint a committee of nine States—that was to say, a small committee which would work rapidly. It was quite obvious that the great Powers should be all represented in this committee and in this case there was only room for two other States. Which should they be? It was difficult to make a selection. At this stage, since the idea of a body for preparing the second reading had in general been considered desirable, one of the members of the Bureau had pointed out that the most satisfactory solution might be to delegate the work of negotiating and drafting to the Bureau. As this suggestion appeared to be generally acceptable, the Bureau had thought it should abandon the idea of the small committee and adopt the idea of a larger committee—namely, the Bureau itself.

There was another circumstance which favoured this procedure and which, in M. Motta's opinion, was of capital importance at the present time, namely, the precedent of the resolution of July 23rd, 1932. He thought the Bureau had performed the task entrusted to it conscientiously and satisfactorily. If that were so, why not continue the same method? There was one objection which was felt by all, namely, that all the States were not represented in the Bureau. But all the States could not possibly do the preparatory work; a somewhat smaller body than the General Commission was obviously required. An attempt had then been made to overcome these objections by providing that, if States had submitted amendments which, in their opinion, required special examination, or if, in the course of the discussion, they had made striking remarks which deserved to be retained, their delegations might attend the Bureau in order to explain their point of view. M. Motta did not personally think that the dignity of a State or delegation would suffer if it were called to discuss with the States represented on the Bureau committees, or that the Bureau was too large to conduct some of the negotiations, and that it might have to adjourn and divide up into sub-committees.

The President, with his usual devotion, had expressed his readiness to carry on himself this work of preparation, negotiation and drafting. But as he was unable to do all the work personally, he had naturally asked for authority to appoint sub-committees or committees according to requirements. In these circumstances, M. Motta wondered if it would not be better that the Bureau itself should undertake this work and appoint the necessary sub-committees.

M. Motta had come to the conclusion that, in spite of all the objections which he had heard, the Bureau's proposal was the best one.

There was a final question, one of substance, which he regarded as highly important and which had already been mentioned by M. Lange. In the proposals submitted by the President of the Conference on behalf of the Bureau, there was one to the effect that the United Kingdom plan should at once be accepted as a basis, not only of the discussions, but also of the future Convention. M. Motta sincerely hoped that this would be the case and that this result would be reached, but he could not but agree with M. Lange that this declaration should be made, not at the present time, when the discussion in the first reading was not yet terminated, but at the moment—that was to say, in the near future—when the first reading had been completed.

In these circumstances, M. Motta ventured to ask whether it would not be wise, as far as procedure was concerned, to accept the Bureau's proposals and, with regard to the important question of substance, which he hoped would be realised, to decide that it should be settled when the first reading was entirely completed.
Lord LONDONDERRY (United Kingdom) associated his delegation with the President’s suggestion.

It had become obvious to everyone that there must be a lapse of time after the end of the first reading, so that when the second reading was taken the General Commission might have before it—to use the President’s own words—an up-to-date draft. That was the reason why the Bureau had met on the previous day. Various proposals had been put before it and had eventuated in the present recommendations.

It was less obvious what was the best method or machinery for carrying out the object in mind, that was to say, to smooth out the difficulties that were known to exist in such a way as to enable a draft Convention to be presented for second reading in a form that would be as acceptable as possible to the majority of the delegations.

The President’s suggestion that he should undertake all those duties himself was one which Lord Londonderry gladly accepted on behalf of his delegation. He would like to say how grateful his delegation was to the President for offering to take that additional burden on his shoulders; it was one more of the many contributions he had made to the cause of disarmament, and the United Kingdom delegation would gladly give him whatever assistance he was willing to accept.

The President thought there was an impression in the minds of some delegates that, in making his last suggestion, he had intimated his intention, if it were accepted, to appoint committees. That was not his intention. What he had said was that he would undertake the necessary consultations with delegations in order to endeavour to harmonise the different tendencies. He had had no idea in his own mind of appointing any committee whatsoever.

M. DI SORAGNA (Italy) associated himself with the thanks addressed by other delegations to the President, whose proposal had brought about complete unity in the Commission as regards the procedure to be followed. He was particularly pleased with this solution, as he had himself at one time placed it before the Bureau and he seemed to remember hearing the President himself make the same proposal. The Italian delegation therefore entirely accepted it.

Count RACZYŃSKI (Poland) had, at the meeting of the Bureau on the previous day, pointed out certain disadvantages in the system proposed. He was aware that certain readjustments must be made, that conversations must take place and that various points of view must be harmonised. The ideal system would be for the Conference to continue its work, but for the General Commission only to meet at fairly long intervals in order to take note of the work done and the results obtained during the conversations between the various delegations. A middle way was proposed—namely, that the Conference, in view of certain circumstances, would not sit, and that some delegations would undertake this work of readjustment. Count Raczynski understood that an attempt would thus be made to harmonise the points of view of the delegations who would be present, and that those who were absent would be requested to give their opinions. All the delegations would, however, be obliged to stay at Geneva with their entire staff to wait until they might be consulted. He could not help thinking that this system was not an ideal one. The advantages and disadvantages had been discussed, but in his view there were serious objections.

Moreover, he thought one fact would have to be taken into account. There were difficulties, and the work was sometimes stopped for days or even weeks, not through any fault of the delegations representing the small- or medium-sized countries. The main difficulties lay in the agreement to be reached between the great States. Technically speaking, the discussions were naturally longer and more arduous in a large commission, but he repeated that the difficulties which delayed the work were not caused by the small countries.

He therefore had the impression that it might have been preferable to adopt a proposal, which had already been put forward, to suspend the work entirely until the end of June and thus give time for certain ideas to ripen. Certain delegations might hold conversations; this was natural and it had always happened. He thought this solution was a good one and might be considered. But he personally did not insist upon it, and he left it to the General Commission to decide the matter.

The Commission had before it a unanimous proposal by the Bureau, which was in the nature of a compromise. He did not think it was an ideal solution; it had both advantages and disadvantages. But, if he had to choose between the various suggestions put forward at the present meeting, he would state that he was definitely of the same opinion as M. Motta.

Mr. Norman DAVIS (United States of America) said, in order to clear up a remark that might have caused some misunderstanding, that he had not intended to suggest that formal committees should be appointed, but that the President should invite certain groups to meet, when he felt it necessary, to reconcile certain differences.
He wondered whether the two points of view developed that morning would not be reconciled if the Bureau were to continue as proposed, and if the Commission also invited the President to assume the additional duty and prerogative of inviting such consultations as he might deem necessary or advisable in order to remove any difficulties that might be in the way. That would, he thought, hasten the time when the final draft was ready for second reading.

M. Pfügl (Austria) said he would like, in connection with the present question, to refer once more to the view he had expressed on the previous day in the Bureau. He wished, in the first place, to associate himself with the expression of confidence in the President. He would then add on behalf of his delegation that, to him, the best course seemed to be to entrust the President with the conduct of the negotiations and work and to grant him discretionary powers to co-opt collaborators when desirable in special cases.

Colonel Riazi (Persia) desired to thank the President for the reassurances he had given to the countries not represented on the Bureau. The Persian delegation agreed with the Turkish and other delegations that the best solution would be to entrust the President with the duty of directing the negotiations during the adjournment. That solution would be in the interests of all States.

M. Palacios (Spain) said that the Spanish delegation fully shared the opinion expressed by M. Motta and by Count Raczynski. Questions of procedure were always delicate, because they generally involved serious questions of substance. The question at present under discussion was of capital importance for the success of the Conference. Mr. Norman Davis had just put forward a formula which he thought would rally the opinions of all. M. Palacios therefore asked the General Commission to accept it.

M. de Vasconcellos (Portugal) also shared the opinion of Mr. Norman Davis, who in the last resort was in agreement with M. Motta and Count Raczynski. The President was best qualified to conduct the work, but M. de Vasconcellos also thought it desirable to provide him with an instrument, an organisation which he could use where and when he thought fit. M. de Vasconcellos therefore supported Mr. Norman Davis's proposal.

M. Wellington Koo (China) said that the Chinese delegation would certainly prefer the proposal that the President be entrusted with power to carry on the conversations rather than the original proposals. While it realised and appreciated the spirit which animated the original proposals, the purpose of which was to overcome certain difficulties which stood in the way of further progress in the Conference, it also felt that they had their drawbacks. In the first place, all the delegations were not represented in the Bureau, particularly all the delegations which had presented amendments. In order to produce a fairly satisfactory text for the second reading, it was desirable and even necessary that the amendments already proposed should be considered. Neither of the proposals was perfect, however. Each had its advantages and its drawbacks, and Mr. Wellington Koo was glad that the delegate of the United States of America had produced a formula which would perhaps maintain the advantages of both and obviate their shortcomings. He supported Mr. Norman Davis's compromise proposal.

With regard to Recommendation No. 5, which invited the General Commission to accept the draft Convention as the basis of the future Convention, he thought M. Lange's observations and M. Paul-Boncour's explanations were correct, and wished to associate the Chinese delegation with them. He would like this recommendation to be reserved until the first reading was completed, since it was a matter of substance of great importance.

