ANNEX I.


REPORT BY THE COMMITTEE OF JURISTS.

Rapporteur: M. C. Gorgé (Switzerland).

The Committee of Jurists, to which a number of questions had been referred, accomplished its task in the course of ten meetings held between March 27th and April 6th, 1935, under the chairmanship of M. C. Gorgé (Switzerland).

The Committee of Jurists thought it desirable to begin by deciding what method it should follow—whether it should frame texts or merely indicate the legal aspects of the questions. It came to the conclusion that it should do all in its power to facilitate the work of the plenary Committee, and that it might consequently find it expedient both to give opinions and to propose formulæ calculated to eliminate or diminish the difficulties, and so to bring about or pave the way for agreement in the plenary Committee. The questions referred to it were exhaustively discussed, and it was able to realise how interesting, how important, and also, in many cases, how complicated they were. The debates, which were very lengthy, especially in regard to the application of the Convention in time of war and its influence upon the conception of neutrality, need not be gone into here. It will suffice to summarise the results obtained, indicating certain of the difficulties that had to be confronted.


Article 2 of the American draft reads as follows:

"The manufacture of and the trade in arms and implements of war being matters of interest to public international order, the High Contracting Parties assume entire responsibility for the control of these matters in the territories under their respective jurisdictions."

In the course of an early discussion in the full Committee, the French and American delegations submitted a new text designed to define more clearly the scope of the original article in the American draft. This text was as follows:

"The High Contracting Parties agree that the manufacture of and trade in arms and implements of war are matters of interest to public international order. They will accordingly assume, in conformity with the provisions of the present Convention, responsibility for the national control of these matters, with a view to ensuring the communication and guaranteeing the correctness of the publicity documents referred to below."

The Committee of Jurists found that this text gave rise to certain objections on the part of the United Kingdom and Italian delegations, which felt that the statement that "the manufacture of and trade in arms and implements of war are matters of interest to public international order" laid down, in a very general form, a principle of international law of which it was difficult to determine accurately the consequences.

After an exhaustive examination of the question, the Committee of Jurists succeeded in reconciling the different views in the following formula:

"Each High Contracting Party assumes, in the territories under its jurisdiction, full responsibility for the supervision which is to be exercised over the manufacture of and trade in the articles referred to in Article . . . with a view to ensuring the regular communication and the accuracy of the documents for publicity provided for in the present Convention."

This text thus lays down the national responsibility of a State as regards the control of the manufacture of and trade in arms in its territory. Expressed positively, this principle represents the minimum on which all the delegations were able to agree. Moreover, it in no way prejudges the control procedure instituted by the Convention.

From this responsibility of the State it follows, as has been pointed out, that in all cases, and more particularly in the case of proved or presumed irregularities, the State with the responsibility defined above will be bound to produce all explanations and proofs which may be judged necessary.

Certain delegations pointed out, however, that they would not accept the principle as stated above unless it was supplemented, at any rate in the preamble to the draft Convention, by a clause relating to international public order.
The Committee of Jurists, after examining the question of the mention of public international order in the preamble to the Convention, thought that it would be preferable not to make any proposals in this connection at present. On the one hand, it would appear to be better not to draft the preamble until the Committee’s work on the actual articles of the Convention is concluded.

On the other hand, while the members of the Committee of Jurists agreed to the preamble containing a mention of international public order, considerable differences of opinion were found to exist as to the precise meaning to be given to this expression. Some of the delegations expressed a preference for the text submitted by the United Kingdom delegation, which simply aims at laying down the principle that the contracting parties are obliged to take the necessary steps to see that the manufacture of arms in their territory is not of a nature to disturb public international order.¹

Other delegations, on the contrary, would like the preamble to reproduce a formula similar to that contained in Article 2 of the American draft, laying down the principle that the manufacture of and trade in arms, wherever they took place, were henceforth matters of interest to the whole international community.²

3. Article 16.

The Committee adopted the following text:

"Article 16.

The following shall not be regarded as exportation or importation within the meaning of the present Convention:

(a) The shipment of articles coming under Categories I to V of Article . . . from a territory placed under the sovereignty, jurisdiction, protection or tutelage of a High Contracting Party, or from a territory in which a High Contracting Party enjoys special political or military rights under international instruments, and intended for the use of the armed forces of such High Contracting Party, wherever situated;

(b) The transfer by the High Contracting Party concerned of articles coming under Categories I to V of Article . . . from a country to which such articles may have been shipped as provided in paragraph (a);

(c) The carrying of arms or ammunition by persons belonging to the forces referred to in paragraph (a) or by other persons in the service of a High Contracting Party, when such articles are required by those persons by reason of their duties or for their personal defence;

(d) The carrying of rifles, carbines, and the necessary ammunition therefor, intended exclusively for their own individual use, by members of rifle clubs proceeding to international marksmanship competitions;

(e) The movement of civil aircraft duly registered as such when engaged in (1) commercial transport, (2) industrial or commercial flights, (3) touring flights;

(f) The carrying of arms or ammunition carried by the personnel of civil aircraft on international routes, to be used for the defence of individuals, passengers or personnel of the aircraft.

This text relates to certain clearly defined cases in which the Convention would not be applicable. The general scheme has been taken from the Convention of June 17th, 1925 (Article 32).

The Committee considered whether it was desirable to lay down a general principle to the effect that the Convention would not be applicable between territories coming under the same


sovereignty or the same Customs regime. After careful examination and for reasons similar to those which had prevailed at the 1925 Conference, the majority of the Committee expressed the opinion that a provision of this kind was not necessary.

The Chinese delegation made a proposal on different lines in regard to this question. It was anxious that the shipments of arms in question, which members of the Committee as a whole regarded simply as transports not of an international character and not as real exports and imports, should be made subject to the ordinary publicity formalities. In support of its proposal, the Chinese delegation urged the danger of the diversion and misappropriation of war material in the case of long-distance transports.

The wording of this article calls for the following observations:

Preamble. — The wording of the American draft has been slightly modified. The text submitted by the Committee is shorter and appears to be more definite.

Paragraph (a). — This paragraph reproduces the text of the American draft, with the addition to the list of the following words: "Or from a territory in which a High Contracting Party enjoys special political or military rights under international instruments".

This addition covers the case of territories other than the home territories, colonies, territories under protectorate or mandate, in which the High Contracting Party has the right to maintain armed forces.

Paragraph (b). — This is a new paragraph. However, the case already appears to be covered by paragraph (a). This new paragraph was inserted at the request of the United Kingdom delegation to cover the special case of the reforwarding of the articles from the territories enumerated in the previous paragraph.

Paragraph (c). — This paragraph corresponds to paragraph (b) of the American draft, the text of which it reproduces; the words "or for their personal defence" were added at the request of the Chinese delegation.

Paragraph (d). — This paragraph corresponds to paragraph (c) of the American draft. Slight changes of a purely formal nature have been made in the original text.

Paragraphs (e) and (f) were drawn up by the Sub-Committee on Trade. The Committee of Jurists has simply made a few slight formal amendments.

The Committee had before it a proposal by the Polish delegation to the effect that, in the absence of a general provision which would cover the case, a paragraph should be inserted in Article 16 dealing with the special case of relations between Danzig and Poland, and German transit through Polish territory or Polish transit through German territory. The Committee considered that it would be better to insert this provision, which referred to certain special agreements, in a special article. Further reference will be made to it later.

The Committee of Jurists also had to deal with a certain number of questions which the plenary Committee had referred to it without having previously discussed them. Among the most important of those questions were those of the suspension of the Convention in time of war, neutrality and derogations to the Convention.

4. SUSPENSION OF THE APPLICATION OF THE CONVENTION IN TIME OF WAR.

The Committee had before it a proposal by the Polish delegation (document Conf.D./C.C.F.63), taken from the Convention of June 17th, 1925 (Article 33), and reading as follows:

"In time of war, and without prejudice to the rules of neutrality, the provisions of the present Convention shall be suspended from operation until the restoration of peace so far as concerns the manufacture or consignment of arms or ammunition or of implements of war on behalf of or to a belligerent.""
exports to the belligerents. It considered, therefore, that it was necessary to provide for suspension of the application of the Convention in the case of all manufactures or exports concerning the belligerents.

It is possible that this suspension of the Convention, in so far as concerns the belligerents, may create a delicate situation for non-belligerents, and that in certain cases the latter may feel that they would be greatly at a disadvantage in continuing to make known their manufactures and exports in the absence of publicity with regard to the manufactures of belligerents or the manufactures of neutrals for account of belligerents. The answer to these objections was that in such a case the non-belligerents would still have the possibility of invoking a grave circumstance entitling them to have recourse to derogations and release themselves in part from their obligations under the Convention. Reference to this point will be made below.

Certain delegations urged that the suspension of the Convention should be limited as much as possible, both in respect of the provisions of the Convention to be suspended and in respect of the States benefiting from such suspension.

To meet these apprehensions, provision was made (in agreement with the Italian delegation) that the suspension of the Convention should not be complete, but should be limited to certain specified stipulations of the Convention. Accordingly, only the international measures with regard to publicity and control would be suspended. For the rest the States would thus continue to enforce the national control of production and trade for which the Convention provides, and the Permanent Disarmament Commission would continue to discharge the duties entrusted to it under the Convention.

It will rest with the Committee on Trade and Manufacture to determine the precise stipulations to be suspended.

Certain delegations would have preferred, in connection with the suspension of the Convention in the case of manufactures and exports for account of belligerents by non-belligerents, that provision should have been made for the possibility of the Permanent Disarmament Commission restricting the consequences. It was especially in connection with the derogations that these delegations insisted on the part which they considered the Permanent Disarmament Commission ought to play with a view to preventing any kind of abuse.

The Committee adopted the following text in accordance with proposals put forward by the Italian delegation:

"In time of war and without prejudice to the rules of neutrality, the provisions of Articles . . . 1 of the present Convention shall be suspended from operation until the restoration of peace, so far as concerns the manufacture or consignment of articles that appear in Categories I to V, inclusive, on behalf of or to the belligerents."

5. Neutrality.

The Italian delegation's proposal (document Conf.D./C.C.F.68) contained a provision in the following terms:

"It is hereby declared that, without prejudice to the obligations under the Covenant of the League of Nations, a neutral Power is not bound to prevent the export or transit, for the use for either belligerent, of arms, ammunition, or, in general, of anything which could be of use to an army or fleet."

This proposal, which gave rise to lengthy discussions, raised all the points relating to the maintenance or abandonment of the rules concerning the rights and duties of neutral countries in time of war. Its effect was to re-embody in the draft Convention the fundamental principle laid down in Article 7 of the fifth and thirteenth Hague Conventions of 1907.

Several delegations were at one with the Italian delegation in thinking that the object of the present Convention was certainly not to modify the rights and duties of neutral countries in time of war. They considered in particular that the principle laid down in 1907 (in Article 7 of the fifth and thirteenth Hague Conventions) should be maintained. To prevent any misunderstanding on a matter of such importance, it was not (they thought) without value to reassert the principle in a Convention on the Trade in and Manufacture of Arms and Implements of War. The need for such a reaffirmation was enhanced in their eyes by the fact that, since the Convention imposed certain formalities on States in connection with the manufacture and import of arms when destined for belligerents, any belligerent would be in a position to claim that the supply by individuals of arms to belligerents under State control constitutes a violation of neutrality.

Other delegations expressed doubts as to the value of any provision with regard to neutrality. The French and U.S.S.R. delegations further stated that this reference to the right of neutrality was regrettable in view of the undertakings assumed by many States under the new international law which (they contended) imply the elimination of the traditional conception of neutrality.

1 These articles will be the articles providing for publicity and, where applicable, control.
The following text was ultimately adopted by the Committee as a compromise between the differing views put forward:

"It is hereby declared that, in such measure as a High Contracting Party can remain neutral in conformity with its international undertakings, the said High Contracting Party shall not be bound to prevent the export or transit for the use of either belligerent of the articles appearing in Categories I to V inclusive."

With this text there is no decision as to when a State is legitimately entitled to declare itself neutral. It is merely said that, where such neutrality exists, the principle laid down in Article 7 of the fifth and thirteenth Hague Conventions continues applicable in its entirety, notwithstanding the provisions of the Convention at present under consideration.

The French delegation reserved its attitude in regard to this article until the powers of the Permanent Disarmament Commission are definitely established.

6. DEROGATIONS.

This question was raised by the Italian delegation, which considered that, even in a convention limited to the publicity and control of the manufacture of and trade in arms and implements of war, a system of derogations similar to that provided for in Article 50 of the draft Convention framed by the Preparatory Commission was necessary.

The principle laid down in this article was approved by the majority of the delegations. On the other hand, the delegations of the United States of America, the United Kingdom and Sweden expressed doubts as to the need for an article dealing with derogations in a convention concerned only with publicity.

By the Spanish, French and U.S.S.R. delegations it was only accepted with regret and after a number of fruitless attempts to see that, for preference, the Permanent Commission should be empowered to see that such measures were taken as would constitute a reliable guarantee for each of the contracting parties against the danger to which its security might be exposed by the excessive or unjustified manufacture or importation of armaments in a neighbouring country.

The Polish delegation recognises the necessity of inserting a clause on derogations in the Convention, but, in connection with the observations submitted by the above-mentioned delegations, again calls attention to the following proposal which it made in the plenary Committee:

"If one of the High Contracting Parties considers that, at any time, the manufacture of arms, ammunition or implements of war in the territory of another High Contracting Party, or the imports of arms, ammunition or implements of war into this same territory, has shown an unexpected increase, which is both large and abnormal, and if the former High Contracting Party sees therein an indication of a threat to peace, it may address itself on this subject to the Permanent Disarmament Commission.

"The Commission will proceed to consider the matter and will invite the High Contracting Party involved to furnish it with all useful explanations. It will prepare a reasoned report on the result of its consideration and will forward this to all the High Contracting Parties."

After discussion, the Committee of Jurists adopted the following text (the paragraphs in italics are those which differ from the Preparatory Commission's text):

"If, during the term of the present Convention, a change of circumstances constitutes, in the opinion of any High Contracting Party, a menace to its national security, such party may suspend temporarily the application of the provisions of Articles . . .

"Such suspension shall extend compulsorily, if the High Contracting Party so requests, to manufactures effected on its behalf in the territory of other States and to exports consigned to it.

1 Article 50 of the Preparatory Commission's draft Convention was as follows:

"If, during the term of the present Convention, a change of circumstances constitutes, in the opinion of any High Contracting Party, a menace to its national security, such High Contracting Party may suspend temporarily, in so far as concerns itself, any provision or provisions of the present Convention, other than those expressly designed to apply in the event of war, provided:

"(a) That such contracting party shall immediately notify the other contracting parties and at the same time the Permanent Disarmament Commission, through the Secretary-General of the League of Nations, of such temporary suspension, and of the extent thereof;

"(b) That simultaneously with the said notification, the contracting party shall communicate to the other contracting parties, and, at the same time, to the Permanent Disarmament Commission, through the Secretary-General, a full explanation of the change of circumstances referred to above.

"Thereupon the other High Contracting Parties shall promptly advise as to the situation thus presented.

"When the reasons for such temporary suspension have ceased to exist, the said High Contracting Party shall reduce its armaments to the level agreed upon in the Convention, and shall make immediate notification to the other contracting parties."
Every suspension shall be subject to the following conditions:

(a) That the contracting party shall immediately notify the other contracting parties, and at the same time the Permanent Disarmament Commission, through the Secretary-General of the League of Nations, of such temporary suspension;

(b) That, simultaneously with the said notification, the contracting party shall communicate to the other contracting parties, and at the same time to the Permanent Disarmament Commission, through the Secretary-General, a full explanation of the change of circumstances referred to above.

