ensure that it is co-ordinated with the Covenant. It can supervise its terms so that they shall be contrary neither to the letter nor to the spirit of the Covenant.

We must now discover whether there are any questions which lend themselves to settlement by means of collective treaties open for signature. The reply, I think, can be in the affirmative.

We have, indeed, before us the example of the Optional Clause to Article 36 of the Statute of the Permanent Court of International Justice. In this case there is no collective treaty to be drawn up. It already exists, and this clause has been signed by a considerable number of States. We are aware that several other Governments are still hesitating or have refused to adhere to this clause. I like to think that time is on our side and that the Statute and the legal practice of the Permanent Court will remove such fears and will show that the Court has no intention of constituting itself an international legislature.

Arbitration and conciliation constitute a second example of a question which can be settled by collective agreement. We have before us a Swedish draft which contains nothing of a regional or special nature and which, because of this feature, will certainly prove of a kind to be adopted by the League of Nations, which might invite States to sign a convention drawn up in Geneva. It was with the greatest satisfaction that I heard several of our colleagues urge the usefulness of studying the possibility of drawing up a collective agreement on the lines proposed in the Swedish draft. The speech of the Swedish representative has shown how many ways there are of realising such an agreement. We shall have an opportunity of examining later on, the interesting suggestions which our colleague has submitted to us.

There are two other matters which have already been referred to by members of our Committee and which could be settled by a collective convention. There is, first, the plan of financial assistance, which, thanks to the initiative of the Finnish Government, has already attracted the special attention of various organisations of the League. There is, next, the idea put forward by the representative of Germany that the Council should be entrusted with the power to make recommendations which the parties would be compelled to respect, with a view to maintaining the military status quo in times of crises, and even to decreeing an armistice, of which the terms should be equal for both parties, in cases where hostilities have already broken out.

For the moment I do not intend to speak in detail on these two proposals. I will rest content with repeating once more that the League of Nations is not compelled to limit itself to giving good advice to its Members, but that it can draw up the text of a convention and open a protocol for signature at Geneva.

On a subsequent occasion I shall have an opportunity of discussing the alternative texts in which the suggested agreements can be drafted. More especially we shall be able to decide whether the entry into force of the obligations which States will assume should not depend on the adhesion of a sufficiently large number of Governments. During the eighth ordinary session of the Assembly the representatives of more than one Government pointed out that their provisional adhesion to the Finnish proposal depended on this condition.

As to the power of the Council to take measures to maintain the status quo and to decree an armistice, it can be assumed that States which are perhaps not generally in favour of considerably adding to the powers of the Council would nevertheless be ready to give such powers to it provided that the increase of the Council’s power increased at the same time and to a definite degree the feeling of general security. This means that they would grant these powers provided a sufficient number of States signed the convention.

I have made these few observations in order to emphasise the importance of settling as far as possible those questions which can be dealt with by means of a collective agreement.

M. VALDÉS-MANDEVILLE (Chile). — To reply to the desire expressed by our Chairman, I wish to lay before you the point of view of my own Government on the questions which form the subject of the remarkable memoranda of the Rapporteurs. To do so will not prevent me from trying, when the detailed discussion starts, to make a concrete contribution to the study and presentation of these problems as a whole, for, as I said during the previous session of our Committee, we strongly desire to co-operate. I hope also that, in view of our impartiality, our help may be of an effective kind.

In the first place, as far as arbitration is concerned, it is not necessary to recall at this juncture the numerous significant proofs given by Chile of her adhesion to this method of procedure. Instead of being a neutral power engaged in peacefully settling conflicts. My Government does not think, however, that the moment has come to contemplate putting on foot the programme which M. Holsti has described as “ more ambitious “, and which comprises the negotiation of a general treaty to be open to the signature of all States. For such a treaty it would be necessary to introduce limiting provisions and reservations of too grave a character to make it a really effective instrument. In our view, arbitration treaties must be concluded and account taken of the special situation of the States negotiating them and the nature of their relations. In this I agree with the wise counsels of the British representative.

I am certainly not opposed to the drafting of one or more treaties of arbitration to be recommended to the attention of Governments as one of the means of making it easier to employ bilateral treaties of arbitration.

On the other hand, I think we should contemplate, as M. Holsti suggests, the possibility of a general draft treaty of conciliation to be proposed to all States. The treaty concluded at the Fifth International American Conference, although not a treaty of conciliation in the proper sense of the word, for it is more allied to the system of committees of enquiry proposed by the Hague Conference, constitutes an example of a multilateral treaty for peaceful settlement of disputes of which the mechanism, in several respects, I think deserves our attention. It contains two provisions which correspond exactly to the desires of the German delegate, who asked that a procedure of injunction in a civil case should be instituted. Not only is it
important for the parties to undertake not to begin mobilisation or undertake any preparatory hostil act until the Committee has produced its report, but also the Committee must have the right to fix the position of the parties and to safeguard the status quo during the procedure in course (see page 158 of the Study of Treaties, document 653, M. 216, 1927). This treaty, commonly known as the Gondra Treaty, which was submitted by the Chilean delegation to the consideration of the Temporary Mixed Commission for the Reduction of Armaments, whose successor we are to a certain extent, has actually been ratified by ten American States, among them Chile.