M. Nadolny (Germany) pointed out that the Commission had before it two proposals—one entrusting the negotiations to the President and the other entrusting them to the Bureau. The German delegation did not regard this as a question of confidence. Obviously, everyone had confidence in the person and competence of the President. On the other hand, the German delegation had the same confidence in the Bureau. The German delegation was concerned only to find the most practical procedure for facilitating the work of the Conference. From that point of view, there were many very delicate questions which might, in the German
delegation's opinion, be better handled by the President than by the Bureau. But, again, there were some questions the settlement of which required a certain organisation, and those questions therefore could better be treated by the Bureau. In those circumstances, and in view of the considerations he had just mentioned, the German delegation supported Mr. Norman Davis's proposal. There was no question of a compromise, but rather of a combination of two proposals, which M. Nadolny thought should meet both the views that had been expressed.

M. MIKOFF (Bulgaria) stated that, for the reasons already expressed by several delegations, the Bulgarian delegation supported Mr. Norman Davis's proposal.

Count RACZYŃSKI (Poland) thought that a misunderstanding had arisen which required to be cleared up. The Polish delegation had always taken the view that the President should, if necessary, be free in special cases to ask the opinion of the delegations not represented on the Bureau. That right of the President had always been respected, and no one had thought of disputing it. On the other hand, Count Raczyński thought it would be contrary to the idea underlying the proposal which had been made, that the Bureau should meet on certain occasions while on others it would not be convened—in other words, that the Bureau should be present in theory but would be dispensed with in practice. Count Raczyński thought that the compromise would consist in attaching to the Bureau, if necessary, a member of any delegation whose views were considered useful in the discussion.

M. Motta (Switzerland) preferred, like Mr. Norman Davis, questions of substance to questions of procedure. In the present case, however, the importance of the question of procedure was realised by all, and the matter required further consideration.

M. Motta had ventured to explain to the Commission the circumstances in which the Bureau had unanimously put forward the proposals in question. He had realised just now that there were also strong reasons in favour of the President's proposal. Mr. Norman Davis had, in M. Motta's opinion, found the best solution by his endeavour to combine the Bureau's proposal and that of the President. Mr. Norman Davis's proposal constituted what in legal language was termed an amendment. It was not opposed to the Bureau's proposal, but corrected it and improved it; if the Commission accepted it, as M. Motta thought it should do, the situation would be this: the Bureau would, in principle, be entrusted with the work in contemplation, but, side by side with it, and to a certain extent over its head, the President—as, indeed, was in accordance with his natural powers—would be entrusted with the negotiations of which he would himself be the best judge. M. Motta therefore supported the Bureau's proposal as amended by Mr. Norman Davis.

M. LITVINOFF (Union of Soviet Socialist Republics) said that the Soviet delegation entered with reluctance upon discussions of this kind. To his mind, Geneva had never been in need of procedure, for it could always invent it, and, if the results of the Conference were dependent upon procedure, he would look forward most optimistically to the future. Its difficulty was not lack of procedure, but the very serious differences which made themselves felt in the various views expressed. Some means of harmonising the different interests of the countries there represented had to be found, and that could only be done if every delegation took account of the interests of others—in other words, if mutual concessions were made. In his opinion, such work was sufficiently honourable and respectable to be done in public. There was no need to hide it behind closed doors and in private conversations. However, if the Commission thought it necessary to have smaller, private committees, the Soviet delegation would not object. It did not feel that a committee of nine or fourteen would do away with the various contradictory proposals and objections for which all delegations were responsible. In its opinion, each delegation would have to be consulted, and that would amount to convening the General Commission, it might be in private instead of in public. In any case, the Soviet delegation would agree to any decision that gave the greatest amount of satisfaction to the majority of the delegations.

As to the proposal that the United Kingdom draft should be adopted as the basis of the future Convention instead of as a basis for discussion, he must confess he saw no difference between those two definitions. If delegations had the right to propose any amendments, additions or other changes to the plan, it was perhaps a basis for discussion rather than the basis of a Convention. If, on the other hand, the discussion were regarded as taking place within the framework of the United Kingdom draft plan, it could equally well be said that the draft had been adopted as the basis of a draft Convention, since there was no other draft before the Commission. That matter was not of great interest to his delegation; but, since other delegations had expressed objections, those objections should be taken into consideration. M. Litvinoff did not consider that a majority decision should be taken, but thought that, in the circumstances, it would be better not to take any decision that day. The Commission could continue its discussions without stating that the plan was either a basis for discussion or the basis of a Convention.
M. Fotitch (Yugoslavia) was prepared to accept the amendment proposed by the United States delegation, but he would not like there to be any misunderstanding as regards the vote on that amendment. The Commission agreed that the negotiations should be directed by the President. But what would then happen to Recommendation No. 3 of the Bureau, which read as follows:

"During the adjournment of the General Commission, the Bureau will meet in private to prepare the text for the second reading of the draft Convention, and undertake such negotiations . . . ."

Everyone agreed that the negotiations should be conducted by the President. The Bureau then had to prepare a text for the second reading. M. Fotitch would not like it to be inferred that the Bureau would have to give its opinion on any amendments or negotiations made or conducted by the President. That was within the province, and was, indeed, the duty, of the General Commission, and M. Fotitch would like to make explicit mention of the fact.

The President then put the Bureau's proposals to the Commission.

The first proposal was adopted.

The second proposal was adopted in the following form, to meet M. Rutgers' views:

"The General Commission shall be convened not later than July 3rd."

The third proposal was adopted in the following form, in accordance with Mr. Norman Davis's proposal:

"During the adjournment of the General Commission, the Bureau, meeting in private, shall prepare a text for the second reading of the draft Convention, the President being invited to undertake such negotiations as may be required to forward the preparation of this text."

The fourth proposal was adopted.

The President said, with regard to the fifth proposal, that, in view of M. Lange's suggestion, which M. Motta and one or two other delegates had supported, he thought the Commission would do well to agree unanimously to decide at the close of the first reading whether the United Kingdom draft should become the basis of the Convention.

The President's proposal was adopted.

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SEVENTY-THIRD MEETING

Held on Thursday, June 1st, 1933, at 3.30 p.m.

President: The Right Honourable A. Henderson.


Amendments submitted by the French Delegation.

Section I: Permanent Disarmament Commission.

Chapter 2. — Functions.

Article 70 to read as follows:

"The Commission shall proceed to examine and may take into account any other information which may be submitted to it by one of its members or which may reach it from a responsible source."

The last paragraph of Article 73 to read as follows:

"Its decision, which will determine the scope of the investigation, shall be taken by a two-thirds majority of the members of the Commission present at the meeting."

Chapter 2. — Functions: Regular, Permanent and Mobile Supervision.1

Article 75 to read as follows:

"1. Independently of the investigations referred to in Articles 72 and 73, the Permanent Disarmament Commission shall, as soon as it enters upon its duties, arrange for a regular inspection of the armaments of the High Contracting Parties, involving an investigation in each State at least once every year.

"2. For this purpose the Commission shall set up the necessary inspection organisations. The duty of the latter shall be to satisfy themselves constantly as to the execution of any undertaking entered into in the present Convention. Each of them shall have full freedom to arrange, in the best interests of its mission, its movements within the States of the area assigned to it.

"3. The annex to the present chapter shall lay down the rules regarding the composition and working of these inspection organisations. It shall be for the Commission to fix in accordance with these rules regional regulations regarding investigations, which it shall subsequently be entitled to modify by decisions taken by a two-thirds majority of the members present at the meeting.

"4. The President of each inspection organisation may, as the result of an investigation, cause a meeting of the Commission to be convened."

Chapter 2. — Functions: Publicity of the Reports and Documents of the Commission.2

Add a second paragraph to Article 79 to read as follows:

"The High Contracting Parties shall not take or authorise any measure of a nature to restrict the publication of the reports and documents emanating from the Commission and made public by the latter or by the Council of the League of Nations. Each of the High Contracting Parties shall employ the means at its disposal to prevent direct or indirect acts of reprisals being taken against any person in connection with such publication."

Chapter 3. — Operation.3

Article 86 to read as follows:

"Except where otherwise provided by the present Convention, the decisions of the Commission shall be taken by a majority of the members present at the meeting. In calculating this majority, members who abstain from voting shall be regarded as being absent. A minority report may be drawn up."

Section I: Immunities.4

Add a new article as follows:

"1. The publication or disclosure, by persons not exercising any State functions, of information relating to points forming the subject, in the present Convention, of undertakings regarding limitation or publicity, whereby a failure to observe the undertakings thus entered into is established, may not give rise to any criminal proceedings.

"2. Any proceedings taken for untruthfully denouncing an alleged failure to observe the Convention shall be heard in public; if, for special reasons, this publicity is not possible, the Permanent Disarmament Commission shall have the right to appoint representatives to follow the proceedings.

"3. Any person who has in good faith furnished the Permanent Commission, in the course of an enquiry, either at the request of the Commission or its delegates or of his own free will, with information relating to the exact execution of the undertakings entered into in the present Convention may not be proceeded against by reason of this fact, and shall be protected by the competent authorities against any reprisals.

"This immunity must be guaranteed even to officials, provided always that, in the case of information furnished spontaneously during an enquiry, the official has previously informed his superiors of the fact constituting a failure to observe the Convention, and that no steps have been taken to deal with the matter.