The Permanent Disarmament Commission shall meet without delay, and its members shall advise as to the situation thus presented.

The United Kingdom delegation inserted in the draft preamble which it had submitted a provision assigning to the Convention the following purpose, among others:

"Providing the machinery for the immediate imposition of an effective embargo on the export of arms, if and when such action should be internationally decided upon."

The United Kingdom delegation's idea was therefore to facilitate the application of an embargo and not to provide concrete measures of embargo.

A proposal by the U.S.S.R. delegation, on the contrary, was intended to expressly provide more or less automatic measures of embargo to be applied to belligerent States.
This proposal, which gave rise to an interesting discussion, was supported by the Spanish and French delegations. The three delegations are of opinion that the present Convention should contain provisions concerning an embargo on arms, ammunition and implements of war, and proposed the following text:

“"The High Contracting Parties agree, should occasion arise, to take the necessary steps to prohibit exports and consignments in transit of the articles included in Categories I to V intended for a State recognised as an aggressor."

The Polish delegation, while expressing doubts as to the advisability of inserting any provisions regarding the embargo in a Convention of such limited scope, stated that if the Convention was to contain such provisions it would agree with the three above-mentioned delegations that the stipulation reproduced above should constitute the basis of the embargo system.

The Spanish, French and Soviet delegations also consider that an endeavour should be made to establish a system providing sufficiently serious guarantees of execution to deter the contracting parties from abusing the right of suspension or derogation in circumstances which might progressively nullify the application of the Convention. Among the other measures which should be provided in this connection, they are in favour of extending the obligation of applying an embargo to cases in which the Permanent Commission considered it necessary to apply such a measure to exports intended for a country whose armaments, whether in conformity with the Convention or not, unjustifiably threaten the security of other contracting parties.

During the general discussion to which the joint proposal of the above-mentioned delegations gave rise, the majority of the Committee expressed the opinion that the organisation of an embargo was outside the scope of the proposed Convention, and that in any case the question was essentially a political one outside the competence of the Committee of Jurists. They pointed out, moreover, that the problem of the embargo was on the agenda of the Assembly of the League of Nations and that a special Committee appointed by the Council was shortly going to deal with the question.

As regards the first point, the French delegation pointed out that the question of an embargo was closely related with the provisions of publicity, since the statements regarding estimates of manufacture or import would involve a self-restriction on the contracting parties. In this case the embargo would appear in the light of a guarantee of execution of the Convention.

Should the embargo be applied indifferently to all belligerents, it was pointed out that serious objections might be raised as regards the legitimacy of such an embargo applied outside the procedure laid down by the Covenant of the League of Nations and before the State, or States, responsible for the conflict had been determined. Moreover, the idea of an automatic embargo applied indifferently to all belligerents had met with the objection, in principle, that the embargo would be contrary to the Covenant of the League of Nations, which, according to certain delegations, only allowed an embargo to be legitimately applied to a belligerent recognised as an aggressor.

8. EXCEPTIONS TO THE COMMERCIAL TREATIES.

The Committee, giving effect to a proposal submitted by the U.S.A. delegation, adopted the following text:

“"The High Contracting Parties agree that the refusal of any High Contracting Party to issue an export licence for, or permit the transit of, the articles coming under Categories I to V shall not be considered as constituting a contravention of the stipulations of treaties subsisting between themselves prohibiting the placing of restrictions on the exportation or transit of articles of commerce.""

This provision, the principle of which is to be found in numerous commercial treaties, is designed to safeguard completely the liberty of decision of States in matters relating to the trade in or transit of arms in their territory.

The Polish delegation could not give a final opinion on this text since it had not appeared in the original American draft, and the delegation had not had time to ask for instructions from its Government on the point. On a first reading, however, it was obliged to make an explicit reservation, for the following reasons:

1. It was not proper that an interpretation of bilateral agreements—commercial treaties in this particular case—should be given in a general convention.

2. The suggested text would be inconsistent with the principle of equality between producing and importing countries. If it were adopted, the producing State might at any time, without being called upon to justify its attitude, cancel orders made by importing States, by refusing to issue an export permit.

It must be understood that, in the view of the Polish delegation, these remarks applied solely to the proposed text and were not intended as a criticism of any similar clauses in existing commercial treaties.
Furthermore, the Polish delegation would admit the justification for a refusal to issue an export permit if such refusal were based upon an explicit stipulation in the present Convention. The Turkish and Yugoslav delegations also opposed the insertions of this text in the Convention.

The Italian delegation stated that it could not accept the text in question unless it were construed as meaning that the refusal to grant an export or transit permit was based upon a stipulation in the Convention under consideration. Should other grounds be advanced for such refusal, the Italian delegation considered that the question whether the refusal was legitimate under the treaties in force between the contracting parties should be reserved.

9. RELATION BETWEEN THE CONVENTION AND INTERNATIONAL UNDERTAKINGS NOW IN FORCE.

The Polish delegation, considering it advisable to make it quite clear that the object of the provisions of the future Convention is not in any way to modify previous international obligations, proposed the insertion in the Convention of an article reading as follows:

"In time of peace, as in time of war, and in the absence of contrary provisions in the present Convention, the rights and obligations of the High Contracting Parties in virtue of other international undertakings shall in no way be modified by the present Convention."

This proposal referred in particular to international undertakings which are to become operative in the event of war (Article 16 of the League Covenant, London Agreements of 1933 concerning the definition of the aggressor, Hague Conventions regarding neutrality, etc.). The Polish delegation considered that various questions which might arise in connection with these agreements could not be settled in the future Convention; the latter had other aims in view, and could therefore not deal with such problems. If necessary, the Polish delegation would have been satisfied with the following provision which, in its opinion, would obviate any misunderstanding:

"It is not the object of the present Convention to determine or modify the rights and duties of belligerents and neutrals."

Some delegations, and in particular the United Kingdom, Swedish and Swiss delegations, agreed with the Polish delegation and considered that, in a limited convention such as that with which they were now dealing, it would be difficult to modify the fundamental principles of existing international law.

While it did not express any final opinion as to the scope of the Polish proposal, the majority of the Committee considered it preferable not to lay down such a general principle in the Convention. In the opinion of some delegates, it was difficult to know what all the agreements were, the application of which would be reserved by the proposal in question and whether their provisions were compatible with the Convention under preparation. Moreover, in so far as the principle of neutrality had to be maintained, the proposal was, in the view of these delegations, open to the same objections as those mentioned in paragraph 5 (neutrality).

10. PROVISIONS CONCERNING POLAND AND THE FREE CITY OF DANZIG AND THE TRANSIT AGREEMENTS BETWEEN POLAND AND GERMANY.

As stated above, the Polish delegate was anxious that, in the absence of a general stipulation in Article 16, covering cases to which the Convention does not apply, the following article should be inserted in the chapter relating to the trade in arms and implements of war:

"The High Contracting Parties note that the provisions of the present Convention do not apply to the transport of articles coming under Categories I to V effected under the conditions provided for in the Agreements concluded on April 21st, 1921, and February 14th, 1933, between Poland and the Free City of Danzig of the one part and Germany of the other part, or to the transport of the said articles by Poland within the limits of Polish Customs territory."

This article is in the nature, not of a reservation, but of an explanation. The Committee of Jurists therefore unanimously agreed that the solution afforded by this provision resulted from the normal application of the principles of the future convention.

11. STATE FINANCIAL ASSISTANCE TO PROMOTE EXPORTS.

A United Kingdom proposal in the following terms (document Conf.D./C.C.F.78) had been referred to the Committee:

"The High Contracting Parties undertake that they will not provide any form of State financial assistance for encouraging the export of any of the articles enumerated in the categories in Article . . . ."
Without again going over all the objections which had been raised in the Plenary Committee against the principle on which this stipulation is based, the Committee of Jurists nevertheless deemed it desirable to emphasise certain serious difficulties to which the application of a new rule stated in such general terms might give rise. As regards the principle of the proposal, and leaving on one side the question of whether it would be proper for the Plenary Committee to deal with a subject not necessarily in direct relation with the actual purpose of the Convention, the Committee of Jurists did not rule out the possibility of a subsequent examination of this problem. At the same time, it was of opinion that a prohibition of this kind could not with advantage be inserted in a Convention unless every precaution were taken to ensure that it did not remain a mere pious aspiration. In view of the many forms, both direct and indirect, which financial assistance within the meaning of the United Kingdom proposal may nowadays take, it seemed indeed obvious that it would be easy to elude the obligation in question unless more accurately defined. In this connection account had to be taken of various observations which had been made, the more important of which may be briefly summarised as follows:

1. As the draft Convention is, in general, limited to a system of publicity and control, it may be doubted whether it would be wise to adopt a principle which would go beyond publicity regarding the manufacture of and trade in arms. This principle would, it appears, be open to the same objections as the qualitative or quantitative limitations which it has been generally agreed not to introduce into a draft of such restricted scope.

2. As the proposal refers to State assistance to the armament industry, the prohibition would not apply to States manufacturing war material in their own factories, as such States could financially encourage manufacture in these establishments without laying themselves open to the criticism of having granted assistance in the strict sense of the term. There would thus be flagrant inequality of treatment as between States manufacturing their own arms and armament industries and States whose armament industries were all in private hands, as the latter States would not enjoy the same opportunities of encouraging their manufacturers.

3. In practice, it would be illusory to prohibit State assistance if such a prohibition did not effectively cover all the indirect forms which such assistance might take (loans, export bounties, subsidies to war industries, guarantees of the payment of debts, reduction in transport rates, fiscal exemptions, etc.).

4. On the other hand, it should be borne in mind that State assistance may be extended to industries—as is frequently the case—which manufacture both war material and other articles of an entirely different character. The application of the principle proposed would be tantamount to preventing States from affording assistance to undertakings which manufacture the class of articles dealt with in the draft Convention only incidentally.

Various delegations spoke in favour of the principle on which the United Kingdom proposal is based, while at the same time recognising the real difficulties in the way of a satisfactory solution. One of them, the French delegation, declared, however, that it would be difficult for many States to accept the applications of this principle until financial assistance to States victims of an aggression had become a reality. The Soviet delegation was of opinion that the difficulties pointed out by the Legal Committee were not such as could prevent the adoption of the proposal.

The United Kingdom delegation took note of the reasoned objections to which its proposal had given rise and declared its intention of giving it further consideration and perhaps of submitting it for examination by the Committee in a revised form at some later stage.

12. GENERAL PROVISIONS.

The Committee thought that the Convention should include a last chapter devoted to "General Provisions". This chapter would reproduce certain of the provisions to be found in the Convention on Trade in Arms of June 17th, 1925, and would, in the first place, contain certain clauses which are usually known as final clauses and relate to the following questions or to some of them: entry into force of the Convention, duration, revision, settlement of disputes regarding the interpretation or application of the Convention, etc.

The study of this latter point appeared to the Committee to be of particular importance. The Spanish, Swedish and Swiss delegations expressed the opinion that an arbitration clause which might be based on the Conventions concluded under the auspices of the League of Nations, or on Article 9 of the United Kingdom draft of March 16th, 1933,1 should be inserted in the Convention. They added, in order to take into account the wishes expressed by certain delegations, that they would willingly consider the possibility of conferring certain powers on the Permanent Disarmament Commission in regard to conciliation. The French, Italian, and Polish delegations reserved their opinion on the solution to be adopted for these problems.

This chapter would also contain, in the order indicated below, the articles framed by the Committee of Jurists with regard to: (a) the suspension of the Convention; (b) neutrality; (c) derogations; (d) derogations from commercial treaties.

In order to facilitate the Plenary Committee's task, a table of the various articles proposed has been attached to the present report with an indication of the chapter in which they would be inserted.

1 See document Conf.D.157.
Appendix.

ARTICLES PROPOSED BY THE COMMITTEE OF JURISTS.

Chapter II.

Article I (former Article 2).

The text proposed by the Committee of Jurists has been inserted in Part II of the present report (Draft Texts, page 8).

Chapter III.

Article 16.

The text proposed by the Committee of Jurists has been inserted in Part II of the present report (Draft Texts, page 19).

Article 16a (Poland, Free City of Danzig, Polish-German Transit).

"The High Contracting Parties note that the provisions of the present Convention do not apply to the transport of articles coming under Categories I to V which are effected under the conditions provided in the Agreements concluded on April 21st, 1921, and February 14th, 1933, between Poland and the Free City of Danzig of the one part and Germany of the other part, or to the transport of the said articles by Poland within the limits of Polish Customs territory."

Chapter V.

General Provisions.

The texts proposed by the Committee of Jurists have been inserted in Part II of the present report (Draft Texts, page 32).

REPORT BY THE TRANSIT COMMITTEE.

Rapporteur: M. Westman (Sweden).

The Transit Committee was set up by a decision of April 1st, 1935, of the Committee for the Regulation of the Trade in and Manufacture of Arms and Implements of War. It held three meetings with M. Westman, Sweden, in the chair. The delegations of the United Kingdom, the United States of America, France, Italy, Latvia, Poland, Sweden, Switzerland, the Union of Soviet Socialist Republics and Yugoslavia were represented on the Committee.

* * *

The Netherlands Government (document Conf.D./C.C.F.51) had drawn attention to the fact that Chapter III of the draft submitted by the United States delegation (document Conf.D.1067) regulated exports and imports of arms, ammunition and implements of war without, however, speaking of transit, which seemed to the Netherlands Government an omission.

In addition, the U.S.S.R. delegation submitted the following proposals (document Conf.D./C.C.F.77) containing provisions introducing a system of transit permits.

"Insert in Article 8, after sub-paragraph (d), an additional sub-paragraph (e) reading as follows:

" (e) For consignments embraced in Categories I, II and III and passing in transit through the territories of third countries, the names of the Governments which have authorised the transit and a reference to the transit permits issued by such Governments."

"Add the following passage at the end of Article 8:

"The transit permit for implements of war embraced in Categories I, II and III shall contain:

" (a) A description of the implements of war (categories of arms, arms, component parts) the transit of which is authorised;

" (b) Particulars of their quantity or weight;

" (c) The names and addresses of the exporter and the importing consignees . . ."
Insert, after Article 8, a new article reading as follows:

The High Contracting Parties undertake to enact the necessary legal provisions to compel transport undertakings in the territories under their jurisdiction to transport the arms, ammunition and implements of war specified in Categories I to V inclusive only on the production of an export, import or transit permit, or duly certified duplicate thereof, in all cases where such permit is provided for by the present Convention.

The High Contracting Parties shall require their Customs authorities to allow the passage of such consignments only on production of the said permits. The documents covering such consignments shall be preserved by the transport undertakings and Customs authorities for a period of three years.

Add the following paragraph at the end of Article 9:

The High Contracting Parties shall also forward to the Permanent Disarmament Commission:

1. Copies of all transit permits, before the arrival in their territory of the consignments passing in transit;
2. The certificates of the Customs authorities proving that the consignment referred to in the transit permit has left their territory, such certificate to be forwarded to the Permanent Disarmament Commission not later than one month after the said consignment has left for abroad.

Special mention of the transit shall be made in the copies of all the import and export permits referred to in the first paragraph of the present article.