My Government has not stopped there and, though other multilateral treaties for the specific settlement of disputes have not yet been established, Chile has concluded with European States several treaties on compulsory arbitration or conciliation and judicial settlement. I would particularly refer to the Treaty with Spain, which has a very extensive scope and is virtually subject to no reservations, and to the Treaty with Italy, which has been already ratified and registered and which goes so far as to confer on the Permanent Court of International Justice the power to decide ex aequo et bono.

I come now to consider a few points of the very important memorandum of M. Politis on security questions. Here I am happy to note that the middle way of safety has been chosen, to use the happy expression of M. Paul-Boncour, so far as the conclusion of regional agreements is concerned. Our delegation, while strongly convinced that a reduction or even a limitation of armaments is not possible without security being simultaneously assured, has not ceased to desire a system of regional agreements owing to the diversity of ideas and circumstances attaching to this problem in the various parts of the world, and more particularly in Europe and Latin America. Treaties which in Europe might be ideal would not, in our opinion, be necessary in South America. Other methods have had to be sought or should be sought both for psychological reasons and owing to the special conditions prevailing in certain Latin-American States, as a result of the absence or the weakening of their relations with the League of Nations.

As M. Cantilo has so well shown, with an eloquence of which I am incapable, the idea of a security which can be measured and the methods of putting such a conception into effect to which M. Sokal referred yesterday, and which seemed to us so appropriate for European States, do not present themselves in South America in a similar fashion. It is necessary to realise, as M. Paul-Boncour so justly observed, that we are only dealing with the question of security in order to make it possible to fix the level of armaments, and that our regional security which it is necessary to consolidate cannot have as its counterbalancing factor a reduction but only a limitation of armaments.

I think, in any case, that there is in the suggestion of M. Politis a number of points which may perfectly well be applied to all situations, including that which I have described, and I will return to these points during the discussion on details. I would, however, emphasise immediately the importance which I attach to the following suggestion: "To incorporate in the regional pact the principle that respect for the rights established by treaty or resulting from the Law of Nations is obligatory for international tribunals and that the rights of a State cannot be modified save with its consent. As a commentary on this suggestion, which I entirely endorse, I cannot do better than repeat the words of M. Politis: "This would emphasise the spirit of legality which the parties would promise to observe in their reciprocal relations, avoiding all moral or political subterfuge or pressure."

Finally, in order not to abuse your patience, I will say only two words on the remarkable report of M. Rutgers. During the discussion of the memoranda in detail, certain problems may perhaps be examined which arise from the study and general practical application of Articles 11 and 16 in their relation to other provisions of the Covenant.

I fully approve of what I might call the cardinal point of this report, namely, the assertion that it is not desirable to establish a rigid and complete code of procedure to be followed by the League in times of crisis. In any case, though I recognise that it is not possible to set aside the doctrine of 1921 on Article 16, I am convinced that the efforts of the Committee must be chiefly directed to the prevention of war, since, as M. Rutgers so well says, preparation to execute Article 16 is the preparation of an action which one hopes may never have to be carried out.

I would conclude by paying a tribute to the Chairman and the Rapporteurs for their work. The value of these documents shows, as M. Sokal said, that the Security Committee had something to do in this field. From the point of view of the universal interest of mankind, I cordially hope that the Committee may do a great deal.

M. VON SIMSON (Germany). — I would like to say a few words concerning the suggestions which I ventured to submit on the first day of the session. These suggestions have been considered to be of interest by several of my colleagues and the observations made to-day by the delegates of Sweden and the Netherlands and the representative of Chile seem to me to be particularly important. M. Paul-Boncour, alluding to my suggestions, observed that such measures had already been the subject of discussion in the Committee of the Council and that the Committee of the Council had formulated certain conclusions which had been embodied in a report approved by the Council and by the Assembly.

I would point out, in answer to these observations, as the delegate for Sweden has already done, that these suggestions, nevertheless, contain new elements. They impose an obligation upon the States to accept the recommendations of the Council and to carry them into effect, whereas the report of the Committee of the Council did not provide for any such legal obligation.
In order to give a more definite form to my proposals, I have ventured, as M. Unden suggested, to put them in writing, and, with the permission of the Chairman, I will read them to you. They are as follows:

With a view to preventing war, the Committee on Arbitration and Security might examine the following possibilities:

I. In case of a dispute being submitted to the Council, the States might undertake in advance to accept and execute provisional recommendations of the Council for the purpose of preventing any aggravation or extension of the dispute and impeding any measures which might be taken by the parties and which might have an unfavourable effect on the execution of the settlement to be proposed by the Council.

II. In case of a threat of war, the States might undertake in advance to accept and to execute the recommendations of the Council to the effect of maintaining or re-establishing the military status quo normally existing in time of peace.

III. In the case of hostilities of any kind having broken out without, in the Council's opinion, all possibilities of a pacific settlement having been exhausted, the States might undertake in advance to accept, on the Council's proposal, an armistice on land and sea and in the air, including especially the obligation, for the two parties in dispute, to withdraw any forces which might have penetrated into foreign territory and to respect the sovereignty of the other State.