"4. The Permanent Commission shall be informed of any proceedings forgiving false evidence taken against a witness who, in the course of an enquiry, has made a deposition before the Commission or its delegates."

Section III. — Violation of the Engagements contained in the Convention.

Article 89 (no change):

"It is hereby declared that the loyal execution of the present Convention is a matter of common interest to the High Contracting Parties."

Add a new Article 89 (a):

"Should the Commission, either directly or as the result of an investigation or a complaint, have established a violation of the engagements contained in the present Convention, it shall without delay call on the High Contracting Party at fault to observe its undertakings within a period to be fixed by the Commission.

"If the said violation continues, the High Contracting Parties shall employ in common against the High Contracting Party which has not complied with its undertakings the necessary means of pressure to ensure the execution of the Convention.

"If war breaks out as the result of a violation of the undertakings contained in the present Convention, the High Contracting Parties Members of the League of Nations shall consider the said violation as prima facie evidence that the party guilty thereof has had recourse to war within the meaning of Article 16 of the Covenant of the League of Nations."

(The present Section III, beginning with Article 90, would become Section IV.)

M. Basdevant (France) said that the purpose of the French delegation’s amendments, taken as a whole, was to make clearer certain points already touched upon in the United Kingdom draft, and in certain respects to supplement that draft. In other words, speaking generally, the French delegation was in favour of the provisions under discussion, taken as a whole. M. Basdevant would therefore confine himself to a few explanatory remarks with regard to the texts which, in the French delegation’s view, called for modification.

The purpose of the amendment to Article 70 was that the Commission should be in a position to broaden its field of information. With the text in its present restricted form, information supplied to the Commission by one of its members might possibly be set aside, as it were, a priori and without further examination. When a member of the Commission supplied information, information which would presumably relate to events in a country which had accepted the obligations embodied in the Convention, it must not be possible for such material to be set aside without further consideration and to say that the only documents which could be taken into consideration were those emanating from the Government whose conduct had, as it were, been called into question. If a member of the Commission took the responsibility of supplying information, it would appear that such material should at least be taken into consideration and examined, it being the duty of the Permanent Commission to appraise its worth and, after examination, but only after examination, to accept or reject it. In a word, the object was to ensure that the Commission should thoroughly examine any information supplied by one of its members or which reached it from an authorised source.

The second amendment was intended to modify the last paragraph of Article 73. This article dealt with cases in which the Commission would be called upon to have investigations conducted on the territory of one of the contracting parties. Under Article 73, the Commission’s decision, "which will determine the scope of the investigation, shall be taken by a two-thirds majority of all the members of the Commission, whether present at the meeting or not."

There was reason to fear that, if this article were maintained in its present form, it might be impossible to arrive at a decision on account of the abstention or absence of a certain number of the Commission’s members. The French delegation fully appreciated the necessity of a reasonable majority in such cases, but that provided for in the last paragraph of Article 73 was, in its opinion, too large. It was for that reason that it proposed that the Commission’s decision should be taken by a two-thirds majority of the members of the Commission present at the meeting.

Similarly, in order to prevent the Commission’s being hampered in its work through the absence or abstention of a few members, the French delegation proposed to amend Article 86 and provide that "in calculating the majority, members who abstain from voting shall be regarded as being absent."

M. Basdevant reminded the Commission that, in practice, this rule was followed in the League Council and Assembly. It had been more or less imposed by usage, and it would appear that it would not be out of place in the Convention for the Limitation of Armaments.

Article 75 of the United Kingdom draft was a kind of temporising article which read as follows:

"Independently of the investigations referred to in Articles 72 and 73, the Commission shall be entitled to conduct periodic investigations in regard to States which have made a special agreement to that effect."

2 Cf. Article 15 of the Convention on the Means of preventing War.
For that stipulation, the French delegation proposed to substitute a more far-reaching text, which, in substance, would provide that, apart from the investigations referred to in Articles 72 and 73, the Permanent Commission, immediately on entering upon its functions, would organise a regular inspection of the armaments of the contracting parties, involving an investigation in each State at least once every year.

The text proposed by the French delegation specified the way in which the Commission would set up the inspection organisations required for that purpose, and provided for an annex to that chapter, in which the rules relating to the composition and working of the inspection organisations would be duly laid down. The French delegation suggested that these rules should be based on the precedent of the rules of application drawn up with regard to the Convention on the Means of preventing War, naturally with such adaptations and modifications as might be necessary.

In introducing certain points not mentioned in Article 75 of the United Kingdom draft, the French Government had desired to show the importance which it attached to this question of periodic, regular and mobile supervision. It considered that investigation would be more readily accepted if it took the form of a regular institution constantly at work to ensure compliance with a Convention which was of great importance from the point of view of satisfactory international relations. The French Government held that such investigations, regularly carried out, would perhaps be somewhat less unpleasant in character than occasional investigations and that they could be carried out without the least a priori suggestion of suspicion which, in the very nature of things, would not be absolutely true of an enquiry not carried out as part of a regular routine.

A further advantage of such periodic investigations would be that they would permit of the prompt and easy correction of any minor infringements which might occur in practice and which, if immediately remedied, would not be so serious as might be the case if they became, in one country or another, more or less or less sanctioned by usage, in which case they might, if subsequently brought to light, give rise to incidents of a more or less serious character.

For all these reasons, the French Government attached very great importance to the carrying out of these regular periodic and uniform investigations, and that was why it was anxious that the General Commission should take into consideration and very carefully examine the Article 79 which it had proposed in this connection.

The other French amendments referred more especially to the working of the Commission. They dealt with the means for ensuring that the Commission would really be in a position to carry out its task. It was essential that the Commission should be able to obtain accurate information on any point falling within its attributions. On this point, valuable suggestions were already to be found in the United Kingdom draft. The French Government desired, nevertheless, that they should be somewhat amplified, in the first place as regards Article 79. The French Government proposed the addition of a second paragraph in the following terms:

"The High Contracting Parties shall not take or authorise any measure of a nature to restrict the publication of the reports and documents emanating from the Commission and made public by the latter or by the Council of the League of Nations. Each of the High Contracting Parties shall employ the means at its disposal to prevent direct or indirect acts of reprisals being taken against any person in connection with such publication."

It would appear to be of very great importance that reports and documents issued by the Commission, and the accuracy of which was attested by the fact that the Commission or the Council of the League had decided to make them public, should in fact be published. It was desirable that public opinion everywhere should be accurately informed, and there was no better means to this end than the publication of the reports and documents emanating from the Disarmament Commission. It was important that it should not be possible anywhere to conceal the truth as recognised by the Commission, and it was with a view to ensuring such wide publicity that the French Government wished for the inclusion of a provision enjoining upon the contracting parties the duty of not restricting the publication of such documents and of protecting any persons responsible for such publication—which was an essentially bona fide proceeding—from molestation on this account. It was equally desirable to facilitate the communication of accurate information to the Commission. It was also important to enable it to obtain ample information with regard to the application of the Convention for the Limitation of Armaments. Naturally, that was the sole end in view. There was no question of encouraging the disclosure of military secrets, but merely the disclosure of particulars with regard to the strict application of the undertakings assumed under the Convention, which was a very different matter. In this respect, also, it was absolutely essential that the application of the Convention should have the support of public opinion. It was no less necessary that the Disarmament Commission should be as completely informed as possible, and any person supplying accurate information to the Commission honestly and in good faith was performing a praiseworthy action in favour of international order, the maintenance of peace and the observance of treaties.

It was for that reason that, as long ago as last January, the French Government had made certain proposals for the purpose of ensuring such extensive publicity.

Without going into the details of these provisions, M. Basdevant merely wished to state that the French delegation took the view that it was especially essential to grant certain immunities to those publishing or divulging information relative to points covered by limitation
or publicity undertakings included in the Convention, since, if M. Basdevant was accurately informed—and unfortunately there was every reason to fear that such was the case—there had been in certain countries signs of a state of mind which, if confirmed and acted upon, might make the strict application of the Convention and effective supervision by the Commission extremely difficult. When, for instance, in what seemed to be an official document, a highly-placed individual said that it was the duty of the judges to show bias in favour of their own country—though it might have been thought that it was their duty in all countries to render justice—it was to be feared that such instructions, whether given through judicial or administrative channels, would simply warp men’s consciences and make it difficult to carry out the provisions under discussion.

The same situation arose when, as seemed to be the case in certain countries, instructions were given to prevent the publication of texts contrary to the international obligations of the country, and when those instructions, those orders were surrounded by special precautions so that the order itself should be carried out with the greatest discretion.

That state of mind, which was no doubt to some extent excusable in certain circumstances, must be combated, though, of course, by carefully thought out and restrained measures, so as to avoid the opposite extreme. The French Government thought such a measure essential, and to this end it considered that it should not be possible to prevent the publication of information with regard to the execution of the obligations imposed by the Convention and that publication should not entail liability to a penal prosecution. It desired in this way to encourage supervision by public opinion over the execution of the Convention. It did not, of course, desire in any way to encourage dishonest attempts to throw suspicion on a Government that was honestly fulfilling its obligations. If false information were published, it was only right that punishment should follow. That must remain a matter for municipal law and the municipal courts. At the same time, this legitimate sanction must not be diverted from its true object. The prosecution must itself be conducted honestly, and there again the best guarantee was publicity.