The French delegation proposed (document Conf.D./C.C.F.79) to insert, both in the export and import permits, the proposed itinerary and the names of the transit countries. During the discussion in the Plenary Committee, the Swiss delegation observed that the system recommended by the French delegation appeared to be the same as that which had been adopted in the Opium Convention of February 19th, 1925, and which had given good results. In applying this system, they would find themselves on ground which had already been explored and where all difficulties of application seemed to have been overcome in practice.

The Plenary Committee, after a first exchange of views, asked the Legal Section, in consultation with the Communications and Transit Section, to give an opinion on the legal aspects of the question of transit, considered in the broadest manner (documents Conf. D./C.C.F.86 and 86 (a)).

The Plenary Committee, after receiving this opinion, took up the question afresh. The majority of the members of the Committee showed themselves, in principle, to be in favour of the drawing-up of rules applicable to transit, but the Committee thought that, in addition to somewhat complex legal aspects, the question presented political and practical aspects. It therefore asked the Transit Committee, which it was setting up, to study the question as a whole.

The following proposal (document Conf.D./C.C.F./C.D.T.3) was laid before the Transit Committee by the United Kingdom delegation:

"Article . . .

(a) The High Contracting Parties undertake to prohibit in the territories subject to their respective jurisdictions the reloading, in the course of transit or transhipment, of arms, ammunition and implements of war as set forth in Categories I, II and III of Article . . ., unless there has been produced to the Customs authorities in the country of reloading a certificate, issued by the Government of the exporting country, stating that valid export and import permits have been issued for the consignment of the articles specified therein to a named destination. No such articles shall be allowed to be reloaded for a destination other than that stated in the certificate without the issue of a new export permit.

(b) The High Contracting Parties undertake to prohibit the overland carriage through the territories subject to their respective jurisdictions of arms, ammunition and implements of war as set forth in Categories I, II and III of Article . . ., unless there has been produced to their Customs authorities a certificate issued by the Government of the exporting country similar to that mentioned in paragraph (a) above. No such articles shall be allowed to be conveyed out of their territories for a destination other than that stated in the certificate without the issue of a new export permit.

(c) The certificate mentioned in paragraphs (a) and (b) of this article shall contain the following details:

1. A reference to the export and import permits in virtue of which the shipment is made;
It would also be desirable to consider introducing a third document, to accompany the other should be accompanied by export and import permits attached to the bill of lading or way-bill.

Effective supervision over the transit of arms and implements of war.

or in towns, ports or zones under a special regime need not prevent the establishment of guaranteeing freedom of transit, or specified conditions for transit, on internationalised routes transit countries to exercise effective supervision.

a transit permit issued by the transit countries. Nothing but a transit permit, subject to the diversion of the goods, which would always be possible unless they were accompanied by countries, no effective supervision could be exercised and there would be no guarantee against

Arms and implements of war consigned from one country to another through a third country

on their own initiative, or on the initiative of the Permanent Disarmament Commission samples of suspicious cargoes to be taken from time to time, either by the Customs authorities

proposals so far put forward were confined to the verification of the documents accompanying

for countries which had no access to the sea a servitude that might deter them from ratifying the Convention. The United Kingdom delegation, however, not having agreed to the principle of copies of the export or import permits or of orders being forwarded to the Permanent Disarmament Commission, felt that it would be unfair to ask

the fear that any measure going further than the United Kingdom proposal for a simple transit would constitute for countries which had no access to the sea a servitude that might deter the transit countries. It had devised the system of transit certificates which would certify that the essential documents—export and import permits—had been issued and would indicate the destination of the consignment. The certificates would show the heads of the categories, and that would suffice to identify the consignment, so that it would be unnecessary to unpack the cases in order to check their contents. The United Kingdom delegation thought that such certificates would be sufficient to ensure supervision of transit.

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The United Kingdom delegation observed that all that was involved by the system it proposed, which represented the standpoint of a naval Power, was to ascertain whether the consignments were accompanied by the necessary papers—namely, transit certificates—and to ensure that the goods despatched could not leave the country of transit for any destination other than that indicated in those documents unless the country of transit took the responsibility of issuing a new export permit. The United Kingdom delegation, however, not having agreed to the principle of copies of the export or import permits or of orders being forwarded to the Permanent Disarmament Commission, felt that it would be unfair to ask

it further drew attention to the complicated nature of the transit problem, and expressed the fear that any measure going further than the United Kingdom proposal for a simple transit certificate would constitute for countries which had no access to the sea a servitude that might deter them from ratifying the Convention. The Italian delegation laid special emphasis on the risk entailed for States which did not produce arms, in the event of a crisis in which hostilities might break out at any moment, through the fact of the route taken by consignments of arms and implements of war being known, as desired by certain delegations.

The French delegation expressed the opinion that the goods should be accompanied by, at the very least, copies of the import and export permits. It further pointed out that all the proposals so far put forward were confined to the verification of the documents accompanying a regular consignment of armaments. No provision was made for dealing with contraband— that was to say, the consignment of arms under a false declaration. It ought to be possible for samples of suspicious cargoes to be taken from time to time, either by the Customs authorities on their own initiative, or on the initiative of the Permanent Disarmament Commission or its supervisory organs.

The U.S.S.R. delegation expressed the emphatic opinion that, in the case of armaments conveyed from the exporting country to the importing country through one or more other countries, no effective supervision could be exercised and there would be no guarantee against the diversion of the goods, which would always be possible unless they were accompanied by a transit permit issued by the transit countries. Nothing but a transit permit, subject to the same rules of publicity as were contemplated for export and import permits, would oblige the transit countries to exercise effective supervision.

The U.S.S.R. delegation further observed that the existence of certain Conventions guaranteeing freedom of transit, or specified conditions for transit, on internationalised routes or in towns, ports or zones under a special regime need not prevent the establishment of effective supervision over the transit of arms and implements of war.

The United States delegation expressed the following view on the transit question: Arms and implements of war consigned from one country to another through a third country should be accompanied by export and import permits attached to the bill of lading or way-bill. It would also be desirable to consider introducing a third document, to accompany the other
two, certifying that the country of transit authorised the despatch of the war material by a specified route. Each transit country would give a similar authorisation, and in each case the authorisation would be attached, together with the export and import permits, to the bill of lading or way-bill.

The Yugoslav delegation, while reserving its attitude on the question of principle, referred to the case of countries which did not produce arms but had, under treaty, the use of free ports or free zones, and called the Committee's attention to the fact that such countries would be handicapped because consignments in transit would be subject to supervision by the transit country. It expressed the view that free ports and free zones established by bilateral agreements should be assimilated, for Customs purposes, to the actual national territory.

The Polish delegation expressed some doubt as to the utility of the provisions organising publicity for transit, but declared itself willing to accept the United Kingdom proposal on account of its flexibility, and having regard to the fact that the position of Danzig and transit between Poland and Germany would be covered by a special article drafted by the Committee of Jurists. It would also wish, however, for an exception to be made in the case of transit in sealed trucks, which in its opinion should be assimilated to the entry of a vessel in a foreign port without unloading or reloading of cargo.

In the course of the discussion, a text modifying paragraphs (a) and (b) of the United Kingdom proposal was submitted. This reads as follows:

1. Within the jurisdiction of each of the High Contracting Parties, the transit of articles set forth in Categories I to III of Article shall be prohibited, unless the consignment is accompanied by a document issued by the Government of the exporting country certifying that an export and import permit in proper form has been issued in respect of the various articles included in the consignment and of its destination, as specified.

2. Unless the certificate mentioned in the preceding paragraph is produced, the Customs authorities of each of the High Contracting Parties shall prohibit the reloading of any consignment in transit of the articles set forth in Categories I to III of Article . . . . They shall also prevent the reloading or despatch from the territory of the High Contracting Party of any consignment in transit of the said articles to a destination other than that stated in the certificate which accompanies it, until a new export permit has been issued for the said consignment.”

The United Kingdom delegation observed that the new wording of the first paragraph was too general, and that the only aspect of transit in regard to which the United Kingdom Government could agree to take responsibility was that of reloading after breaking bulk, and that in particular it reserved its position regarding the case of vessels calling at a port without unloading their cargoes.

The Italian delegation stated that it shared the opinion expressed above by the United Kingdom delegation, adding that it reserved its attitude with regard to ships calling at a port without unloading their cargoes and to international transport in sealed trucks.

During the discussion of the last text quoted above, it became apparent that no agreement could at present be reached upon it in the Committee, owing to the fact that several delegations had no instructions permitting them to determine their attitude, and that they did not possess the assistance of Customs experts.

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In view of the circumstances which have just been related and of the short time at its disposal, the Committee considered that it would be an advantage for the question to be studied at leisure by the Governments. When the latter have been able to make a careful examination of the problem, it will no doubt be easier to find a practical way of reducing the differences which manifested themselves during this first discussion. It will then be possible to begin a second reading of the question. This adjournment will also allow the Communications and Transit Organisation of the League to go into certain technical aspects of the question, according to the wish it has expressed.

ANNEX III.

PROVISIONAL REPLIES OF THE TECHNICAL COMMITTEE OF THE NATIONAL DEFENCE EXPENDITURE COMMITTEE TO THE QUESTIONNAIRE1 SUBMITTED TO IT BY THE COMMITTEE FOR THE REGULATION OF THE TRADE IN AND PRIVATE AND STATE MANUFACTURE OF ARMS AND IMPLEMENTS OF WAR.

E. Replies to Questions 5, 6, 7 and 8 (document Conf.D./C.C.F.98).

A. REPLY TO QUESTION I.


The National Defence Expenditure Technical Committee feels it should immediately give the Categories Committee a provisional reply to the first question put to it, which reads as follows:

"Rearrangement of the categories and items in Article I with a view to bringing the categories of implements covered by the regulations for the manufacture of and trade in arms into line with the implements included in the conventional list of items of national defence expenditure in the draft Convention on budgetary publicity."

The purpose of this provisional reply is to explain to the Categories Committee: (1) the essential characteristics of the method of publicity for expenditure on material provided for in the draft Convention on Budgetary Publicity; (2) to bring out the basic differences between budgetary publicity, as provided for in the Technical Committee’s draft Convention and publicity for the implements referred to in the U.S.A. draft (document Conf.D.167).


With a view to defining the purpose to be attained by publicity of expenditure on war material (Heads IV of the Model Statement of Items of National Defence Expenditure), the Technical Committee drew up a conventional list of such material which is included in the draft Convention on Budgetary Publicity (document Conf.D./C.G.160(I), pages 11 to 12).

This conventional list presents the following essential characteristics: (1) it includes all material used by the armed forces; (2) like the Model Statement itself, it shows separately the material of the land, naval and air forces; (3) it takes the form of as full a specification as possible of the various war materials, this term being used in its widest sense and including material such as engineering equipment and electrical material, etc., which, for the purposes of the U.S.A. draft, are not regarded as arms.

The following are the reasons which led the Technical Committee to draw up the conventional list in accordance with the above-mentioned characteristics: (1) the manufacture and upkeep of all armaments used by the armed forces are paid for out of the credits granted by the public authorities to the national defence services; (2) during the Technical Committee’s examination of budgets and accounts, it found that the expenditure on material for the three forces was in most cases shown separately.

Furthermore, the Committee, on the basis of the actual facts themselves, has pursued the essential aims towards which the work on disarmament has hitherto been directed—namely, to obtain as detailed information as possible on the various forms of military activities.

The Committee drew up a list of all war material—which, however, it does not regard as exhaustive—in order to make it easier for the various Governments to establish their Model Statements, mentioning the precise material on which expenditure in respect either of construction, manufacture or purchase, or repair or upkeep, should be included under the various sub-heads of Heads IV of the Model Statement.

II. Comparison of the Categories in the U.S.A. Draft Convention (Document Conf.D.167) with the Conventional List of Items of National Defence Expenditure drawn up for Purposes of Budgetary Publicity.

A comparison of the categories in the U.S.A. draft with the conventional list of items of national defence expenditure for budgetary publicity purposes reveals the following discrepancies:

(1) Whereas the conventional list drawn up for purposes of budgetary publicity includes only armaments utilisable for national defence purposes, the U.S.A. draft comprises, in addition to such material, arms and ammunition capable of being used for both military and non-military purposes (Category IV), as well as arms and ammunition designed and intended for non-military use and which only incidentally and exceptionally can be used for military purposes (Category V);

(2) Whereas a distinction is made in the conventional list drawn up for purposes of budgetary publicity and in the Model Statement itself between material intended for land forces, naval forces and air forces, no such clear distinction between them has been made in the U.S.A. draft. Category I of the U.S.A. draft covers arms intended for the land, naval and air forces (rifles, machine-guns, etc.).
(3) Whereas the conventional list drawn up for purposes of budgetary publicity is very detailed, in the U.S.A. draft, material is grouped together according to the system which it is proposed to apply to it as regards publicity and control.

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Although the following considerations merely constitute a provisional reply to the question referred to it, the Technical Committee would draw the special attention of the Committee on Categories, for any necessary action, to the discrepancies mentioned under (1) and (2)—the discrepancy mentioned under (3) is not of special importance from the point of view of the proposed co-ordination.


Geneva, April 10th, 1935.

B. SUPPLEMENTARY REPLY TO QUESTION 1.

Rearrangement of the Categories.

Note by the Technical Committee on National Defence Expenditure.

I. The principal differences of form between the categories proposed in the U.S.A. draft Convention and the conventional list of national defence expenditure established by the Technical Committee on Expenditure, together with the reasons by which the latter was guided, have already been explained by the Technical Committee in a provisional note 1. The text of the article adopted by the Technical Committee on Categories 2 having been communicated, it is now possible to make a more detailed reply to the above-mentioned question by applying in practice to that article the principles of which a summary account has already been given. The Technical Committee on Expenditure desires, however, to point out that the conclusions it has formulated do not imply any expression of opinion as to the technical considerations on which the final decision of the Committee on Categories will be based and must not be construed as attempting to prejudge those decisions.

II. With regard to the question of correspondence, the Technical Committee, being unable to deal with it in every aspect, thought it best to consider the point solely from the angle of budgetary technique. Under those conditions, the formula appended hereto would, in the opinion of the Technical Committee, make it possible to establish a fairly close correspondence between the categories and the conventional list of national defence expenditure. For reasons inherent in the nature of the system contemplated by the Committee on Manufacture, however, it may be considered inexpedient to adopt a solution which would involve the redistribution of certain heads in Category I between Categories II and III. In that case, the Technical Committee on Expenditure is of opinion that a certain degree of correspondence could be established, if this were thought advisable, either by so arranging the heads in Category I as to show separately, inside that category, the expenditure of each of the three forces on the common arms, or by requesting States to show, for each head under which material common to more than one of the forces appears, the expenditure of each of the forces concerned on such material.

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Appendix.

OBSERVATIONS CONCERNING THE REDISTRIBUTION OF THE HEADS OF CATEGORIES I TO III, FOR THE PURPOSE OF ESTABLISHING A CORRESPONDENCE WITH THE CONVENTIONAL LIST OF NATIONAL DEFENCE EXPENDITURE.

I. In order to obtain exact correspondence between the composition of the categories and that of the conventional list of national defence expenditure, it would be necessary to rearrange the categories so as to include all the arms, ammunition and other war material purchased or manufactured for national defence forces, referred to in Part IV of the budgetary publicity statement, the armaments of each of the forces—land, naval, or air—including the usual arms employed by those several forces, appearing in a separate category.

II. As regards the comparison of the contents of the categories with the contents of the conventional list, it may be noted that, as the Committee on Manufacture was anxious to limit the publicity laid down for certain implements or arms, there is no need to propose any

1 See A above.
2 See Article 4, page 8.
addition to the arms, etc., appearing in Categories I to III, even in the case of arms mentioned in one of the other categories, such as "revolvers and automatic pistols" (Category IV), which are, however, used by practically all national defence forces, and which, for that reason, are included in Part IV of the budgetary publicity statement. Similarly, it is not proposed to rearrange the contents of Category V, which includes certain aircraft intended for the air forces not covered by the definition provided for in Category III, and appearing in Part IV of the budgetary publicity statement.

III. The question that arises is thus how to effect, by distributing the heads of Categories I to III among those categories, a separation between the armaments of the three forces, so that each force shall be represented by a single category.

VI. As is clear from the character of the majority of the arms included under its various heads, Category I would require only a minimum of rearrangement in order to be used for the land forces. It would be sufficient to amend the present text in the following particulars:

(a) Heading: For "Military Armaments" read "Armaments: Land Forces";
(b) Delete the sub-heading;
(c) Head 5: Delete "bombs" (to be inserted in Category III), "torpedoes and mines, filled, etc." (to be inserted in Categories II and III) and "periscopes for submarines" (to be inserted in Category II).

V. In its present form, Category II does not cover the whole of the armaments of the naval forces, as the common weapons intended for the use of such forces, together with certain specifically naval types of ammunition, when such weapons and ammunition do not form part of the normal armament of a warship, are included in Category I. Category II might therefore be arranged as follows:

"Category II. Armaments. Naval Forces.

1. Rifles and carbines and their barrels and bolts.
3. Guns, howitzers, and mortars of all calibres, and their mountings, barrels, recoil-mechanisms, and recuperators.
4. Ammunition for the arms enumerated under 1 and 2 above; filled and unfilled projectiles for the arms enumerated under 3 above, and prepared propellant charges for those arms.
5. Grenades, torpedoes, and mines, filled or unfilled, and apparatus for their use or discharge. Periscopes for submarines.
6. Vessels of war of all kinds, including aircraft-carriers and submarines, and their arms, ammunition, and implements of war, mounted on board, and forming part of their normal armaments."

VI. Similarly, for Category III, the following text might be considered:

"Category III. Armaments. Air Forces.

1. Rifles and carbines and their barrels and bolts.
3. Guns, howitzers, and mortars of all calibres, and their mountings, barrels, recoil-mechanisms, and recuperators.
4. Ammunition for the arms enumerated under 1 and 2 above; filled and unfilled projectiles for the arms enumerated under 3 above, and prepared propellant charges for those arms.
5. Grenades, bombs, and torpedoes, filled or unfilled, and apparatus for their discharge.
6. Aircraft, assembled or dismantled, both heavier and lighter than air, which, by reason of their design or construction, are adapted or intended either for naval or military reconnaissance or for aerial combat by the use of machine-guns, or artillery, or for the carrying or dropping of bombs, or which are equipped with or prepared for any of the arms or appliances referred to under 2.
7. Special guns and machine-guns for aircraft, and their gun-mounts and frames. Bomb-racks and torpedo-carriers, and bomb or torpedo release mechanisms."
VII. It is not for the Technical Committee on Expenditure to express an opinion regarding the diversity of the armaments used by the three national defence forces in the various countries. Possibly, for example, it may be necessary to include Head 6, "tanks, armoured vehicles and armoured trains, etc.", in all categories, or to repeat the reference to "mines" in the categories relating to the land and air forces also.

Such modifications, which could only be decided upon by the Committee on Categories, which is alone in possession of the necessary information, would in no wise affect the general purport of the foregoing observations.

C. REPLY TO QUESTION 2.


The questions referred for study by the Sub-Committee on Manufacture to the Technical Committee on Expenditure include the following:

How should the particulars regarding State subsidies to, and shares in, private undertakings be shown in the copies of the licences?

The Technical Committee has the honour to recall that, during its previous sessions, it examined on several occasions the problems raised in connection with the granting by Governments, in very diverse forms, of subsidies to private enterprises manufacturing armaments material and in connection with the participation of States in these enterprises. In the draft Convention it has prepared, the Committee has thought it desirable to insert stipulations providing, on the one hand, that expenditure on such subsidies and shares should be included in the statements of national defence expenditure and, on the other, that certain special information should be given in connection with these subsidies or shares (see in particular Volume I of the Report of the Technical Committee (document Conf.D.158, pages 11, 18, 71 and 81) and the draft Convention on Publicity of National Defence Expenditure (document Conf.D./C.G.160(I), pages 29, 36, 40 and 81)).

On coming to consider the question raised by the Sub-Committee on Manufacture, the Technical Committee found that it did not possess the necessary documents to enable it to form a more definite idea as to the aim of the proposal that particulars regarding subsidies and financial shares should be shown in the copies of the licences. In these circumstances, and before entering upon the technical studies for which it possesses the necessary data, the Technical Committee considers it necessary to ask the Sub-Committee on Manufacture to be good enough to supply it with more definite information on the subject.


D. REPLIES TO QUESTIONS 3 AND 4 AND ANNEXED NOTE IN REGARD TO THE CONNECTION BETWEEN PARTICULARS OF EXPENDITURE ON ANNUAL INSTALMENTS AND THE HEAD IV IN THE RETURN OF ESTIMATED EXPENDITURE.

PROVISIONAL REPLY TO QUESTION 3.

What particulars should be shown in the return of estimates of annual instalments (document Conf.D./C.C.F.61) ?
To what arms and implements of war might those estimates apply?

In document Conf.D./C.C.F.61 (Article 7(c)—amendment presented by the French delegation), it is proposed that at the beginning of the financial year, on a date to be determined, the contracting parties will send a return showing:

(1) The quantities of certain of the most important materials and
(2) The amounts, specified by headings, of the credits granted for the manufacture of certain materials.

(a) Although the problems raised by this proposal have been referred as a whole to the Technical Committee for study, the latter does not appear to be qualified to express an opinion on the particulars of quantities to be included in the annual instalments of manufacturing programmes, but can only pronounce on the particulars of expenditure to be so included. Neither does it appear to rest with the Committee to decide on the choice of materials in regard to which these particulars should be given.
(b) Should the principle of indicating annual instalments of manufacture be adopted, it appears that the three following possibilities might be contemplated:

1. Proposed expenditure to be shown separately for each of the arms listed in the categories;
2. Expenditure to be shown by headings in the categories;
3. Expenditure to be shown separately for certain important arms included under certain headings of the categories.

The Committee thinks it necessary to make the following observations in regard to these three possibilities:

Ad (1). From the technical standpoint, there would be very serious practical difficulties in giving particulars of expenditure separately for each of the arms enumerated in the categories.

Ad (2). If each of the headings in those categories includes an enumeration of materials of the same kind, the manufacture of which requires the use of similar plant, the Committee is of opinion that it will be possible to give, for each of the headings, estimates of the expenditure proposed for the manufacture of the materials enumerated.

The preliminary examination of the categories provisionally established in document Conf.D./C.C.F./C.T.22(I) (see Article 4, page 8) shows that the headings of those categories cover materials which for the most part have common technical features and are manufactured in the same factories, managed and administered by the same administrative offices, and that it should therefore be easy to combine the corresponding estimates of expenditure.

Ad (3). As to the third possibility, the Committee cannot offer any definite opinion until it has some information regarding the materials in respect of which particulars would be specially required.

(c) The particulars of expenditure on the annual instalments (i.e., estimated expenditure) will be extracted with the help of administrative documents from the expenditure estimates in the budget or other national defence expenditure authorisations, or will be computed on the basis of those estimates with the help of internal accounts. This being so, it is obvious (1) that, if the annual instalment of manufacture is to be computed by this method, the figures cannot be regarded as verifiable by means of public documents; (2) that the particulars of expenditure included in the annual instalments can relate solely to the manufacture of the materials enumerated in the categories and which are intended for the land, naval and air armed forces.

On the one hand, when a heading only comprises material intended for the armed forces, the annual instalment figure given will cover the expenditure proposed for the manufacture of all the material under that heading. On the other hand, if a heading includes both material intended for the armed forces and material intended for another use, the annual instalment figures will cover only the manufacture of material under that heading intended for the armed forces.

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**PROVISIONAL REPLY TO QUESTION 4.**

**Question 4, Paragraph 1.**

What is to be understood by expenditure on purchase and manufacture for the purposes of Article 7, paragraph (c), second sub-paragraph (document Conf.D./C.C.F. 74)? How, in particular, is such expenditure to be calculated in the case of non-autonomous establishments?

I. By expenditure on purchase and manufacture for the purposes of Article 7, paragraph (c), second sub-paragraph, is to be understood the sums provided each year in the initial expenditure authorisations and granted by the public authorities to the national defence services:

(a) For the purchase in the course of the year of the arms, ammunition, implements and component parts enumerated in Categories I to V and intended for the land, naval and air forces, and

(b) For financing in the course of the year the manufacture or construction of the arms, ammunition, implements and component parts mentioned under (a).

II. The foregoing stipulations apply to the purchase, manufacture or construction of new and complete appliances, and also of component parts intended for the subsequent manufacture of complete appliances, or the modernisation or repair of existing appliances, sums provided for the incorporation of component parts in existing appliances being excluded.

III. (a) In the event of the arms, ammunition, implements and component parts included under Point I being purchased from private factories or foreign Governments, the sums earmarked for the purchase of such arms, ammunition, implements and component parts shall be specified.
(b) If the arms, ammunition, implements and component parts referred to in Point I are delivered, against payment, by autonomous State establishments to the national defence services, the estimated amount of such payment shall be shown.

(c) If the arms, ammunition, implements and component parts referred to in Point I are manufactured or constructed in non-autonomous State establishments, the amount to be shown shall include the estimated cost of the materials to be incorporated in the article (raw materials, semi-finished or finished products), labour and overhead charges. When the Convention is first put into effect, each State shall explain by what method it estimates the above-mentioned amount on the basis of its system of accounting. If States find it necessary to change their bases of calculation owing to changes in their methods of accounting, they should explain such changes.

Note.—Should these stipulations subsequently be inserted in the draft Convention, they should be supplemented by instructions regarding their application.

Question 4, Paragraph 2.

What degree of detail can be attained in the statement of expenditure?

See reply to Question 3.

Question 4, Paragraph 3.

Is it possible to synchronise the statement of estimated expenditure on manufacture provided for in Article 7, paragraph (c), second sub-paragraph, and the statement of estimated expenditure provided for in Article (d) of the draft Convention on Budgetary Publicity?

As has already been stated in the reply to Question 3, the expenditure indicated in the annual instalments of the manufacturing programmes represents part of the total expenditure to be entered under Head IV.

Like the figures in Head IV, the expenditure figures for the annual instalments are taken from the budgets or other initial expenditure authorisations (see (c), page 58).

The particulars in respect of the annual instalments represent additional detailed and specific information regarding the expenditure on the manufacture of the types enumerated in the categories, which is incorporated in toto in Head IV, together with the expenditure on the manufacture of material not mentioned in the categories and expenditure on upkeep.

The statements of estimated expenditure can only be drawn up at the moment when the budgets and initial expenditure authorisations are fixed. It will be at the same juncture that the authorities will have in their possession the necessary material to indicate, in respect of the annual instalments, the required particulars of expenditure on the manufacture of the material enumerated in the categories.

The relationship between the information regarding that part of the expenditure comprised in the annual instalments and the total expenditure on material shown in Head IV being thus demonstrated, the Committee considers that, from the technical point of view, it would be possible for particulars of the expenditure involved by the annual instalments of the manufacturing programmes to be communicated to Geneva within the same time-limit (three months after the beginning of the financial year) as is fixed for the statement of estimated expenditure.

Annexed Note.

CORRELATION BETWEEN THE PARTICULARS OF EXPENDITURE IN RESPECT OF ANNUAL INSTALMENTS AND HEAD IV OF THE STATEMENT OF ESTIMATES OF EXPENDITURE.

It will be recalled that, in December last, when submitting his supplementary report (Conf.D.158, Volume III), the Chairman of the Technical Committee on Expenditure mentioned the following text adopted by the Committee:

"The Committee desires to point out, firstly, that, in submitting its final draft for a Convention, it has only taken into consideration the technical requirements of a system of publicity of national defence expenditure. Accordingly, should it be thought advisable ultimately to co-ordinate budgetary publicity with other forms of publicity, this co-ordination should, from the technical point of view, be achieved by means of supplementary instruments independent of the system of budgetary publicity proper."

The above text shows that the Technical Committee was considering the possibility of correlation between publicity concerning expenditure and other forms of publicity. It would now appear that, as regards estimates of expenditure, the supplementary instruments, the
possibility of which was considered by the Technical Committee, are taking the form, at any rate in the minds of certain delegations, of a statement of the expenditure proposed for the manufacture or construction of material.

Whereas budgetary publicity comprises under Head IV (Statement of Estimated Expenditure) the whole of the expenditure proposed for the manufacture, construction and upkeep of the material used for the armed forces, the particulars of the annual instalment will cover only the expenditure proposed for the manufacture and construction of the material included in the categories and intended for the armed forces.

The expenditure shown in the annual instalment will therefore represent only a part of the expenditure included under Head IV.

Is it possible to establish correlation between "the whole" (expenditure under Head IV) and part of the expenditure included in the annual instalments, and what will be the value of a comparison between these two indications of expenditure?

The reply to this question is different according to whether we consider expenditure on land material, naval material or air material.

1. Expenditure on Land Material.

Expenditure on the arms, ammunition and fighting material intended for the land forces is to be found under sub-head M. The list of the materials the expenditure on which is included in this sub-head is given on page 30 of the draft Convention Conf.D./C.G.160(I). The whole of the material of the land forces enumerated in Category I (see Article 4, page 8) is included in the list of materials in sub-head M. However, that list also includes certain items such as vehicles for the transport of certain appliances, electrical apparatus, ammunition wagons, carts, side-arms, etc. It will therefore be seen that particulars of expenditure on the annual instalments of the manufacture programme will not cover the whole of the expenditure on the manufacture of the materials enumerated in sub-head M. Nor will those particulars show the expenditure on upkeep included in sub-head M. Nevertheless, as Category I includes the most important land materials, the manufacture of which is the most costly, and as expenditure on manufacture is much greater than expenditure on upkeep, there can be no doubt that the particulars of the expenditure included in the annual instalments will comprise the greater part of expenditure on manufacture and even of the total expenditure in sub-head M. If therefore a comparison is made from year to year of the respective variations of the expenditure appearing in the annual instalments and of the expenditure appearing in sub-head M of the statement of estimates, some very useful counterchecks will be obtainable.

2. Expenditure on Naval Material.

(a) The list of naval material, the expenditure on which is included under Head IV of the Statement of the Naval Forces (see page 31 of the draft Convention), is more complete than the enumeration of naval material contained in Category II and Category I (see Article 4, page 8), but the two categories mentioned above comprise much the most important naval material. Moreover, the difference in the content of the particulars of expenditure in respect of annual instalments and those appearing in Head IV is merely due to the fact that the categories do not include certain ships such as tugs, barges, lighters, floating docks, etc.

Consequently, the expenditure on manufacture indicated in the annual instalments would cover a great part of the expenditure on manufacture appearing under Head IV.