If, nevertheless, publicity had sometimes to be avoided because the matter was very delicate, if, for special reasons, the proceedings in court could not be public, it was at least essential, in that case, that representatives of the Permanent Disarmament Commission should be able to follow them. That would seem to be the way to establish a just balance between the desire to allow for supervision on as wide a scale as possible and the desire to punish acts which were purely defamatory and without real foundation.

Finally, in the French Government’s opinion, it should not be possible for proceedings to be taken against a person because he had, in good faith, supplied the Permanent Commission or the Commission’s representative with information or evidence during an enquiry—always, of course, on the matter under discussion. Such a person, too, must be covered by immunity. He was a witness. Obviously, it must not be possible for witnesses who gave evidence in all good faith to be prosecuted. There again it would also be desirable that, as an additional measure, the Permanent Disarmament Commission should be informed of any prosecution that might be instituted, in cases of that kind, for false testimony.

Subject to the details to be found in the texts, to a closer examination of those texts and to the possibility that minor changes might prove necessary, those were the main provisions by means of which the French Government believed that the United Kingdom proposals could usefully be adjusted and improved. M. Basdevant desired to repeat that these provisions were entirely within the framework of the United Kingdom draft. They were simply improvements, additions and adjustments; the principles were the same.

M. Lange (Norway) desired to emphasise the importance his delegation attached to this last part of the Convention. It was a great experiment that was being made at this first Conference for the Limitation and Reduction of Armaments, a bold experiment in the eyes of some, who viewed it with a certain apprehension. That apprehension was explicable when one remembered that it was, above all, during the first stage of the reduction of armaments that guarantees were required, in order to ensure the faithful observance of the provisions of the Convention. Indeed, there would necessarily still exist in all countries important armaments in the use of which other States might see, if not an immediate danger, at any rate a menace. Consequently, the old distrust aroused by the armaments position of the world would persist, especially during the period which would begin with the entry into force of the first Convention. The Norwegian delegation therefore thought that, as far as possible, the last part of the Convention with regard to supervision and the verification of the provisions of the Convention should be strengthened.

It was necessary, above all, to prevent any attempt, perhaps an involuntary attempt, to re-arm or clandestinely to increase armaments. To obviate that danger, it was necessary to contemplate certain additional measures for which provision had not been made in the United Kingdom draft. M. Lange therefore supported the French proposals. It was obvious that, precisely because of this new experiment, there would be a clash of loyalties: on the one hand, the old loyalty to the country to which one belonged, a very strong and quite legitimate sentiment which everyone could understand because all had felt it; and, on the other, since some of the attributes of the State were to be transferred from the national to the international
sphere, a new loyalty to obligations assumed and to international undertakings. Those who experienced that new loyalty must be sure, therefore, that they would not be prevented from acting on it when their sense of justice did not accord with their feeling of loyalty to their own country. M. Lange thought that the three measures suggested in the French proposals, which M. Basdevant had explained, formed a very suitable addition to the part of the Convention dealing with supervision. These three measures were: first, full publicity; second, automatic supervision, which, as M. Basdevant had shown, would obviate the suspicion raised by an enquiry made at the request of any particular State, as an investigation of that sort was likely to create the most serious difficulties between States; in the third place, M. Lange also supported the proposals with regard to immunities, which, as he had just said, must be guaranteed to those who, in addition to a feeling of loyalty to their country, also felt a desire to serve the cause of justice and truth.

On the basis of these observations, the Norwegian delegate recommended the French delegation's proposals to the General Commission's attention, and expressed the hope that the Commission would accept them on the second reading.

Mr. Norman Davis (United States of America) reminded the Commission that, on May 22nd, he had said, among other statements and pursuant to the policy which President Roosevelt had declared, that the United States Government believed that a system of adequate supervision should be formulated to ensure the effective and faithful carrying out of any measures of disarmament; that it was prepared to assist in the formulation and to participate in this supervision. He had said further that his Government was heartily in sympathy with the idea that means of effective, automatic and continuous supervision should be found whereby nations would be able to rest assured that, as long as they respected their obligations with regard to armaments, the corresponding obligations of their neighbours would be carried out in the same scrupulous manner; that the powers proposed for the Permanent Disarmament Commission might well be reinforced; that that Commission would have many important duties, but none more essential than that of effectively supervising the fulfilment of the Treaty.

The Commission had before it to-day certain measures for the formulation of an adequate system of this nature. As Mr. Norman Davis had already indicated, his Government's aims were identical with those sought to be achieved by the document under consideration. He wished to indicate the United States' general support thereto. There was, however, one point which he would like to mention briefly at the present stage, leaving detailed discussion to the second reading of the present draft Convention; he referred to the measures of pressure to be considered against a violator by the States in conference as suggested in the third paragraph of Article 89 (a), under Section III of Part V. The United States delegation had already stated how it suggested co-operating in consultation. That suggestion represented the result of mature reflection and marked a carefully considered step in co-operation for the maintenance of peace. Therefore some method would have to be found which clearly excluded the United States from any implied obligation of this character. He had no doubt, however, that this could be satisfactorily arranged between the present and the second reading.

Subject to the foregoing reservation and to the clarification of certain points, the United States delegation welcomed the proposals for supplementing the system of supervision provided under the United Kingdom draft, which had been so ably presented on behalf of the French delegation and with which the United States delegation so heartily agreed in substance.

As the delegates all realised, the United States Government was profoundly interested in the success of the Disarmament Conference because of its belief that the achievement of a substantial reduction in armaments could not but place the nations a long way on the road to that condition of appeasement in the world so essential to the establishment of peace on a just and permanent basis.

It believed that adequate measures of supervision were an essential part of any effective system of disarmament and that a controlled disarmament was the safest road to peace.

Mr. Norman Davis had already, in various statements, outlined the basis upon which and the extent to which the United States, with due regard to its particular interests and responsibilities, was prepared to co-operate in the solution of the problems upon which the Conference was working and upon which the maintenance of world peace, of common interest to all, so largely depended.

M. Motta (Switzerland) regarded the question under discussion as of fundamental importance. If there was one thing that proved that, since the beginning, the General Commission and the Conference had made very considerable progress, it was the matter now under consideration. Not so long ago, any mention of supervision caused an immediate stampede of national sovereignties. To-day they bowed to international necessity. That was one of the main results of the Conference's efforts.

1 See Minutes of the sixty-first meeting of the General Commission, page 475.
The Swiss delegate had been glad to hear the explanations and concrete proposals of the French delegation. His delegation fully sympathised with them. He had also been very glad to hear the head of the United States delegation declare in so authoritative and solemn a manner that that great nation accepted the system of supervision as already embodied in the United Kingdom proposals and as improved by the French proposals. It was, of course, impossible at the present time to express a final opinion as to the details of the text. M. Motta presumed that, before the second reading, certain adjustments could still be made and certain points cleared up, but he desired immediately to welcome the proposal and to express his sympathy in regard to it.

On other occasions, M. Motta had pointed out that those who, even on the international plane, supported international truth should be defended and protected. He had also expressed his sympathy with the suggestion to extend immunity to honest witnesses. What should, in his opinion, be specially emphasised at the present time was the idea that supervision should be regular, normal and automatic. The fact of its being regular and automatic to some extent freed supervision from anything invidious and counteracted any political poison inherent in it. M. Motta therefore thought that only automatic supervision would lead to that complete pacification of men's minds which was the essential condition of universal peace.

The Marquess of Londonderry (United Kingdom) thought that there was no necessity for him to say very much in regard to the very interesting discussion to which the Commission had listened. The amendments put forward by the French delegation were very important and of a very far-reaching character, but, as they had only been put on paper the day before, he felt that he would not be expected to pass any opinion on them. As, however, he would be unwilling to cause any obstruction to the passing of the first reading, he asked to be allowed, on behalf of his delegation, to reserve his opinion on the said proposals. The manner in which they had been received by those who had already spoken showed, he thought, that they were no doubt a contribution of value to the draft before the Commission.

M. Künzl-Jíziersky (Czechoslovakia) observed that, during the previous winter, he had had occasion, in the Bureau of the Conference, to state the Czechoslovak Government's views with regard to the organisation and functions of the Permanent Disarmament Commission. In particular, he had pointed out that his Government was in favour of compulsory, automatic and regular supervision. He now had to say on behalf of the Governments of the three countries of the Petite Entente that they accepted the French proposals.

M. Rutgers (Netherlands) said that the Netherlands delegation associated itself with the statements of Mr. Norman Davis and M. Motta. It was of opinion that effective supervision was both necessary and desirable.

The French amendment in document Conf.D./C.G.124, with regard to immunities was connected with a matter that specially interested M. Rutgers—penal law. While the French delegation's intentions were admirable and its views should be supported, and while M. Lange's remarks deserved attention, it must, at the same time, be remembered that the provisions in question would have to be carried out through the penal jurisdiction of the various countries, and would have to be applied and interpreted by the municipal high courts of justice with all the subtlety those courts employed in interpreting legal texts. M. Rutgers wondered whether much would remain of these provisions when they had been before one of the high courts of justice. He did not, of course, suggest that the courts would be wrong. He would give an example to illustrate his meaning. Paragraph 2 dealt with proceedings for untruthfully denouncing an alleged failure to observe the Convention. Would such a case ever arise? No penal code in the world contained any provision on which such a prosecution could be based. In reality, proceedings would be instituted in connection with other facts or facts otherwise described. In those circumstances, paragraph 2 could never be applied.

It would be highly desirable, if it were really desired that immunity should be recognised by the legal jurisdictions of the various countries, for a small committee of jurists to examine the proposals in the light of the usual practice of the high courts of justice. Otherwise M. Rutgers feared that the conclusion would be that already reached by a committee of the Conference—namely, that it would be extremely difficult, if not impossible, to arrive at the desired formula for immunity. That conclusion would be confirmed by experience, and no one would regret it more than M. Rutgers.

M. Holsti (Finland) said that the Finnish delegation had always been in favour of effective supervision, and was pleased to note that Part V of the draft contained special articles on that subject. In his opinion, the French amendments were an improvement and he therefore trusted that the Commission would be able to accept them unanimously.

1 See Minutes of the twenty-second meeting of the Bureau, page 45.
Amendments submitted by the Turkish Delegation.

Replace Article 86 of the United Kingdom draft by the following text:

"In addition to the stipulations of the present Convention, the Commission's procedure for the taking of decisions in regard to all questions coming within its competence will be laid down in the Commission's rules of procedure. These rules of procedure must be adopted by a majority of two-thirds of the members of the Commission present."

Replace Article 96 of the United Kingdom draft by the following text:

"The present Convention, together with the further Conventions to be concluded in accordance with Article 95 and Article 32, will replace, as between the respective parties to the Treaties of Versailles, St. Germain, Trianon, Neuilly and Lausanne, those provisions of Part V (military, naval and air clauses) of each of the Treaties of Versailles, St. German, and Trianon, and of Part IV (military, naval and air clauses) of the Treaty of Neuilly, which at present limit the arms and armed forces of Germany, Austria, Hungary and Bulgaria respectively, and also the Convention in regard to the frontier of Thrace, in the Treaty of Lausanne."

Cemal Hüsnü Bey (Turkey) regretted that he had not had time to study the French proposals, for the Turkish delegation was in favour of the idea of supervision in general. It would reserve its views in this connection for a suitable occasion.

There was one point to which his delegation also attached considerable importance: Article 86 of the United Kingdom draft. That article provided that the Commission's decisions should be taken by a majority of the members present at the meeting. As the Permanent Commission would have many and very important functions, this was perhaps hardly the time to decide how it should vote. It would be better to settle the question when drawing up the Commission's rules of procedure. The United Kingdom plan contemplated only one case in which a decision would be taken by two-thirds of the members of the Permanent Commission—that was to say, with regard to the scope of the investigation. The Turkish delegation was of opinion that the rules for taking decisions should be included in the Permanent Commission's rules of procedure, which should be adopted by at least two-thirds of the members present. But many cases might arise in which a decision could be taken by a majority. That distinction could be made in the rules themselves.

The second amendment handed in by the Turkish delegation related to Article 96. It had been glad to find that this article provided for equality of rights, of which it was a strong supporter. Unfortunately, the treaties mentioned were not the only treaties that contained military clauses. Such clauses were also to be found in the Treaty of Lausanne. The question of the guarantee as to the Straits had been held over for the second reading, but there was another question, that of the military clauses relating to the frontiers of Thrace. The Turkish delegation considered that, if the General Commission decided to eliminate the military clauses in the various peace treaties, it should treat the military clauses in the Lausanne Treaty in the same way. That was only just.

Count Raczyński (Poland) said that the Polish delegation had noted with great interest the important statement made by the United States representative. It had always been in favour of the international and effective supervision of armaments. It urged that supervision should be rapid and should be applied to all Powers equally, and it was in favour of automatic supervision, supervision on the spot, covering, of course, all aspects of armaments, including the manufacture of and trade in arms. Like other delegations, the Polish delegation naturally reserved its right to express its views as to the details, but it was prepared immediately to support the principles set forth in the chapter under discussion. It welcomed the French proposals, which appeared to it to be extremely important, and expressed the hope that they would be embodied in the Convention when it was completed.

M. Nadolny (Germany) said that, during the discussion in the Bureau on Part V, he had spoken on the questions dealt with in that part of the draft. Generally speaking, he could now only refer to what he had already said on that occasion.

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3 See Minutes of the thirty-third, thirty-fourth and thirty-seventh meetings of the Bureau.
With regard to the French amendments, he had not had time to examine them thoroughly. He must therefore reserve his attitude until the second reading. He added that the German delegation was prepared to accept any measure of supervision which would lead to the aim in view, within the necessary limits, provided fair and equal supervision was extended to all States.

M. Litvinoff (Union of Soviet Socialist Republics) assured the Turkish delegation of the Soviet delegation’s support for its amendments. With regard to the Permanent Disarmament Commission, he noticed that only Article 81 charged the Commission with the duty of making preparations for the future Conference. The rest of Section I dealt with the question of supervision. On many occasions during the present Conference, the Soviet delegation had stated that it regarded supervision as absolutely indispensable, and it could not imagine any measure of disarmament without a corresponding supervision, local as well as general.

The Soviet delegation would not therefore raise any objection to the chapters dealing with the functions of the Commission, or to the extension of these functions, as contemplated in the French proposals; but it would propose that special attention should be paid to the organisation of the Permanent Commission. The organisation charged with supervision should be guided by the aims of the Disarmament Conference, and by the tasks with which it would be invested by that Conference. In other words, the representatives of the Governments on the Permanent Commission should not regard themselves merely as representatives of their Governments carrying out the policy of those Governments to the disruption of the international spirit, as sometimes happened with international organisations.

To achieve this object, special care must be taken with regard to the composition of the Commission. The Soviet delegation would therefore submit amendments to the part of Chapter 1 of Section I dealing with the constitution of the Commission. It would do so from the general point of view, and from the point of view it represented.

M. Litvinoff need not dwell on the differences which existed between the Soviet Government and other States. It was sufficient to take any paper appearing outside the Soviet territory to find reports of hostilities or reprisals. By way of illustration, he might quote from the magazine The Aeroplane, of April 26th, 1933, a paper which seemed to have little to do with general politics. In connection with a certain conflict between the Soviet Government and another Western Government, The Aeroplane gave the latter the following advice:

"... The obviously sensible thing to do is to send a couple of aircraft-carriers into the Baltic and bomb to bits the forts at Kronstadt and the fortresses and factories round St. Petersburg—now called Leningrad. Simultaneously, we should send a few more aircraft-carriers into the Black Sea and blow to pieces the forts at Sebastopol, which we damaged somewhat in the Crimean War, and we might smash up the official buildings and factories and harbour-works at Odessa and Rostoff-on-Don and a few other places.

"That would appear to be a reasonably violent reply to the violence which, according to the newspapers, has been committed on British subjects in Russia. And the air force would be quite glad to do the job, because it would provide them with some useful bombing practice, and possibly a little air fighting, and a pleasing change of air and scenery. Also the naval anti-aircraft gunners on the carriers would welcome the change of some real practice at live targets."

That, of course, was not meant to be practical advice to the Government—it was ironical—but it went to show that, to be logical, that Government should resort to those particular means of pressure. If someone like the writer of the article quoted were sent to an international organisation of control, the Soviet Government could judge what sort of justice and fairness it could expect from him. Therefore, care would be needed in the composition of the Permanent Commission.

The Soviet delegation would have certain amendments to propose to Article 64, and also a few amendments of minor importance with regard to the rôle of the League Council.

According to Section II of Part V, there were two cases in which the whole of the Disarmament Convention could be made inoperative. The first was that in which the contracting parties became engaged in war. M. Litvinoff could not see why the Conference should not, in case of war, restrict the effectives and war material to those which would be allowed each State by the Disarmament Commission. Humanity would lose nothing if war was carried on, not by millions, but by only a few hundred thousand men.

The Soviet delegation would have no objection to extending all the measures of disarmament to cover a state of war, but he was not sure that the other members of the Conference were prepared to go so far. With regard to the case in which a contracting party constituted, in the opinion of any of the other contracting parties, a menace to international security, he wondered...
if there should be a commission to decide what was a menace to the international security of a State, and what criteria such a Commission would admit. At the present time, there was hardly a State, outside Europe, which did not regard itself as menaced by its neighbours, near or far. As a matter of fact, all the difficulties of the Conference had arisen from the fact that the various States were living in fear of a menace. This being so, the Convention would become inoperative as soon as signed.

It would therefore be necessary to omit Section I, or at least the most objectionable part of it. In conclusion, he would reserve to a later occasion a few minor points with regard to the General Provisions.

M. Paul-Boncour (France) had nothing to add to the explanations given by M. Basdevant, but the French delegation would be failing in duty and friendship if it did not express its gratitude to the many delegations which had indicated their warm acceptance of the proposals it had just placed before the General Commission. M. Motta had been perfectly right in pointing out that these acceptances proved that certain ideas had made undoubted progress during the period in which certain delegates had endeavoured to bring them into international discussion. Again, in making that statement, M. Motta had been right in showing how short-sighted and unjust had been the adverse verdicts passed on the efforts thus made. For years—since the work of the Conference was linked up with that of the Preparatory Commission—it might be said that, in this specially delicate matter, which was more directly in conflict with the traditional notions of national sovereignty, these ideas of supervision had successfully passed through successive stages, like those which were being prepared in the Convention.