(b) Furthermore, sub-head L of the statement of estimates for the naval forces being exclusively concerned with expenditure on new construction to the exclusion of expenditure on upkeep which is contained in sub-head M, there is complete correlation between the annual instalments of the naval construction programmes and sub-head L of Head IV of the naval forces. It is self-evident that this correlation will provide a more definite basis of comparison between the particulars in respect of annual instalment and the expenditure of Head IV, than in the case of the land forces.

3. Expenditure on Air Material.

With reference to document Conf.D./C.C.F./C.T.22(I) (see Article 4, page 8), it will be noted that aircraft (Category III(I) and Category V(I)) are grouped, not on the basis of their use for military or civil purposes, but on the basis of the fact that they possess or are arranged for a definite equipment. Each of the two items indicated above can therefore include aircraft used for military or civil purposes. There is thus a difference of conception between Category III, Item 1, and Category V, Item 1, on the one hand, and Head IV of the Statement for Air Forces on the other, which only comprises national defence expenditure on air material. A similar observation must be made as regards the material referred to in Items 2, 3 and 4 of Category V. Thus, in establishing the relationship between Head IV of the Statement on Air Forces and the particulars of expenditure in respect of the annual instalments of manufacture of air material assigned to the armed forces, there arise difficulties which are
essentially due to the fact that the categories relating to air armaments contain both material used for the air forces and material used for civil purposes, while, on the other hand, this material is included in two different categories.

To sum up, the correlation between the particulars to be given in the annual instalments concerning the materials included in the headings of the categories and Heads IV of the statements will encounter the most favourable conditions in the case of naval material. In the case of land material, it will also provide counterchecks of great value.

As regards air material, on the other hand, a great difficulty will arise from the fact that air material forms part of two categories, and that the different items of each of these categories contain materials for both military and civil use. This was inevitable in view of the principles by which the Committee on Manufacture has been guided in its work.


Geneva, April 8th, 1935.

E. Provisional Replies to Questions 5, 6, 7 and 8.

Question 5.

When, and in what form, would it be possible to communicate any modifications introduced during the financial year with regard to the initial facts indicated as regards the annual instalments of the manufacturing and purchasing programmes? (Document Conf.D./C.C.F.61.)

Would it be possible to synchronise the communications regarding such modifications and the summary returns provided for in Article E of the draft Convention on budgetary publicity?

The labours of the Technical Committee on National Defence Expenditure have shown that the initial expenditure authorisations nearly always undergo modifications in the course of the year as a consequence of the voting of supplementary credits or the cancellation of credits.

The general practice of many Parliaments and other legislative bodies is to group together in aggregate amounts at specified periods the modifications they make in their initial expenditure authorisations.

The Technical Committee on Expenditure, in proposing the communication of summary statements indicating the aggregate modifications made in the initial expenditure authorisations, and in providing for the submission of such statements at the expiration of two successive periods of nine and fifteen months from the beginning of the financial year, may be said to have adapted the principle of the international publicity of such modifications to the practice commonly in use in several countries. The indications of expenditure shown in respect of the annual instalments representing, with reference to Heads IV of the statements of expenditure, an additional specification of the most important items of expenditure on the manufacture of material may (like the expenditure authorisations as a whole) be modified in the course of the year.

It might no doubt be desirable, particularly where these modifications in the annual instalments involve large figures, to have these modifications communicated as and when they occur. But if the principle of the successive communication of all such indications of modifications to Geneva were to be adopted, the despatch and registration of these particulars would mean a considerable and continuous amount of clerical work. The essential, it would seem, is that it should be possible to estimate the variations in the financial expenditure approved by the different countries for the manufacture and construction of implements of war at relatively short intervals.

Now that the Technical Committee has proposed the production of summary statements at the expiration of two periods of nine and fifteen months from the beginning of the financial year for the purposes of budgetary publicity in regard to military activities as a whole, there appears to be no imperative reason against the adoption of the same periods in the case of modifications made in the initial indications of expenditure on manufacture, forming part of the annual instalments of the programme of manufacture.

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The question raised relates, not only to the date of the communication of the modifications, but also to the form of such statements of modifications.

That form (which the Technical Committee will not be in a position to determine until later) depends essentially on the form to be adopted for the statements of expenditure on the annual instalments. The statements of modifications should be related to the statements of expenditure on the annual instalments, and should show the modifications representing increases or decreases on the indications of the annual instalments, calculated on the same basis as the latter.

1 See draft Convention, Article E (document Conf.D./C.G.160(1), page 7).
It should be observed that, while a knowledge of these successive modifications is of very great interest from the standpoint of the publicity of expenditure on manufacture, and consequently of manufacture itself as the source of such expenditure, there is no prospect of being able to establish a connection between the indications of these modifications in the annual instalments and the summary of statements of the draft Convention on the Publicity of National Defence Expenditure. It is only possible to establish a synchronisation between the summary statements of budgetary publicity and the statements of modifications of the annual instalments of manufacture. The comparison of the two may, however, make it possible in certain cases to determine to some extent the nature of the expenditure to which the variations in the initial national defence expenditure authorisations relate.

Question 6.

Would it be possible to establish a relationship and synchronisation between the statement of expenditure on such manufacture and the statement of the expenditure incurred, provided for in Article F of the draft Convention on budgetary publicity?

The Committee has been supplied with no explanations relating to the statement of expenditure on manufacture mentioned in Question 6. The establishment of a system of publicity regarding completed manufactures was contemplated in an amendment proposed by the French delegation (document Conf.D./C.C.F.61, last paragraph), though the proposal was not put in the form of a definite text.

In view of the terms of the French proposal and the comments of the French expert, it would appear that such publicity would have the same scope as the publicity in regard to annual instalments of armaments programmes—that is to say, it would show expenditure on the purchase and manufacture of material for national defence purposes, it being understood that the figures for each head would represent total expenditure of manufacture actually completed during the period dealt with in the statement.

The Committee’s reply to Question 6 is tentative and in general terms. As the categories have not yet been finally drafted, the Technical Committee cannot yet indicate the final form which might be taken by the statement of the expenditure incurred by each Government in respect of the manufacture and purchase of war material for its own use.

The Technical Committee nevertheless wishes to point out that it is possible for States to ascertain for each implement manufactured or constructed for its account the total amount spent on such manufacture or construction. In point of fact:

1. When a State purchases its material, it is easy for it to enter the price it pays (purchase price) in the statement of aggregate expenditure on manufacture;
2. When the material is manufactured in autonomous State establishments, the supply price is always known;
3. When the material is constructed in non-autonomous State establishments, the cost price can be discovered, either on the basis of costing accounts (industrial accounts), or on the basis of statistics kept in the establishments or by administrative authorities.

Technically, therefore, it is possible to group head by head the aggregate expenditure on the manufacture of each of the articles listed in the categories.

Connection between the Statement of Expenditure on Manufacture and Heads IV in the Model Statements.

Generally speaking, the manufacture of the more important classes of material, even when mass production methods are employed, takes more than one year. Heads IV in the statements of actual expenditure (Article F of the draft Convention on Budgetary Publicity) comprise expenditure during a single year on manufactures begun in the course of previous years or still uncompleted by the end of the year to which the statement refers. The statements of aggregate expenditure on manufacture, on the other hand, comprise the aggregate amounts in respect of manufactures actually completed during the year with which the statement deals, even though the cash payments of which such amounts are made up may be spread out over a number of years.

It should furthermore be pointed out that, unlike the Heads IV of the various statements of actual expenditure, the statements of aggregate expenditure on manufacture only include sums expended on the manufacture of the type of material enumerated in the categories and take no account of expenditure on the manufacture of material which, though intended for the armed forces, is not included in these categories, or of expenditure on upkeep.

The contents of the two statements are therefore different, and no direct link can be established between the particulars that they supply. At the same time, it should be borne in mind that the expenditure on the manufacture of the material enumerated in the categories generally represents much the greater part of the expenditure on the manufacture of the types
of material included in the conventional list of expenditure for the purposes of budgetary publicity. Such being the case, whenever manufacture takes more than one year, the expenditure shown in the manufacture statements is progressively entered in the annual accounts as such manufactures are financed; if, therefore, the whole of the aggregate expenditure on manufacture and the whole of the expenditure entered in the Heads IV of the statements of actual expenditure are considered over a period of years, it may be supposed that there should be a possibility of establishing a certain connection between the particulars shown in the two statements. It is inconceivable that the expenditure shown in the two statements should not, in the long run, exhibit at least the same tendencies.

Synchronisation.

The structure of the closed accounts is such that the statements of aggregate expenditure on manufacture cannot generally be made out on the basis of figures extracted from such accounts. Even if in the case of certain expenditure it proved possible to use such a method, the production of the statements would be too much delayed on account of the long period required for the compilation and production of the closed accounts. Such being the case, and in order to ensure that publicity is given to the statements of aggregate expenditure on manufacture before they lose their current interest, these statements should be based upon purchase prices, the value of supplies delivered by autonomous establishments, or the statistical information kept by non-autonomous State establishments, as the case may be. As this information can be supplied long before the publication of the closed accounts, there is no question of synchronisation between the two statements.

* * *

Question 7.

(a) What time should be allowed for the despatch by the different States of the statements indicating the national defence expenditure earmarked for the manufacture and purchase of arms and implements of war? (Document Conf.D./C.C.F.74(I.).)

(b) What time should be allowed for sending in particulars of any modifications of the figures given in the initial statement?

As regards (a), the Committee refers to the reply to Question 4, paragraph 3.¹ As regards (b), see the reply to Question 5 above.¹

* * *

Question 8.

What should be the time-limit, and what other conditions should be laid down as regards the sending-in of the quarterly returns of the total value, under each heading of the categories, of the arms and implements of war the manufacture of which was completed in the previous quarter? (See document Conf.D./C.C.F.58.)

Like Question 6, Question 8 was referred to the Technical Committee on Expenditure for investigation, without any special explanations.

The wording of Question 8, however, contains a reference to document Conf.D./C.C.F.58 (amendment submitted by the United Kingdom delegation). This document shows that Question 8 was raised in connection with the amendment to Article 7(d) of the U.S.A. draft. This amendment aims at substituting for the statement of total quantities manufactured in the territory of a State a quarterly statement, under each heading of the categories, of the total value of such manufactures. Each Government should therefore assume the obligation of stating in respect of the territory under its jurisdiction the value of manufactures, not only for its own account, but also for account of other Governments, and for the use of other parties. The wording of the amendment submitted by the United Kingdom delegation also shows that a distinction is contemplated in respect of articles included in Category III between those manufactured for the State and those manufactured for other purposes.

The Committee must point out that it cannot, without exceeding its powers, pronounce on the non-budgetary aspects of the problem of manufactures. The Committee is therefore unable to examine the conditions under which the Governments could procure and furnish statements regarding the total value of material manufactured in their territory.

¹ See page 59 above.
The Technical Committee considers, however, that the statements of total value, under each heading of the categories of arms and implements of war the manufacture of which is completed, would include both:

1. The expenditure for the purchase and manufacture of implements of war of the Government in whose territory the manufacture is carried out;
2. The values of manufactures carried out in its territory for other parties.

As regards Point (1), the Committee can only refer to the considerations expressed in reply to Question 6.

As regards Point (2), the statement of total expenditure on manufacture carried out in the territory of a State, including other items of expenditure than the expenditure incurred by the Government, there can be no correlation between Heads IV, which only include national defence expenditure, and the said statement.

Time-Limits.

The determination of the time-limits for the sending-in of the statement of expenditure incurred on manufacture should, in the Technical Committee's opinion, be postponed until later, since, in general, the time-limits for sending in the publicity documents provided for in the draft Convention on the Regulation of the Trade in and Manufacture of Arms must form the subject of a comprehensive review, based on knowledge of the dates at which each country's financial year opens, and also on a knowledge of the period over which budgets are executed.

ANNEX IV.


MINUTES OF THE THIRTY-SEVENTH MEETING (PUBLIC) OF THE COMMITTEE FOR THE REGULATION OF THE TRADE IN AND PRIVATE AND STATE MANUFACTURE OF ARMS AND IMPLEMENTS OF WAR.

Held on Saturday, April 13th, 1935, at 10 a.m.

Chairman: M. De Scavenius (Denmark).

ADOPTION OF THE DRAFT REPORT ON THE PROGRESS OF THE WORK OF THE COMMITTEE (FIRST READING) (document Conf.D./C.C.F.100 (1)).
yet had time to provide the Committee with copies in both languages of all the texts which were to be discussed that morning. The Chairman regretted this and hoped that the English-speaking delegations would, as an exception, consent to work partly on the basis of French texts, though this would not create a precedent.

The Chairman then requested the Rapporteur to be good enough to explain the general outline of the texts and reports before the Committee, after first assuring him of the gratitude and admiration which his indefatigable zeal had called forth among all members of the Committee. He also thanked General Benítez, M. Westman and M. Gorgé for their valuable co-operation, and, in the last place, the Secretariat for their unfailing assistance.

M. Borberg (Denmark) said that, when the problems with which the Committee had to deal were last discussed before the General Committee, he had finished his observations by expressing the hope that the President of the Conference, Mr. Henderson, might receive the Waterl Prize, which he had just been awarded, as a regular annual income. The Conference had assigned him a very troublesome task, and they knew that he was going to take it seriously. Since then, Mr. Arthur Henderson had received the Nobel Prize, and M. Borberg thought that the members of that Committee, who were more fully aware than most outsiders of how diligent, how energetic, how ever ready to sacrifice any minute of his time to the labours of his Conference, Mr. Henderson had been, and who, moreover, were dealing with those very private manufacturers, of whom Nobel was one, had greater cause than any other Committee of the Conference for congratulating Mr. Arthur Henderson on having received the Nobel Prize, and telling him—M. Borberg felt sure that he was expressing the thoughts of all—that they knew that he had well deserved it.

The Chairman said that the whole Committee would join with M. Borberg in his tribute to Mr. Henderson.

Mr. Stevenson (United Kingdom) said that he had just a few remarks to make on the question of procedure. The United Kingdom delegation was quite ready to agree to consider certain of the documents which were before the Committee in French only. He was, however, glad to hear that this was not to be regarded as a precedent. In this connection, he thought he should, as a matter of principle, remark that this was not the first occasion on which, instead of there being a simultaneous issue of texts in the two languages, the English-speaking delegations had had to work on French texts. Not once, but many times, during their nine weeks of work in this Committee, the same situation had arisen. Mr. Stevenson knew that the Committee’s Secretariat were in no way to blame; they had worked as hard as any human beings could; but he would like to suggest to the Bureau of the Committee that the Secretary-General of the League be asked to look into the matter and consider whether some improvement of the system was not possible.

Mr. Wilson (United States of America) said that he was happy to acquiesce in the Chairman’s suggestion that the Committee should work on the French text, but was equally happy to hear that that fact did not constitute a precedent for future work. He was sure that there would still be an opportunity for his Office to put forward any suggestions concerning the English text, not as a matter of principle, but merely as a matter of the drafting of texts.

M. Komarnicki (Poland), Vice-Chairman and Rapporteur, wished, in the first place, to thank the Chairman for the kind way in which he had referred to himself. It had been with the greatest pleasure that he had made his modest contribution to the Committee’s work, which occupied such an important place in the activities of the Conference for the Reduction and Limitation of Armaments.

By the adoption that day of the voluminous report which he had the honour to submit, the new stage in the Committee’s activities which had opened on February 14th of that year was to be brought to a close. The report was the result of the combined efforts of certain bodies which the Committee had set up and of enquiries which had lasted two full months in the unusually difficult and disquieting circumstances of the contemporary political situation. If his report or speech betrayed a certain optimism, that should not be interpreted as mere surface politeness, but as the entirely sincere expression of a conviction derived from his own observations and from an entirely objective examination of the results which had been achieved, especially if those results were judged in the light of the distance travelled since the modest beginnings of the first year of the Disarmament Conference. M. Komarnicki had had the honour and the pleasure of being initiated into the activities of that Committee as its Rapporteur and Vice-Chairman, in which capacities he had continued ever since its inception. If members of the Committee would cast back their minds to the first report which he had submitted to the Bureau of the Conference on November 12th, 1932, they would see the extent of the headway made since then. Several principles which were to-day unanimously accepted were then contested, a fact which was a very serious obstacle in the way of progress. In certain quarters, doubts were even entertained as to whether it was worth the Conference’s while dealing with this apparently insoluble problem when its programme of work was in any case so complicated and so heavily loaded. Since that time, the logic of events and the progress of the Committee’s enquiries had overcome all objections, and a chapter on the manufacture of and trade in arms was now regarded as an indispensable feature of any system for the international regulation of armaments. The impetus given to the Committee’s activities by
the United States Government's initiative the previous year had led to the framing of the
first texts, which M. Komarnicki had had the honour to submit with his report to the General
Commission on July 23rd, 1934. A new United States initiative and a draft Convention laid
before the Bureau on November 20th, 1934, had greatly facilitated the Committee's recent
activities. Those activities were, of course, not yet complete and could not be completed until
the Governments had taken important decisions. As was generally appreciated, moreover,
such decisions, especially in the case of great industrial States, had to make allowance for
various factors of a political, economic and social character. It was for the Governments to
assume their responsibilities. All that could now be done was to await their decisions on which
the next and—as M. Komarnicki himself hoped—final stage of the Committee's work would
depend.

The Committee had, even so, performed its principal task. It was placing the fullest
possible material in the hands of the Governments. It was enabling each Government to
examine the individual and national aspects of the problems of manufacture of and trade in
arms in the light of a general framework which had emerged from the Committee's investigations.

Members of the Committee would see, on reference to the texts before them,
that the passages in italics—that was to say, the passages unanimously adopted by the
Committee—were not very numerous, especially in the chapter on manufacture. Nevertheless,
there were two important new facts deserving of mention: (1) it was now possible to consider
one or more texts instead of mere declarations of principle, and (2) the attitude of the majority
of delegations towards all the problems involved was gradually beginning to take definite
shape. The stage of groping uncertainty had been left behind, through the crystallisation of
programmes. Visibility had improved. It was gradually becoming possible to distinguish
what was practicable in present circumstances and to gain a glimpse of the bases of future
compromise. If, as M. Komarnicki had pointed out in his report, the problem of supervision
constituted the main point of difference between delegations, there were many other problems
still to be solved, and to pass this stage a considerable effort would have to be made.

The speaker did not think he need give detailed explanations of the report. The latter
consisted of the following sections: (1) General observations and summary of the Committee's
proceedings; (2) draft texts; (3) observations and reservations concerning the draft texts.
The documentary material essential for future discussions was annexed to the report and
would certainly have a considerable effect on the decisions of Governments, more especially
in the case of some articles the scope and real meaning of which it had proved impossible to
define fully during the discussions which had just closed. He referred to the report of the
Committee of Jurists, the report of the Committee on Transit, and the replies given by the
Technical Committee of the National Defence Expenditure Commission to the questionnaire
drafted by the present Committee. The three annexes had not been examined in the Committee,
but had been incorporated as they stood in its documentation.

The report which M. Komarnicki had the honour to submit for the Committee's approval,
and which he was prepared, if necessary, to defend, was, like any other human production,
certainly not perfect. He was willing to insert any corrections necessary, particularly if the
opinions of certain Governments were not conveyed with absolute accuracy. However
imperfect the document might be, he nevertheless felt sure that it would form a sound basis for
future work. It was to be hoped—and he felt he was not too rash in expressing the hope—that
the general political situation would become clearer and, if he might say so, more favourable
to the future effort in the sphere of the international regulation of the manufacture of and trade
in arms.

In expressing these hopes for the final success of the Committee's work, he was taking
leave of his colleagues, whose kindness, courtesy and friendship had greatly helped him to
carry out his difficult task as Rapporteur to the Committee.

Mr. RIDDELL (Canada) said that the Canadian delegation, in studying the draft report
now before the Committee, had been glad to see the very considerable measure of agreement
achieved during the first reading. Even if they were finally compelled to accept an agreement
at the minimum level, the work done would still have been worth while. It was to be hoped,
however, that during the second reading it would be possible to agree on a more comprehensive
scheme of publicity for the manufacture of and trade in arms.

It was a great satisfaction to the Canadian delegation that recent instructions from its
Government enabled it to inform the Committee that the Canadian Government supported
the maintenance in the text of the provision for the publicity of orders, on the assumption
that no greater detail was contemplated than in the case of publicity for actual exports.

As regards aircraft, the Canadian delegation had stated in general debate that, in its
Government's opinion, civil and military aircraft should both be brought under the Convention.
As the technical experts seemed to be agreed on the feasibility of differentiating between civil
and military aircraft, the Canadian delegation was authorised to accept the proposed formula
involving the regulation of the trade in military aircraft under Category III and in civil
aircraft under Category V of Article 4.

The Canadian delegation also agreed to the insertion in the Convention of a provision
requiring transit permits.

Further, because of the desirability of securing general assent to the organisation of a
Permanent Disarmament Commission with wide powers for eventual armament control, the
Canadian delegation was ready to accept the establishment of a Permanent Disarmament
Commission with the right to make inspections on the spot.
The delegation wished to associate itself with the welcome extended by the Chairman and M. Borberg to the distinguished President of the Conference, Mr. Arthur Henderson, whose presence was a good omen for the successful conclusion of the Committee's work.

Mr. Wilson (United States of America) cordially associated himself with the words of welcome and tribute paid to Mr. Henderson and also with the thanks tendered by the Chairman to the Rapporteur and the Secretariat.

He thought that the termination of the first reading of the draft Convention for the regulation of the manufacture of and trade in arms should give an opportunity for reviewing what had been done and what remained to be done, and also for outlining the future course of the Committee's work.

Last November the United States delegation had laid its draft text before the Bureau, and two months ago the various Committees had begun their detailed study of that draft. The United States draft had been conceived and drawn up to form a compromise solution between the various views advanced on the problems before the Committee. The United States Government, on the basis of the results of previous discussions at Geneva, had embodied in that text certain principles which it thought were indispensable if an agreement was to be secured.

The result of the discussions just terminated showed the extent of the task which the Committee had accomplished. The document now submitted showed that the manufacture of and trade in arms could be regulated, and that the only hindrance to nations drawing up a Convention was a difference of views as to the form to be taken by that regulation.

The debates had revealed unanimous recognition of the principle of full national responsibility for national control. There was agreement on the principle of equality of treatment as between State and private manufacture and as between importing and exporting countries. Further, there was agreement also on the establishment of a licensing system and of a publicity internationally supervised. That marked a substantial progress toward future success.

There were, however, certain points on which unanimous agreement had not been found. They were questions which, in the view of many delegations, formed an inseparable part of any future Convention. The United States delegation had hoped that the draft it had originally proposed offered a middle road which might have met with general acceptance. The discussions held had shown that, while some felt that the draft went too far, others believed that it did not go far enough. His delegation still thought that its proposals, or rather the present middle column, which contained the essential features of the draft submitted by the delegation, held out hopes of future agreement, and in that connection the declaration they had just heard from the Canadian representative was most important. How could agreement be reached? That was a question for the study and consideration of Governments, but the United States delegation hoped that work could be resumed at the earliest possible moment. Mr. Wilson was sure that that opinion was shared by all his colleagues. The date, however, depended on how quickly the various Governments concerned could settle the differences recorded in the report. That was their responsibility.

Mr. Wilson wished to repeat that the present text represented a valuable basis for future work, and thought he could say that there were no differences not clearly specified therein, just as there were no agreements which were not also recorded. In other words, the Committee had before it all the elements involved in a solution of the problem. It now remained for Governments to see in what way the divergent views could be reconciled. He was firmly convinced that they would be constrained to seek such harmony. The peoples they represented would not tolerate the unchecked continuance of the evils of unregulated production of and traffic in arms. Still less would they tolerate it when they realised that all Governments were now unanimous in wishing for a regulation of that industry and for the elimination of its evil effects. At their final session of the present phase of their work, he desired to say how deeply the United States representatives appreciated the courtesy and interest shown by the other delegations in their efforts to find a text which might meet with support. They had encountered nothing but an intelligent and sympathetic comprehension of the difficulties connected with finding that middle path, and they wished to express their most sincere thanks.

In conclusion, Mr. Wilson proposed the adoption of the report.

Mr. Henderson, President of the Conference, said that his first words must be to thank M. de Scavenius for the very kind welcome extended to him as President of the Conference on the Committee's and his own behalf. He appreciated that very much indeed and could not proceed without also noticing the friendly expressions of M. Borberg. As might be expected, the events referred to by the latter had made a very deep impression on him—Mr. Henderson's—mind, as he felt it to be a recognition of the various efforts he had made, not only during the period of the Conference, but for many years previously, in the interest of world peace. The tribute paid to him was, he believed, one which 'not only the Conference but also the
entire peace movement of the world highly appreciated and which must perforce fill him with a profound feeling of gratitude, not only to those who had bestowed the honour, but also to those who had so clearly marked their appreciation of such a distinction being conferred on the President of the Disarmament Conference. He thanked M. Borberg very sincerely for the extremely kind words he had spoken on that point.

He was delighted to be able to be present on such an occasion. The Committee was just concluding eight weeks of very strenuous work, and he wished to join with the Chairman and other speakers in congratulating M. Komarnicki and all the other persons mentioned, and also the present Committee and the Sub-Committees working on its behalf, for the indefatigable way in which they had done their work during the last eight weeks. Might he add that there was more in that task than met the eye at first sight, more than the fact that the delegations had been working? He did not think it would be wrong to say that there had been a great deal of criticism of the way in which the Conference did its work. He was not sure that, in some sections of the Press in one country or another, an obituary notice had not more than once been written on the Conference. Yet the fact that the Committee had been able to put in those eight weeks of strenuous labour went to show that the Conference was still alive, and, with the assistance of M. de Scavenius and others who he knew were no less anxious than himself to secure a world agreement on armaments and peace, he was determined not to let the Conference die.

He realised, of course, that the subject before the Committee was fraught with difficulties; but the delegates present had been so devoted and so earnest in tackling the work which had been given, not only to the present Committee, but also to its Sub-Committees, that they had in great measure overcome many of the difficulties with which they were faced. So far as he could gather from a cursory perusal of the report and the texts and from the statements made by the Committee's highly conscientious Rapporteur, their efforts had resulted in reducing some of the main divergences of opinion between the various delegations. No doubt the texts were only the result of a first reading, but Mr. Henderson ventured to hope that, at a not too distant date, and in the better international atmosphere that they were all praying and longing for, the Committee might again assemble to begin the second reading, when more unanimous texts would emerge from those discussions. Even at the present stage, however, it was no exaggeration to say that those texts contained valuable elements for a general Convention for the control of the manufacture of and trade in arms such as would facilitate realisation of the fundamental purpose of the Conference for the Reduction and Limitation of Armaments.

As there was general agreement on the need for effective regulation, it should not be impossible to agree on the question of method. He hoped, therefore, that, when the texts had been circulated to the members of the Bureau, to the General Commission and to the Governments, the latter would be willing to make a further and deliberate effort of conciliation and give their delegates the necessary instructions, so as to enable them to improve on the present position as set out in the articles before the Committee. That might enable the Committee to secure the more unanimous results to which he had just referred.

Mr. Henderson thanked the Committee very sincerely and trusted that when it met again it would be able, as he had just said, to mark progress.

M. Aubert (France) thought that, after eight weeks of discussion, the time had come to make a general survey of the draft to be submitted to Governments for their examination with a view to a second reading.

He would like to deal with its past, its present and its future.

As regards its past, the majority of the ideas contained in the draft had been mooted some considerable time since. As long ago as 1926, the question of control and of a permanent commission had been discussed by the Preparatory Commission for the Disarmament Conference. The exchange of information regarding effective expenditure had also been contemplated; but nothing had been said about material. Nevertheless, in 1925, a Convention regarding material had been drawn up and, in 1929, the outlines of a draft concerning the manufacture of arms had been prepared, but neither the Convention nor the draft in question came within the framework of a general Convention; those problems were only dealt with from the very narrow angle of trade in certain zones or as a remedy for the evil effects of private manufacture.

Then there had come the Disarmament Conference. It had taken up the question of material, but for months had confined itself to its qualitative limitation. Notwithstanding the suggestions made by the French delegation in the autumn of 1932 and its detailed proposal submitted in the spring of 1933, the majority of the members of the Committee on Manufacture and Trade were much more anxious to improve the 1925 and 1929 drafts than to endeavour to write a chapter of the general Convention regarding the manufacture of and trade in arms.

The United States draft was submitted in November 1934 and represented an important advance. The question of material was—and, he thought, rightly—regarded as the very crux of the armaments problem; while he did not underestimate the importance of the number and value of combatants, it was becoming more and more correct to say that material was the essential factor. After all, less time was required to convert a civilian into a soldier than to manufacture up-to-date implements of war in sufficient quantities, to collect them together with a view to mobilisation, to put them into service and to accustom the troops to use them.
In his view, therefore, the great merit of the United States draft was that it regarded publicity and control of manufacture and movements of material as the very core of the armaments problem, whereas until then attempts had been made to evade that essential question.

The United States draft contained many new ideas, and first and foremost the idea of combining publicity of expenditure, publicity of manufacture and publicity of trade.

The Committee had already seen what counterchecks would be possible as a result of that combination. He did not think it had had time to perceive, or at any rate to form an accurate idea of, them all. He would mention as an example the beneficial effect of budgetary publicity, with its concomitant, notification in advance, upon publicity of manufacture. Moreover, was it not true that the picture of armaments furnished by expenditure was too vague to show the exact outlines? Was it not necessary, therefore, for budgetary publicity and control to be supplemented by publicity and direct control of the armaments themselves, which led to the expenditure that was brought out by means of budgetary publicity?

The draft accordingly contained an excellent combination of ideas which would supplement each other, and also a number of new ideas, such as the national control of manufacture and movements of material, which would enable every State to assume international responsibility; the idea of international control superimposed upon national control, observing its operation, and, through it, following variations in armaments; the idea of the publicity of orders, which was a new idea, since the proposed publicity had hitherto been confined to general licences to manufacture.

Thanks to that idea of the publicity of orders, supplemented by import and export permits, equal treatment would be ensured for the first time to producing and non-producing countries.

It was also proposed that local control should be added to documentary control, and the draft likewise contained the very simple, but sound, idea that control involved the establishment of facts.

Those, then, were the new and, he thought, very valuable proposals embodied in the United States draft, which had been submitted to the Committee when it met eight weeks ago.

That was the origin of the question.

What was the present position?

At the outset of the discussion, the United States draft had been taken as an axis and the various delegations had ranged themselves fairly symmetrically on either side of it. He thought that one of the best proofs of the progress made by the Committee's discussions was that the United States draft, which was at first regarded by the majority of delegations as the maximum obtainable, was now looked upon as the mean.