As a still stronger indication of this headway and as evidence that there was reason for optimism and that there really existed a determination to carry on the work with that confidence which was essential to its success, M. Paul-Boncour would remind the Commission that, ten years earlier, the very idea of any kind of supervision, even paper supervision, ran counter to the feelings of a number of delegates. The French delegation did not forget that difficulties in connection with this matter had marked the end of the Preparatory Commission’s work and that it was thanks to Mr. Gibson, the representative of the United States of America, that the incubus had to some extent been removed and a chapter dealing with supervision had been included in the preliminary draft Convention. He had just said, progress was at that time marked solely by the acceptance of a system of paper supervision—that was to say, without any local investigations. From the outset of the Conference, it had soon appeared, since the Convention which was taking shape went much further than the Preparatory Commission’s preliminary draft, that such supervision was no longer satisfactory, and that it should be carried much further, since the limitation and reduction of armaments were being greatly extended; the precision and efficacy of supervision must match the importance and precision of the limitations and reductions. The Conference had since then entered upon the path of quantitative and qualitative reductions, not only in respect of effectives, but also in respect of material. It had become quite clear that, unless there was to be a mutual feeling of possible deception which would paralyse the entire work, it was essential to contemplate supervision on the spot which would make it possible to ensure that such reductions as were feasible were really taking place and that the provisions of the Convention were being observed.

The French delegation thanked the United Kingdom delegation for having inserted in its draft Convention, in accordance, moreover, with the July resolution, a form of supervision which already represented a considerable advance, a decisive step, as compared with the supervision provided by the Preparatory Commission’s preliminary draft. The French delegation, nevertheless, had thought that a further step, a still more definite form of control, should be immediately proposed. M. Lange, with the single-minded honesty demanded by his lofty conscience, had just shown that it was precisely this first step which must establish that confidence which would not exist if practical means of attaining it were not inserted in the Convention.

It was clear from the various expressions of appreciation and in particular from the United States delegate’s remarks, which the French delegation could not esteem too highly and which were a direct echo of President Roosevelt’s great message, that, apart from the details to be worked out and the adjustment of texts to be made, the idea of supervision, not only by local investigations, as admitted in the United Kingdom preliminary draft Convention, but of automatic and permanent supervision, would be accepted by the Conference as a whole. It would, as M. Lange and M. Motta had pointed out, be all the more sure of acceptance because it was only that particular form of control which, while being effective, would involve the minimum of friction and suspicion between the various States present at the Conference, which would be members of the Permanent Commission. Indeed, if a complaint were necessary in order to bring supervision into operation, that complaint itself would, apart from the repugnance which might be felt in bringing it forward, create a feeling of embarrassment in those who would be obliged to act upon it. The only clear, loyal and, he would add, uniform method of supervision was supervision which would take place mechanically and automatically by means of regular inspections at periods to be determined.

There was much talk in the Conference about equality of rights. Here was a practical application of it. Supervision for the whole world; each one would have the right and means of ascertaining what was taking place elsewhere, and that would preclude anyone from feeling any hesitation in facilitating its realisation.
M. Sato (Japan) felt obliged to maintain the general reservation included, at the request of the Japanese delegation, as a footnote to M. Bourquin's second report and confirmed during the discussion in the Bureau on that report. When the time came to complete the Convention, he would re-examine the question in order to be able to state his position. M. Sato added that the important amendments proposed by the French delegation and the equally important statement by the United States delegate would be very carefully examined by his Government.

M. Di Soragna (Italy) stated that the Italian delegation would give very careful consideration to all the amendments to Part V of the United Kingdom plan put forward by the various delegations and would afterwards, in due course, define its point of view on each of them.

General Tánczos (Hungary) made the same statement on behalf of his delegation.

M. Fotitch (Yugoslavia), speaking on behalf of the delegations of the Petite Entente, stated that, while not declaring themselves opposed in principle to the provisions of Article 96, the States of the Petite Entente would reserve their final position on this subject for the second reading.

M. Raphael (Greece) made a similar statement on behalf of the Greek Government and referred to the communication which the Greek Foreign Minister, M. Maximoff, had made to the General Commission at its meeting on April 28th.

Count Raczyński (Poland) said that the Polish delegation reserved its views with regard to the provisions of Article 96 of the draft Convention. He reminded the Commission of the amendments put forward by his delegation (documents Conf.D./5G.78 and 82), which showed its position clearly; on the basis of these amendments, the Polish delegation would state its views on Article 96 after the final text of the Convention had been drawn up.

M. Basdevant (France) said that the French delegation also reserved its views, which it would state in due course, on Section III as a whole, and particularly Article 96.

The President thought, after the very interesting discussion which had been held, it was not possible to go further at the present stage. The articles that had been under discussion therefore stood as having passed a first reading, with the reservations made by the various delegations.

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SEVENTY-FOURTH MEETING

Held on Tuesday, June 6th, 1933, at 3.30 p.m.

President: The Right Honourable A. Henderson.

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I34. DRAFT CONVENTION SUBMITTED BY THE UNITED KINGDOM DELEGATION.—PART IV: CHEMICAL WARFARE. — COMMUNICATION FROM THE DELEGATION OF GUATEMALA.

The President read the following communication received from the delegate of Guatemala:

"In accordance with the instructions I have received from my Government, I have the honour to send you the declaration appended hereto, of which I request you to be good enough to take note.

"(Signed) José Matos."

"The delegation of Guatemala has the honour to notify its entire acceptance in principle of Part IV of the draft Convention now under consideration by the Conference.

"The delegation has the greater satisfaction in making known its view, because, in the reply which the President of Guatemala has just sent to the telegram of May 16th from the President of the United States, our President, General Ubico, expressly states that he regards as an urgent need, both from the humanitarian point of view and in accordance with the principles of the law of nations, the absolute prohibition of the manufacture and use of gas and other barbarous weapons."

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2 See Minutes of the twenty-eighth meeting of the Bureau, page 84.
3 See Minutes of the fifty-third meeting of the General Commission, page 426.
The President read the following communication, dated June 3rd, 1933, received from the President of the Committee for Moral Disarmament:

"Now that the General Commission is about to conclude the first reading of the draft Convention referred to it, the Committee for Moral Disarmament thought it might be useful for you to be informed of the enclosed resolution containing the programme which it has drawn up, so that, if necessary, you could communicate it to the General Commission in view of the resumption of its work.

"As you will see, our Committee has decided to take all necessary steps to ensure that the result of its work shall be submitted to you in due time.

"In virtue of the terms of reference conferred upon it by the Political Commission on March 15th, 1932, our Committee, whose work was interrupted for the reasons of which you are aware, is convinced that, by carrying out its programme, it can make a contribution which will be of particular value in view of the necessity of making a determined effort towards moral disarmament parallel to that which is being made in the sphere of material disarmament.

"According to the provisions contemplated by the Committee, the High Contracting Parties would undertake to use all means at their disposal to promote good feeling and understanding between nations and also to prevent any incitement to war or other acts likely to disturb good international relations.

"We feel sure that you will share these views, which are inspired by the desire to strengthen still further the essential conditions of lasting peace.

"(Signed) Margery Corbett Ashby,
President of the Committee for Moral Disarmament.

"Annex.

"Resolution adopted by the Committee for Moral Disarmament on June 2nd, 1933.

The Committee for Moral Disarmament considers that provisions should forthwith be drawn up concerning moral disarmament, these provisions to stand on the same footing as the provisions regarding material disarmament in the final texts to be adopted by the Conference.

With a view to preparing these texts, the Committee proposes to utilise the following material which is already at its disposal:

(a) The preliminary draft text examined at the first reading last year concerning teaching, co-operation between intellectual circles, broadcasting, the theatre and the cinematograph;

(b) A preliminary draft text which will be prepared by M. Pella on the basis of his memorandum concerning the adaptation of municipal laws to meet the present stage of development of international life;

(c) The data already collected and to be submitted later concerning the co-operation of the Press in the work of moral disarmament."

M. Komarnicki (Poland), Rapporteur, pointed out that the first report of the Committee appointed by the resolution of July 23rd, 1932, had been submitted to the Bureau of the Conference, which had examined it at its meetings on November 18th and 22nd, 1932. The Bureau had subsequently, on M. Komarnicki's proposal, adopted a draft resolution, which was to guide the Committee and its sub-committees in their subsequent work.

Since this resolution of the Bureau, which defined in particular the Committee's terms of reference, the work had been continued almost exclusively by the sub-committees on manufacture, on categories of arms and on trade. The Committee itself had had few meetings and, for reasons which he would explain later, it had been compelled to confine itself to

2 See Minutes of the second meeting of the Political Commission, page 5.
4 See Documents of the Conference, Volume I, page 270.
5 See Minutes of the thirtyieth and thirty-first meetings of the Bureau, pages 98 and 106.
6 See Minutes of the thirty-first meeting of the Bureau, page 107.
collecting the documentation proposed by its sub-committees, without being able to enter into a more thorough discussion. The Committee was therefore not able to submit unanimous recommendations and still less final texts for approval.