Reference had been made to "minimalist" and "maximalist" tendencies. He would come back to those terms later, but, as his delegation represented a "maximalist" tendency, he would like to make one last attempt to define its meaning.

In the French delegation's view, the weak point of the United States draft was that publicity and the exercise of control would be too long delayed. As his delegation held that the essential thing was that the nations should be forewarned, so as to be able to take action in time, it had put forward the idea of notification in advance.

It had proposed that that notification should be given in three forms:

Previous notification of the quantities of material that States proposed to put in hand, to be furnished at the beginning of the financial year.

Previous notification at the same time of the annual instalment of manufacturing programmes.

Previous notification of the putting in hand of the manufacture of certain material.

M. Aubert repeated that those proposals were not the fruit of an abstract idea, but were based on national realities. Just as in each country the national defence services asked the public authorities each year for the sums required for the putting in hand of the material provided for in the annual instalment of their manufacturing programme, so each State might inform the international community of the sums allocated to that annual instalment.

The idea of previous notification of expenditure had been accepted almost unanimously by the Committee. He thought it was a sound idea from both a technical and a political standpoint, because the more or less simultaneous publication of all programmes would permit of the elimination of surprise, the adjustment of claims and, lastly, of progress in the direction of limitation.

Fewer delegations had accepted the other forms of previous notification, but, nevertheless, previous notification of quantities now had the honour of occupying the middle column of the draft. He would remind the Committee that, in the French delegation's view, that notification should be restricted to a few important implements to be determined. He realised that the national practice from which that idea had been borrowed applied solely to naval material. Particulars of quantities were given in naval budgets alone, but in the international sphere the French delegation would like to extend that publicity of quantities to other material.

The idea of previous notification of the putting in hand of manufacture was based on a similar conception. It was, of course, chiefly in the case of naval material that a long period elapsed between the placing of the order and the putting in hand of the vessel—i.e., the laying-down of the keel. There was also an interval between the placing of the order and the
putting in hand of all the most important implements, and the French delegation would like to make use of those intervals for the organisation of reassuring publicity.

That was why it was endeavouring to define, with the help of those three forms of previous notification, the publicity afforded by the United States draft. It was anxious to throw light, not only on armaments already acquired, but also on plans for their acquisition.

It was making a similar effort in regard to control. The draft contemplated the control of finished material. At first he had thought that that very limited conception was based on a sort of fear of control, whose action, though necessary, should be restricted and held in check as far as possible, since it was considered dangerous. However, it seemed to him very difficult to seize upon the material just at the moment when it was completed and before it had been delivered, as that moment was often fleeting. Moreover, even if that material could be included in time, the investigators would still know nothing about the rate of manufacture. Between the time particulars of the order were published and the moment when the material had been delivered, as that moment was often fleeting. Moreover, even if that material could be included in time, the investigators would still know nothing about the rate of manufacture. Between the time particulars of the order were published and the moment when the investigators were asked to verify the existence of the finished material submitted to them as being in accordance with the order, they would be unable to ascertain whether the actual output was not greater than the figures given in the order. The French delegation therefore considered that control should be exercised, not over the very last stage, but over the actual process of manufacture. M. Aubert would repeat that it was not proposed to extend the scope of control indefinitely, but, on the contrary, to confine it to certain important material and to certain essential and characteristic stages of manufacture.

What was the object of all those measures? It was to prevent any nervousness in regard to control, to make certain that it would be carried out in time and that the investigation would not have to seize a fleeting moment, and to make sure that, once the material put in hand was known by means of the order and the investigators were in a position to decide what were the essential stages of that manufacture, they would be able to intervene at the opportune moment. They would be able to organise their work in advance and to carry it out calmly and normally without the risk of creating incidents. It was also with a view to simplifying and standardising the task of control that the French delegation had proposed the appointment of permanent agents acting on behalf of the regional supervisory commissions at Geneva. Those agents would ensure the maintenance of regular contact between the national authorities and the Permanent Commission, would thus enable the journeys to be undertaken by the regional commissions to be reduced to a minimum, and would make control as inconspicuous as possible.

Those were the chief points of the so-called "maximalist" theory. The French delegation did not much care for that term. Though convenient, it was inaccurate, because the French delegation did not propose to extend control to all materials. It would be better to call it a realist theory, as it was based on a very close study of the actual objects of control.

Opposed to that theory which he had just summarised there was another—the so-called "minimalist"—theory, which departed considerably from the United States plan. It simply consisted of publicity of expenditure and documentary control. However, in the course of the discussion, he had been very interested to hear the chief exponents of that theory declare—and the French delegation had taken careful note of their declaration—that, if the Committee had been discussing a limitation convention, they would then have favoured the idea of local control, in spite of the difficulties which they feared it would involve. That was a very important declaration, because it proved that the existing difference of opinion was not so much a difference of principle as a difference of circumstances. The issue which divided the advocates of those two theories would be decided by circumstances.

That observation led M. Aubert to his third point.

What was to become of the draft in future?

There were several possible solutions which it put clearly and honestly before the Governments.

Governments might be tempted to accept the "minimalist" solution, owing to its modest aims. The French delegation wished to state forthwith that, in its view, that solution did not go far enough; it would not suffice to clear up mysteries and to prevent surprises.

His delegation was in favour of the other solution, the solution in the middle column of the draft, with the additions it had proposed. That solution might form the subject of a limited convention or the axis of a general convention.

In any case, one point was already clear: for the first time, the automatic and permanent control which had been discussed for so long had been accurately defined. He thought that, when the text was read, it would be seen that that form of control had nothing to do with the control exercised after the Armistice. Multilateral and reciprocal control over manufacture so as to establish the facts could not really be compared with unilateral control with a view to the destruction of material. There was no connection between them as regards either principles or consequences.

Before concluding, he wished to mention the general scope of the technical system of control, should it be applied. If a register were compiled of the armaments of each State, would not that also constitute a register, which would be kept up-to-date, of its intentions? Would not variations in armaments—whether they related to manufacture or to movements of armaments—show the variations in intentions? Before any of the definitions of aggression proposed during the Disarmament Conference were applied, the dossier of the aggression, showing that aggression had been prepared for by a speeding-up of manufacture or the purchase of war material, would have been established by the control.
The Permanent Commission, which would be responsible for this control of armaments, might therefore play a very important part in conjunction with the Council. It would be charged with the supervision of peace through armaments.

In conclusion, he would like to state that it was thanks to the zeal of the various Chairmen and of the Secretariat, and also to the attitude displayed by the various delegations during the discussions, that it had been possible, in a comparatively unexplored field, to discuss and formulate a number of new ideas. On behalf of the French delegation, he wished to thank, not only the delegations that had supported its views, but also, and very cordially, those delegations which, from the outset, had clearly stated their opposition in principle, but, by participating in the discussions, had helped to make the latter more purposeful, more comprehensive and more animated.

Mr. STEVENSON (United Kingdom) first expressed to the Committee Lord Stanhope’s regret that, in the absence of Sir John Simon and Mr. Eden from the Foreign Office, he was unable to attend the meeting.

He would like, on completion of the first reading, to extend an expression of the gratitude of the United Kingdom delegation, firstly, to the indefatigable Vice-Chairman and Rapporteur, M. Komarnicki, and, secondly, to the United States delegation for their initiative in producing the valuable draft on which the Committee had been working for the last nine weeks. It had been used as the basis of discussion and had enormously facilitated the Committee’s work.

Lastly, he would like personally to thank all his colleagues for the spirit of conciliation which they had shown during these last nine weeks and for the patience with which they had listened to his remarks.

His Majesty’s Government in the United Kingdom were in entire sympathy with the principles lying behind the United States proposals. His Majesty’s Government differed only from the United States Government and from some other Governments represented on the Committee in the method of giving effect to these principles.

The first reading had shown that there were divergencies of view on two important points in connection with these proposals. One was the degree of publicity that should be given to the manufacture of and trade in arms, and the other was the method of supervision of the national control that was to be instituted by the Convention.

On numerous occasions during the past weeks, the Committee had listened with commendable patience to the views of His Majesty’s Government on these two questions. In order, however, that there should be no misapprehension in the minds of the Committee, he would again summarise those views.

As Lord Stanhope stated in a speech which he delivered at the beginning of the session, the objectives of the Convention under discussion were the following:

1. To introduce adequate and practicable measures of regulation and publicity, internationally agreed upon, in regard to the operation of arms manufacture;
2. To devise a similar system of regulation and publicity in regard to the trade in arms whereby that trade would be confined to legitimate channels and would only pass through responsible hands;
3. To ensure that the world should have timely information of any material increase in the armaments of any country, whether by import or manufacture;
4. To provide the machinery for the immediate imposition of an effective embargo on the export and import of arms if and when such action should be decided upon internationally.

With these objectives steadfastly in view, the United Kingdom delegation had put forward amendments to the original United States proposals. These amendments had been criticised. It had even been said that they destroyed the original conception of the United States Government. Could such a criticism be upheld? He would examine for a moment what would be the effect of a convention on the simpler lines advocated by the United Kingdom delegation.

It would mean that every Government undertook to assume complete control of arms manufacture and trade. It would mean that the system of this control would be uniform throughout the world. This would provide effective machinery for rapid international action in the direction of prohibition of the supply of arms, should that ever be decided upon. It would mean that the trade in arms would be confined to the responsible hands of Governments or their accredited agents. It would provide for the establishment of a Permanent Disarmament Commission. It would mean that, for the first time in history, the whole world would accept the principle of publicity for arms produced, bought or sold. And, finally, it would mean the acceptance of the principle that nations were answerable to a central international body for the accuracy of the returns which they made.

The attainment of such results was surely worth an effort.

In order to obtain international agreement on a convention which would fulfil the objectives which he had set forth, His Majesty’s Government held the view that a simpler system of publicity was required than that described in the original United States proposals. The system which His Majesty’s Government preferred was one involving, firstly, annual statements by each Government of the expenditure which they intended to incur on armaments, and, secondly, quarterly returns by value of actual production, export and import. This
system would give timely information of the intentions of Governments in regard to their equipment with war material, followed up by information in regard to their production and purchases. It would give the world a clear idea of the trend of arms manufacture and of the movements of war material. It provided for absolute equality of treatment between producing and non-producing countries. The frequent returns of production were, in Mr. Stevenson's view, likely to give a truer picture of the actual state of affairs than would returns of orders for war material which often might not be executed. The system could be adapted to the valuable proposals which the Committee on Budgetary Publicity had set forth. It was simple, both in conception and in execution. Finally, and most important of all, the United Kingdom delegation believed it was the maximum on which international agreement was obtainable at the present time, and without international agreement there could be no convention.

As regards the method of supervision which His Majesty's Government deemed suitable for this Convention, Mr. Stevenson desired to remind the Committee that His Majesty's Government had accepted the principle of permanent and automatic supervision with local inspections in connection with a convention for the limitation of armaments. As he had already informed the Committee, his Government had made a profound study of this question. It realised the great difficulty of setting up an appropriate system and, once that had been done, the even greater difficulty of applying it effectively and without friction. Nevertheless, His Majesty's Government believed that it would be justified in accepting such a system if it could thereby bring about international agreement on a convention for the limitation of armaments. He repeated that this decision was not lightly taken. It was published to the world more than a year ago, and His Majesty's Government stood by it.

But when the Government came to consider this question in connection with the present Convention, which did not involve any limitation of armaments, it asked itself what there would be to supervise. The only answer was: documentary returns. Furthermore, on considering the bases of the Convention, the Government recalled that the control contemplated was purely national. In these circumstances, it seemed to the Government that the application of a system of permanent and automatic supervision with local inspections would not only be unsuitable, but would be the very negation of the main principle on which the Convention was based.

In working out the system which it has proposed, His Majesty's Government had two aims in view: the first was to make it appropriate, and the second to render it generally acceptable. What was this system? It could be divided into two parts:

1. The normal procedure;
2. The procedure in the event of any suspicion of inaccuracy or incompleteness in the returns rendered by any nation.

In accordance with the normal procedure, the Permanent Disarmament Commission would carefully examine the information received from any contracting party, and if, as a result of that examination, it desired further particulars or explanations, it would request the Government concerned to supply them in writing or verbally. For this purpose, it could ask that accredited representatives of the Government should appear before it. Furthermore, the Commission would be entitled to hear or consult any person capable of throwing light on any question which it might be examining. That was the normal procedure.

Should, however, the Commission have reason to believe that the information supplied to it was incomplete or inaccurate, it could ask the contracting party concerned to supply it with such explanations as might be necessary to establish the facts, either orally through responsible officials or in writing. The Commission would then draw up a reasoned report setting forth the results of its enquiry. Thus, a nation suspected of having rendered inaccurate or incomplete returns could be called upon by the Commission to vindicate itself. If it succeeded in doing so, all would be well. If, on the other hand, it were unable to remove the suspicion caused by its attitude or actions, the fact would be published to the entire world and it would rest with any nations which might consider themselves threatened by such a state of affairs to take further action if they should consider that necessary.

Such a system seemed to His Majesty's Government entirely appropriate for the Convention in view. Moreover, it would be acceptable to all nations. Important as the other considerations were, this last was perhaps the most vital from the point of view of results. This Convention would not, if His Majesty's Government could help it, share the fate of other over-ambitious schemes in the past.

The delegations supporting, respectively, the two main currents of opinion in the Committee had been called "maximalist" and "minimalist". Mr. Stevenson thought the Committee had to thank the representative of Spain for coining this happy phrase. In his opinion, those delegations who advocated a more complicated and detailed form of convention were the maximalist delegations, and those who, like the United Kingdom, preferred a simpler form were the minimalist delegations. Mr. Stevenson thought these labels should be reversed. The United Kingdom delegation and those delegations which agreed with it should be called maximalist, as they aimed at the maximum which was likely to secure universal acceptance;
while those who preferred a more complicated system should be called minimalist, for they would,
he feared, achieve less than a minimum.

The main criticism of the United Kingdom proposals had been that, though they might
produce a convention, it would be scarcely worth signing. Mr. Stevenson would ask those
delegations who were not in agreement with him to examine once more the really solid
achievements of a convention such as the United Kingdom delegation proposed. He would
enumerate them again:

1. The Governments would undertake strictly to control arms manufacture and
   trade.
2. There would be a uniform system of control throughout the world, thus providing
effective machinery for any international action that might be decided upon.
3. The control would be so exercised as to keep the trade in arms in the responsible
   hands of Governments.
4. A Permanent Disarmament Commission would be established.
5. The principle of publicity for all arms produced, bought and sold would, for the
   first time, be accepted by the world.
6. Nations would accept the principle that they were answerable to a central
   international body for the accuracy of their returns.

The course of the Disarmament Conference had taught some bitter lessons. Surely the
one which most delegates had learnt best was that a modest and practical result, capable of
immediate achievement, was worth more than any number of ambitious schemes upon which
opinion was always hopelessly divided. This was the situation to-day. Mr. Stevenson appealed
to the delegations represented in the Committee and, through them and the President, to the
Governments represented in the Disarmament Conference to reflect earnestly before taking
the heavy responsibility of rejecting a workable scheme, such as would result from
the amendments proposed by the United Kingdom delegation to the United States draft. He
was convinced that such a scheme would prove internationally acceptable, and he thought the
course of the discussions in the Committee substantiated this view. There was an old English
proverb which said that "half a loaf is better than no bread". He recommended it to the notice
of his colleagues. He most earnestly trusted that the Committee would not persist in pressing
an ambitious scheme which a number of delegations could not possibly accept. Above all
things, the United Kingdom delegation wished to avoid registering yet another failure for the
cause which all had at heart, because some had put their desires too high.