The work accomplished by the sub-committees was, however, not negligible. The ground had been cleared and the technical aspect had been sufficiently examined. If decisions were taken on questions of principle, it would be comparatively easy to draw up, in a short time, definite provisions which would no doubt constitute an appreciable step forward as compared with the present state of affairs and with the special draft Conventions which had formed the basis of the Committee's work. This work of technical preparation had been particularly necessary, as this was practically the first time that questions connected with the manufacture of and trade in arms and implements of war had been dealt with within the framework of the General Convention for the Limitation and Reduction of Armaments. He hardly needed to stress the importance and value of the work successively accomplished, since the foundation of the League of Nations, by the Temporary Mixed Commission, the Co-ordination Commission, the Special Commission on Manufacture appointed by the Council on December 10th, 1926, and the Conference for the Supervision of the International Trade in Arms and Ammunition and in Implements of War which had met at Geneva in 1925. These represented valuable attempts to find solutions for partial problems, independently of the other problems connected with them. Experience had sufficiently proved that this method could not lead to practical results and that questions relating to the manufacture of and trade in arms must also be solved by comprehensive regulations.

The sub-committees had had a peculiarly difficult and delicate task. They had been obliged to examine a number of hypothetical cases and, in the absence of any political guidance, they had been obliged to propose alternative solutions. This was why the profound differences which had arisen in the sub-committees could not be overcome at the present stage of the work of the Conference.

On February 22nd, 1933, the Committee had decided to submit to the General Commission the two most important questions, the solution of which would to some extent affect the course of the future work—namely, the abolition of private manufacture and the internationalisation of the manufacture of arms. The President of the Conference, in his letter of March 27th, 1933, had promised M. Komarnicki that these two questions would be placed before the General Commission "at the earliest appropriate moment". The time had come to pronounce on these two questions and he therefore appealed in particular to the delegations which were not represented in the Committee and had therefore not been able to voice their opinion on these two important problems.

The Committee's report also raised other questions, which would have to be examined. The Committee had not been unanimous in enumerating these questions. There were two categories of problems relating to two different methods of dealing with questions connected with the manufacture of and trade in arms. Some delegations thought it desirable to await the decisions of the Conference on problems which, though they did not enter directly into the Committee's terms of reference, were nevertheless closely connected with questions with which the Committee had had to deal: supervision, publicity, quantitative limitation of material and civil aviation. These delegations stated that, pending such decisions, they would abstain from defining their point of view on certain aspects of the problems relating to the manufacture of and trade in arms. Other delegations proposed immediately to settle certain questions entering into the Committee's terms of reference, and they considered that the Committee had failed in its task in not suggesting to the Commission definite solutions in this sphere.

It would be observed that there was a complex of extremely difficult problems to settle: a difference in method, a different view of the Committee's terms of reference and, in particular, a divergence of opinion regarding the part played by the manufacture of and trade in arms in the whole group of the problems connected with arms and war material. It was not for the Rapporteur of the Committee to urge his personal preferences. But he wished to emphasise one special point in the interest of the future compromise which would form a basis of possible solutions. This point was the more or less explicit recognition by all delegations of the close interdependence between the problems of the manufacture of and trade in arms and those of war material in general. Opinions varied as to the degree of this relationship, but the fact itself now appeared to be incontestable.

If this interdependence were now universally admitted, it would be desirable to draw all the logical conclusions from it. It would, the Rapporteur thought, be extremely useful if the General Commission could make a special study of the relationship to be established between problems connected with war material in general and problems connected with the manufacture of and trade in arms from the point of view of (1) supervision, (2) publicity, (3) qualitative limitation, and (4) quantitative limitation. In this connection, he referred to the terms of the resolution adopted by the Bureau on November 22nd, 1932:

(6) As regards the Committee's conclusions concerning the questions of the limitation of, and publicity in regard to, war material, the Bureau considers that any final decision as regards these questions should be postponed until appropriate solutions have been reached by the competent organs of the Conference.

2 See Minutes of the thirty-first meeting of the Bureau, page 107.
In expressing the hope, in the interest of the future work, that the discussion in the General Commission would deal with all these problems and would reach a satisfactory and equitable solution, the Rapporteur wished to point out that the Committee, and in particular its organs, had studied the problems in the abstract, without fixing time-limits for the realisation of certain proposals. Perhaps it would be well, at a suitable moment, to introduce the idea of stages which had been already adopted by the Conference in respect of all the problems connected with the limitation and reduction of armaments. By adopting this idea, it might be possible to reach certain solutions which would be acceptable to all.

It was also for the General Commission to pronounce on the procedure to be followed in order to draw up articles of the Convention with a view to the second reading. On this subject, the Rapporteur would perhaps be in a position to submit some practical suggestions to the Commission at the end of the discussion.

Amendment proposed by the French Delegation to Part II, Section II (Material), of the Draft Convention submitted by the United Kingdom Delegation.

Letter, dated May 29th, 1933, from the French Delegation.

"I have the honour to forward to you herewith for discussion by the General Commission the text of the proposals regarding the manufacture of and trade in war material to which M. Paul-Boncour referred in his speech in the General Commission on May 23rd."

"The purpose of these proposals is to establish supervised limitation of the manufacture of and trade in war material which, in our delegation's opinion, constitutes an indispensable condition for the limitation and reduction of war material.

Since the General Commission has not yet adopted any decision on the two questions referred to it some weeks ago regarding the prohibition of private manufacture and the internationalisation of the manufacture of arms, our delegation did not feel that it could include these two points in the proposals it is submitting. There is no need to stress again that it remains faithful to the principle of the general abolition of private manufacture of arms and reserves the right, should the General Commission finally adopt this principle, to introduce the few amendments to the proposals submitted herewith which are already embodied in the text submitted to the Special Committee by M. Jouhaux and distributed under number Conf.D./C.C.F.41.

"(Signed) PAUL-BONCOUR."

"Add a new Chapter 4. — Limitation and Supervision of the Manufacture of and Trade in War Material.

"Article A."

"The following provisions shall apply to the manufacture of and trade in the articles enumerated in Annex I.

"(The categories of war material subject to the regulations laid down hereinafter shall be determined by the conclusions of the Conference with regard to the quantitative limitation of material and shall include, as far as may be necessary, the articles covered by categories I (sub-categories A and B), III (sub-category 2) and V (sub-category I) of Article 1 of the 1925 Convention on the Supervision of the International Trade in Arms and Ammunition and in Implements of War.)"

"Article B."

"1. Annex I fixes the quotas within the limits of which each of the High Contracting Parties may, during the period of application of the present Convention, procure the said articles whether the latter are manufactured or imported by it direct or on its behalf.

"2. The manufactures or imports of the said articles effected on behalf of other Powers within the limits of the jurisdiction of each High Contracting Party must not have the effect of causing the amount of the quotas assigned to it to be exceeded by more than x per cent.

"3. It shall be for the Permanent Disarmament Commission to judge at any time whether:

"(a) The rate of supply of the said articles to each of the High Contracting Parties, as shown in particular by the licences or déclarations of manufacture or export transmitted to the Secretary-General of the League of Nations, is in relation with the size of the quotas assigned to that Party;"


2 See Minutes of the sixty-second meeting of the General Commission, page 493.

GENERAL COMMISSION 38.
"(b) If the nature of the supplies delivered to the High Contracting Parties whose armed land forces are subject to the provisions of Part II, Section I, Chapter 2, of the present Convention answers to the requirements of the progressive standardisation of war material provided for, as between those Powers, by other clauses of the present Convention.

4. The Secretary-General of the League of Nations shall only give the visa provided for in Article D below if the amount and, according to circumstances, the nature of the material supplied to the Power that is the consignee or importer meet with the approval of the Permanent Disarmament Commission.

"Article C.

The High Contracting Parties undertake not to order the said articles to be manufactured or to export them or to permit their exportation, unless the following conditions are fulfilled:

(a) The characteristics of the arms or material shall comply with the present Convention;

(b) Export or manufacture shall take place with a view to direct supply to a Government or, with the assent of the said Government, to some public authority under its control;

(c) Supplies of material to the consignee or importing Power must be approved by the Permanent Disarmament Commission.

"Article D.

1. In every case of an order for manufacture or the export of the said articles, the Government of the High Contracting Party shall issue an export or manufacture licence or declaration.

2. The said licence or declaration, which shall be made out in duplicate, one copy being immediately addressed to the Secretary-General of the League of Nations, shall contain:

(a) A description permitting of the identification of the material to which it applies, together with particulars of the said articles in accordance with the headings of Annex I and details of their numbers or weight and their principal characteristics, more especially the calibre of artillery and the tonnage of tanks.

(b) The name of the exporter or factory;

(c) The name of the consignee;

(d) The name of the Government, if any, having authorised importation.

In addition, the licence or declaration must be accompanied by a certificate from the Secretary-General of the League of Nations attesting that the said supplies have been approved by the Permanent Disarmament Commission.

"Article E.

The international trade in arms, ammunition and implements of war other than the articles enumerated in Annex I shall be governed by the provisions of Annex II to the present chapter.