General BURHARDT-BUKACKI (Poland) expressed the great satisfaction of the Polish
dlegation that, after very laborious studies and discussions, the work of the Committee had
resulted in a draft Convention which would form a useful basis for the second reading. It was
true that this draft was only partly a sole text, since two texts had been presented on other—
and not the least important—provisions. It was also true that some provisions had only been
accepted with reservations by certain delegations. Nevertheless, the problems had been
thoroughly examined, various points of view had been frankly and clearly expressed, and
differences of opinion had been to some extent diminished. More could not be expected at a
first reading, as delegations were generally not in a hurry to abandon part of their views to
secure closer agreement.

The Polish delegate hoped that when the delegations met for the second reading they
would all be supplied with instructions enabling them to make the necessary concessions to
each other and to arrive at a sole text which would be acceptable under present conditions for
all countries.

His delegation had already considered this first reading in the spirit of the second reading—
that was to say, it had not clung stubbornly to the ideas which it considered the most desirable,
but had endeavoured to consider what provisions could be achieved in present circumstances
and had supported them at the cost of certain sacrifices of its theoretical views. It had
subordinated its original demands to the main object—namely, the conclusion of the
Convention.

Some ideas which had been put forward by the delegations of the United States and France
were regarded with very great sympathy by the Polish delegation. It had supported the more
restricted proposals of the United Kingdom delegation, which had been endorsed by Italy
and Japan, since it considered it better to have a limited convention than none at all. It had
always kept in mind the French proverb: "Le mieux est l'ennemi du bien", and had not
found it possible to disregard the objections of the great producing countries.

Moreover, the Polish delegation considered that the texts proposed by the United Kingdom
could be easily adapted to the interests of the non-producing countries in order to ensure their
complete equality with the producing countries.

The Polish delegation realised that the texts supported by the United Kingdom, Italy,
Japan and itself constituted a minimum, but it did not forget that it was also a maximum
when it was considered what could be achieved under present conditions to ensure a beginning
of the international regulation of the manufacture of and trade in arms.
General VENTZOFF (Union of Soviet Socialist Republics) said that, at this closing meeting, in which the first reading of the United States draft was being concluded, the U.S.S.R. delegation would like again to emphasise certain principles which had guided it during the work.

1. The U.S.S.R. delegation wished, in the first place, to point out that it remained faithful to the idea that the Regulation Convention could only be of interest as an integral part of a general convention on the limitation and reduction of armaments. It repeated that the measures relating to the publicity of the production of and trade in arms and implements of war could in no way increase the feeling of security of the nations so long as the contracting parties had not assumed definite undertakings regarding the level of their armaments. The U.S.S.R. delegation was of opinion that there was an indissoluble connection between any regulation of the production of and trade in arms and the reduction and limitation of armaments.

2. While maintaining this view on the question of principle, the U.S.S.R. delegation had endeavoured, during the discussion on the articles of the United States draft, either by making proposals itself or by supporting those of other delegations (whose attitude had been described as maximalist), to make the future Convention more effective and operative. In many cases, however, these proposals had met with opposition from the majority of the Committee.

Without entering into details, the following facts should be noted:

(a) All the means of chemical and incendiary warfare, together with the greater part of the production of gunpowder and explosives, had remained outside any publicity control;

(b) The draft left on one side the production, stocks and trade in raw materials and semi-manufactured goods used for the manufacture of arms and implements of war;

(c) The draft did not submit to regulation the State and private undertakings which did not manufacture implements of war at a particular moment but which were nevertheless equipped to produce them as soon as hostilities began or at a time when war was threatened; the draft, moreover, did not take account of the capacity of production of works which were executing orders for war materials.

The U.S.S.R. delegation had caused all these questions and a considerable number of others of no less importance to be placed on the agenda of the discussions on the United States draft. It proposed to revert to them during the second reading of the draft.

3. The U.S.S.R. delegation had always expressed itself in favour of the system of international control. It considered that it was impossible to enclose the control of the manufacture of and trade in arms in a national framework. Recent experience had clearly shown the international connections which united the private war industries of a large number of countries. The internationalisation of this branch of industry had for a long time past been brought about by various methods more than in any other sphere of world production. The U.S.S.R. delegation therefore considered that it was impossible to be satisfied with the control of the States alone. It was of opinion that such control must be rapid, real and effective. It felt it was impossible in an era of currency instability and price fluctuations to base this control on financial indices and disregard the quantities and characteristics of the arms manufactured or sold. It was clearly understood that this supervision should be universal —i.e., it should be applied equally to all manufacturing and non-manufacturing countries.

4. The U.S.S.R. delegation was sorry to have to say at the end of this first reading that the actual objects of this control had still been only rather vaguely defined. There were still too much reticence, too many reservations and too many parallel texts, clear indications of the difficulties and objections that it had not been possible to overcome. The differences of opinion continued, despite the obvious fact that the profits of private manufacturers were still increasing, notwithstanding the depression the world was experiencing.

In conclusion, the U.S.S.R. delegation agreed with the Rapporteur that the future success of these discussions would depend on the general political situation and pointed out that, at the close of the first reading, the Committee's efforts had had to be confined to a preliminary discussion and an elucidation of the respective views taken by the different delegations on the United States draft.

M. ZUMETA (Venezuela) asked whether Article 2 of the draft involved an obligation on the contracting parties to enact really effective legal penalties for persons responsible for losses caused to a friendly State by illicit transactions in arms and instruments of war. He explained that, in asking this question, the Venezuelan delegation was not moved by national but by international considerations. The question of the maintenance of order in any country was, by definition, the business of the country in question, and the Venezuelan
Government had shown that it fully realised this. States Members of the League of Nations should, however, make it quite clear to what degree they wished to maintain the principles for which the League stood and to carry out the tasks for the execution of which it was founded.

M. KOMARNICKI (Poland), Vice-Chairman and Rapporteur, wished to reassure immediately the Venezuelan delegation. The wording of Article 2, paragraph 1, was perfectly clear:

"The High Contracting Parties will take the necessary legal steps to ensure in the strictest manner the execution of the provisions of this Convention."

This text should be read in the light of the explanations given in the report of the Committee of Jurists:

"From this responsibility of the State it follows, as has been pointed out, that, in all cases, and more particularly in the case of proved or presumed irregularities, the State with the responsibility defined above will be bound to produce all explanations and proofs which may be judged necessary."

That report had not been adopted by the Committee, but it represented the general legal opinion of all the delegations there present, and he therefore thought that the Venezuelan delegation should be satisfied.

Admiral Ruspoli (Italy) said that, at the opening meeting of the present session held on February 14th last, he had had the privilege of voicing the conviction of the Italian delegation that the failure of all efforts made so far for the regulation of the trade in and manufacture of arms and implements of war, from the time of the St. Germain Convention in 1919 onwards, was due to the fact that the projects put forward were too ambitious having regard to the circumstances prevailing at the time and did not place the producing and the non-producing States on an equal footing.

For this reason the Italian delegation had always striven for and favoured simple, efficacious and equitable treaty provisions, which should commend themselves to all States desirous of taking a first and important step towards the common goal. On these lines the Italian delegation had found itself in general agreement with the United Kingdom delegation, and the texts put forward by the two delegations had obtained the support of the delegation of Japan, and also that of other delegations in so far as the provisions dealing with the composition, functions and operation of the Permanent Disarmament Commission were concerned.

In particular, the Italian delegation had been favourable to strict measures of national supervision, internationally agreed upon, for the control of arms manufacture, and for the acceptance of the principle that trade in arms should be confined to legitimate channels and only pass through responsible hands—viz., should take place only under cover of the corresponding export and import permits issued by the exporting and importing Governments respectively.

The Italian delegation was of opinion that the objects of the present Convention with regard to international publicity for the manufacture of and trade in armaments could be fully attained by means of quarterly returns of the total value, under each heading in the categories, of the arms and implements of war manufactured, imported or exported during the previous quarter.

It considered that publicity of orders, or of export and import permits, and particularly advanced publicity respecting manufacture not yet completed, was open to serious objections. Such publicity would in fact give rise to unnecessary administrative complications, to the possibility of military and commercial espionage, and of disloyal competition between manufacturing firms, and, above all, it would place non-producing States in a condition of inferiority, especially in the eventuality of an international crisis.

Thus, a provision for publicity of orders, or for advance publicity of any description, might well result in encouraging non-producing States, mindful of their national security, to lay up stocks of war material, or to become producers of their own arms and implements of war, even if such production were anti-economic, with a consequent increase of financial burdens and armaments throughout the world, and the frustration of the objects of the present Convention.

In furtherance of this conception and to eliminate the objections put forward in the past to the acceptance or ratification of a convention for the regulation of the manufacture of and trade in arms and implements of war, the Italian delegation had submitted various proposals dealing with the suspension of or derogation from certain provisions of the Convention in time of crisis, and others intended to reassure the non-producing States more especially that, without prejudice to the obligations under the Covenant of the League of Nations, the principle laid down in Article 7 of the fifth and thirteenth Hague Conventions of 1907 remained applicable in its entirety.

The Italian delegation was happy to express its conviction that the work done during the present session had been fruitful, and that the results achieved were such as to permit the rapid drafting of a convention when the various Governments agreed to take a first and important step towards the regulation of the manufacture of and the trade in arms.
In conclusion, Admiral Ruspoli said that it was unnecessary to add that the Italian delegation associated itself with the expressions of admiration and gratitude for the way in which the Vice-Chairman had conducted the meetings and for the efficient results obtained both in the general meetings over which he had presided and in the Committees presided over by M. Gorge and M. Westman; thanks should also be extended to the Secretariat for its very efficient work.

M. NISHIMURA (Japan) desired, now that the first stage of the Committee's work was approaching conclusion, to explain the attitude he had taken up during the previous weeks and to summarise the point of view of the Japanese delegation.

From the very outset, he had always been careful to remain faithful to the idea that the draft in process of being framed should be based upon a realistic approach, allowing for the various circumstances by which the attitude of each nation was governed, with a view to drawing up regulations such as might ultimately be applied by all the contracting parties.

During the discussions, however, he had noticed that opinion was sharply divided on many essential points, thus clearly revealing how difficult it was to reach solutions satisfactory to all. He had, therefore, refrained from intervening in the discussions, with a view to avoiding other complications.

Since then, however, two schools of opinion, if he might so describe them, had grown up, one represented by the majority and the other by the minority, which unfortunately were only seldom in agreement.

Were the Japanese delegate obliged to join one or other of these schools, he would be compelled to support the minority view, which more faithfully reflected the idea by which he had been guided from the very beginning.

He had indeed ventured to do so in the course of the last few meetings, entering reservations of principle in regard, for example, to equality of treatment of the two different categories of manufacture, State and private, publicity of orders and advance notification, and the general introduction of inspection on the spot as a method of control.

These reservations were the outcome of careful consideration and had been entered with a view to eliminating dangerous misapprehensions, which might in future produce unfortunate consequences. M. Nishimura hoped that the Committee would realise that this attitude was prompted solely by the sincere desire to see the successful elaboration, through the willing efforts of all, of a convention genuinely acceptable to all and universally applicable—an achievement which for the moment still appeared somewhat difficult, but to which the Japanese delegation was always ready to make the necessary contribution.

M. WESTMAN (Sweden) said that it was stated in the report before the Committee—and the Rapporteur had just emphasised the point—that the texts proposed were not in any way finally binding on the Governments. That, he thought, was—in the present situation—a statement of the highest political wisdom.

He did not wish to neglect this opportunity of expressing the hope that the various Governments would take advantage of the consequent freedom of movement during the coming weeks to narrow down differences of opinion. There was no doubt that that would mean that every Government, whether maximalist or minimalist—according to M. Palacios' or Mr. Stevenson's interpretation of those words—would have to sacrifice some of its cherished ideas.

He pointed out that during the discussions the ground had been reconnoitred and that attempts at compromise had even been made by bold and enterprising spirits. Those attempts had been called premature. For his part, he regarded the use of that epithet as a good omen. What to-day was regarded as premature might to-morrow or the day after reach the required maturity. In any event, he desired to state that the Swedish delegation would continue to follow the course it had hitherto endeavoured to pursue, its object being to promote that equitable middle solution to which reference had been made and which alone would bring about the necessary agreement and understanding for the conclusion and entry into force of an international treaty on the regulation of the trade in and manufacture of arms and implements of war. The Swedish Government had already shown how much importance it attached to such a treaty by preparing and enacting suitable national legislation to ensure its entry into force.

M. GORGE (Switzerland) accepted the report but expressed regret, in doing so, that it had not been possible to reach a more or less general agreement as to the solution of a problem the importance and urgency of which everyone recognised.

The delegations members of the Committee had perhaps been too ready to yield—to repeat what he had already said—to the very natural desire to express preferences rather than to devote themselves to finding intermediate solutions which would have been accepted, if not unanimously, at any rate by the very large majority of the Committee. They had often erred, he thought, from an excess of idealism and had possibly not allowed sufficiently for political contingencies. No doubt the divergent opinions would one day be reconciled—he hoped so, at any rate—but it would have been desirable that that should have been done in the Committee.

In this respect the Committee's work, though it had been a little long—too long perhaps—would not have been unprofitable. In his opinion it would constitute a strong link in the
chain of the efforts that had been and would continue to be made at Geneva to provide the international community with an organisation for strengthening the, as yet, very fragile foundations of peace.

In conclusion, he also was anxious to say how much the Committee owed to its Rapporteur and Vice-Chairman, M. Komarnicki. His task had often been thankless and difficult, but he had performed it with unequalled authority, impartiality, devotion and courtesy. The least that could be said was that he had deserved well of the Committee.

Finally, he once more thanked the officers of the Committee and the representatives who had taken part in the work of the Committee of Jurists of the Conference for the confidence and friendship which they had shown him in his fulfilment of a task which had often proved more interesting than easy.

M. PALACIOS (Spain) endorsed the congratulations which had already been expressed. He sincerely thanked the Chairman of the Committee, the Rapporteur and all his colleagues who had collaborated in the common work of the past few weeks.

The presence at that day's meeting of Mr. Henderson was, he thought, symbolical. Not only did it give the members of the Committee great pleasure, it was also a guarantee for the future, for Mr. Henderson personified, not only the remembrance of work done, but also hope for the future. That was why the Committee had listened with deep feeling to the remarks M. Borberg had addressed to him.

The Spanish delegation had not forgotten, in its remarks in the Committee, that the delegation had been convened over three years previously for disarmament and the organisation of peace. That was the spirit in which it had described the attitude adopted by the various delegations as "maximalist" or "minimalist". The distinction was quite theoretical, however, and he interpreted it in the sense indicated by the Swedish delegate. He was not so sure that he could logically accept the interpretation suggested by the United Kingdom delegate at the present meeting. However, on the practical plane, he would be prepared to do so, but on one condition only—that success was achieved, for that was absolutely necessary.

He could assure the Committee that the Spanish Government would study the report most carefully. During one of his previous statements, he had said that the United States proposal was a splendid basis for discussion. He hoped that it might now be regarded, not only as a basis for discussion, but as a basis for agreement. It was to be hoped that the Conference would shortly resume its work and would at last arrive at a convention for the reduction and limitation of armaments.

The CHAIRMAN asked the delegations who had any amendments to move to the report to be good enough to communicate them to the Secretariat as soon as possible.

The report was adopted.

(The meeting rose.)