The High Contracting Parties shall comply with these provisions.

(Annex II will reproduce, with such amendments or additions as may appear appropriate, the provisions of the 1925 Convention on the supervision of international trade in arms, ammunition and implements of war.)

"Article F.

The private manufacture of arms, ammunition and implements of war shall be governed by the provisions of Annex III to the present chapter.

The High Contracting Parties shall comply with these provisions.

(Annex III will reproduce, with such amendments or additions as may appear appropriate, the provisions of the 1929 draft Convention regarding the supervision of the manufacture of arms, ammunition and implements of war.)"

M. Jouhaux (France) thought it impossible that the General Commission should fail to take up certain of the points contained in the conclusion of the report before it. Voicing the sentiments of public opinion, he would add that a good deal of disappointment had been felt in all countries at the fact that the Disarmament Conference, following the other organs of the League, had not yet concerned itself with the private manufacture of arms and munitions.
which he regarded, not as an ancillary or secondary matter, but as a crucial question. It was close on twelve years since this subject had first been brought before the League. So far as general ideas were concerned, the ground had been explored in every nook and cranny. There was not a single aspect in regard to which information was not available. The League had declared, in the scheme for a treaty of mutual guarantee which had emerged from the Mixed Temporary Commission's discussions, that war was an international crime. It had declared in the Pact of Paris that war should be outlawed. But it had never yet proceeded to examine the measures by which war would really be outlawed.

The disappointment felt by public opinion had been very great when it was found that the chief question on which the authors of the League Covenant had been constrained to affirm their agreement had not been taken into consideration and that no effective solutions were being achieved. M. Jouhaux, for his part, would not revert to this general aspect of the matter. Everyone who was honest with himself would say that it was absolutely essential to put an end to transactions which had done nothing but disturb the peace before the war and had perhaps disturbed it still more seriously since.

Nor would he dwell on the different charges that could be brought against the private manufacturer of arms. They were present in the minds of all the delegates, but they were also present in the minds of the masses of the people, and the latter judged the League's action by the boldness of the measures it was capable of taking against those who were regarded as the disturbers of the peace.

The Conference had desired, through the medium of the United Kingdom plan, to leave the sphere of general ideas and enter upon that of concrete ideas. The French delegation, without abandoning its position, had attempted to fall in with that decision and to supply, in the form of an amendment, the means of satisfying both public opinion and the Conference within the very framework of the Convention under discussion.

The French proposal was not irrelevant to the discussion of the United Kingdom draft. At the time when the draft was tabled, Sir John Simon, replying to certain comments, had stated that the non-inclusion in the United Kingdom draft of the questions of private manufacture and budgetary regulation did not mean that they had been rejected but merely that the Committees set up to consider these matters had been unable to agree on any concrete proposals to be made to the General Commission.

In response to the desire implicit put forward by Sir John Simon, the French delegation had sent to the President of the General Commission an amendment which was entirely germane to the discussion of the United Kingdom draft. The Commission was constrained to examine this proposal because it was not possible at the present time to take up the general political question of the abolition or internationalisation of manufacture. It was not possible to discuss the limitation and supervision of material without, at the same time, discussing the limitation and supervision of manufacture, since there would be no material if manufacturing was outlawed. Again, how was it possible to suppose that the measures for the limitation and supervision of material could be effective unless there were, at the same time and as a corollary, the limitation and supervision of manufacture?

What would public opinion think when it found that the Conference had limited material and proposed to control it but that liberty to manufacture was unrestricted? That would look not very unlike a swindle. In any case, that was what public opinion would say; it was what the man in the street would think. The League's worth was to be measured only by the confidence reposed in it by public opinion; if that confidence were impaired, the authority of the League was impaired _pro tanto._ Indeed, it was true that, in the eyes of world public opinion, the League occupied a very low position in consequence of certain recent events which had been manifestly incompatible with the principles on which it was founded. Quite aside from any spirit of demagogy or political prestige, it was absolutely essential that public attention should be redirected towards the League and its confidence in the League restored. The best way was to be rather bold, not only in the expression of thought, but also in the realisation of thought, and this should be done by way of complete and consequently efficacious measures.

That was what the French delegation was asking for. There was no need to look for the possibilities of achieving a result in over-complicated and therefore unworkable formule. The possibilities of limitation and supervision had been indicated a long time ago by the various organs of the League. It had been suggested long ago that licences should be issued by the responsible Governments and this proposal had even been accepted by the representatives of the various States in certain spheres. Why should a measure which had been perfectly feasible in other domains be impracticable in that of the manufacture of arms? There were certain precedents which militated very strongly in favour of the French amendment. It was possible, as the amendment stated, to arrive at a limitation and supervision of manufacture by means of a system of licences.

The French proposal represented, of course, a departure from the vague ideas which had existed hitherto. There was no longer any question of the vague publicity which had been accepted because, to speak frankly, it entailed no very great commitments. It was a question to-day of taking concrete decisions. What was proposed was a system of licences, no longer issued for manufacture in general, but for such manufacture as would be authorised in the future Convention and therefore limited. These licences would permit of effective supervision,
and that supervision the Commission had already accepted in approving M. Bourquin's report on the supervision of disarmament. The French delegation was only asking that this formula should be applied to manufacture and, for the present at least, within the framework of the Convention which was to be adopted in second reading.

True, the French proposals were likely to arouse certain susceptibilities. They elucidated the responsibility of each country in regard to disarmament. It was, however, perfectly plain that disarmament would not be obtained unless all parties showed an equal measure of sincerity and complete frankness. There could therefore be no repugnance to accepting the French amendment, which would demonstrate the determination of the League and the Disarmament Conference to achieve effective measures.

M. Jouhaux trusted that the General Commission would endorse the French amendment and define the procedure for giving effect to it. The French delegation would agree to any procedure indicated by the General Commission, subject to the fundamental proviso that that procedure would make it possible for the Commission to have before it, at the second reading, a precise text on this matter capable of embodiment in the draft Convention. If that were not the case, the French delegation would bring up its amendment again in second reading and make every effort for the inclusion of the amendment and its provisions in the Convention, since otherwise it would be forced to consider, seeing that the Convention was not completely objective and was only partly operative, whether it would maintain or refuse its acceptance of the draft Convention.

Cemal Hüsnü Bey (Turkey) pointed out that, in the memorandum which it had submitted to the Bureau of the Conference on April 7th, 1932, the Turkish delegation had made the following statement on the regulation of the manufacture of arms and war material, a question to which it attached great importance:

"The effective reduction of forces and their equalisation can only be ensured by the internationalisation of armament manufacture. Manufacture by the State or by private firms and free or even limited sale of war material automatically lead to an increase of forces. For this reason, it would be desirable to consider the complete abolition of a large number of armament factories and a wise and safe distribution of the other centres of manufacture, in which each State would have an interest equal to the full amount of its orders, to be carried out under the effective supervision of all the other parties concerned."

It was safe to say, without fear of contradiction, that to-day the great majority of the delegations were agreed as to the necessity of regulating armaments manufacture, which was in itself one of the main causes of the race in armaments. On this point, Cemal Hüsnü Bey had nothing to add to M. Jouhaux' inspiring words.

The Turkish delegation thus considered that internationalisation was the most effective means of regulating and supervising arms and ammunition factories. As to the general principles which should govern the application of that system, the Turkish delegation had had occasion to discuss them in detail in the Committee for the Regulation of the Trade in and Manufacture of Arms, and its statements were summarised in the first annex to the report which that Committee was now submitting to the General Commission. He did not intend to revert to the moment to the details of that system, but would only point out that the Turkish proposal was based on two essential principles: equality of treatment as between States, and efficacy of supervision.

In connection with the regulation of the manufacture of arms, which was, by common consent, necessary, if the work of disarmament was to be brought to a successful conclusion, his delegation's first anxiety was to avoid creating a situation which would be definitely unfavourable to the States not possessing arms and ammunition factories. On that point, as on all other questions connected with disarmament, Turkey was in favour of the principle of perfect equality of treatment as between States.

In full agreement, therefore, with the statements of the various delegations which had, during the Committee's discussions, pointed out the danger to peace of the private manufacture of arms and ammunition, the Turkish delegation had proposed the internationalisation of State factories as a necessary corollary to that measure.

The "harmful effects" of the manufacture of arms and ammunition for the peace of the world and disarmament (as was stated in the Committee's report) could not be obviated by measures of simple supervision, such as publicity, licences, etc.

To abolish private factories and leave State factories alone, however, was tantamount to making the non-manufacturing States dependent on the will of the States which alone possessed arms factories, or—what was still worse—the simple abolition of private factories would inevitably cause many countries to set up factories in their turn, which would be a new form of the race in armaments.

It had been objected that the abolition of private factories would not change the de facto position at present existing between the States which manufactured arms and ammunition and those which did not manufacture them, as, it was said, the non-manufacturing States purchased from the private factories, with the consent of the States on whose territories those factories were situated, and that the future convention would settle the question of the supply of arms and ammunition as between the signatories. It would, however, be difficult to compare a purely commercial agreement concluded between a State and a private factory with an agreement which, concluded between two States, would be purely political.

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1 See Documents of the Conference, Volume I, page 200.