IV. The question should be considered whether the above obligations should be undertaken only in case of a unanimous vote of the Council (the votes of the parties in dispute not being counted), or whether a majority, simple or qualified, should suffice in the matter. Furthermore, it should be considered in what form the obligations would have to be drawn up in order to bring them into conformity with the Covenant.

V. These obligations might constitute the subject of an agreement or of a protocol which would be open for signature by all States Members and non-Members of the League of Nations, and which might come into force separately for the several continents in a way similar to that provided for in the draft Treaty of Mutual Assistance of 1923.

I venture to hand the text of these suggestions to the Chairman, asking him to submit it for discussion by the Committee at an appropriate moment.

M. Sokal in his speech said he believed that the thesis according to which disarmament pure and simple might be effected without any counterbalancing security had been abandoned. Although the question raised by M. Sokal does not, in my opinion, come within the competence of our Committee properly speaking, I feel bound, in order to avoid any misunderstanding, to repeat that the German Government maintains the thesis endorsed by the Assembly in 1926 and 1927 when it said that, having regard to the present conditions of regional and general security, a first conference on general disarmament ought to be convened.

In this connection, I would like to refer to certain remarks made by Lord Cushendun in his first speech. Lord Cushendun said that it was impossible to decide whether disarmament depended on security or security on disarmament. It seems to me that his observation was particularly opportune. The delegates of Poland and France congratulated Lord Cushendun on the first part of his sentence, but I would venture to thank him for the second part.

Moreover, I would associate myself with the proposals made by M. Unden, with the same ideas in mind, in regard to paragraph 56 of the report of M. Politis, to the effect that the text of that passage should be amended.

I was struck by an expression in the very interesting speech of M. Paul-Boncour. If I rightly understood him, he said that it would not be sufficient if an increase of security took place, but it was necessary that this security should be measurable. Personally, I do not think it will always be very easy to give numerical form to the increase of security effected. In any case, it will not be possible to do so in a way which would enable the figures to be embodied in a balance-sheet, to use the witty metaphor of M. Paul-Boncour. The important thing in my mind is the political value entailed by the increase of security. I am a little afraid of the reserve which M. Paul-Boncour seemed to make, and which appears to me to be too restrictive. I shall perhaps have an opportunity of returning to this point in the discussion on the memoranda.

In conclusion, I ask you to permit me to add a few words on the question of regional treaties. I have already explained the point of view of my Government in this matter. Several times during our discussions the opinion has been expressed, particularly in reference to this matter, that positive progress might be accomplished, and the possibility has been discussed of agreeing upon the establishment of a few model treaties. I am, as I have already said, prepared to collaborate so far as I can in this difficult but important task. M. Paul-Boncour has said that we are engaged upon an essential technical piece of work. I am far from denying that, up to a certain point, the French delegate is perfectly right. Nevertheless, we must not lose sight of the fact that the establishment and the recommendation of such treaties has also
a decidedly political aspect. Among the numerous points to which such treaties give rise I would venture to draw special attention to the political aspects which will be evident if we take up the question of the effects which the new treaties may have on treaties of another character which already exist between Members of the League of Nations, and which have been the subject of certain criticisms and several memoranda submitted by various Governments.

In view of the political importance of our work, and in order to enable the views of the States Members of the League to be taken into consideration in our discussions, it seems to be necessary to inform the Governments of the results of our work and not to take any final decisions until we have considered their possible observations.

M. Morfoff (Bulgaria). — The Bulgarian Government is ready to support any measures which will tend to increase the security of States against aggression, provided that these measures do not involve a delay in establishing the most effective safeguard of peace, which is the general reduction of armaments, and provided they do not in any way prejudice the provisions of the Covenant of the League of Nations, which have already proved themselves effective so far as our country is concerned.

7. Procedure.

The Chairman. — We have finished the first phase of our work, and we are now passing to the second phase, which will, I think, be the principal one, since it should result in positive proposals. It is therefore extremely important to determine our procedure.

I am going to submit a proposal which I have no intention of imposing on my colleagues, who are entirely free to accept or reject my suggestions. In order to adopt a useful procedure, we must first of all remember the object of our work. The result which we are to achieve is the elaboration of a special report of this Committee. That report, in my opinion, should contain all the declarations and reservations made at this session. It would include also the concrete results to which I have referred—in other words, the proposals which we frame in the form of arbitration or conciliation agreements, model security treaties, resolutions concerning financial assistance to States, and recommendations relating to the communications of the League of Nations in times of crisis, etc. These concrete proposals, which will constitute a definite achievement, will be certainly submitted subsequently to the various States according to the customary procedure. Our Committee is closely connected with the Preparatory Commission. It will therefore make a report to that Commission, and that report will be submitted to the Council, which will, if necessary, send the results of its work to the Governments, in order that they may intimate their views on the subject, and in order that the Assembly may express its opinion. I do not, however, wish at this stage to open a discussion on the procedure to be followed when the report is drawn up. Such a discussion should come at the end of our deliberations. I will now limit myself to the procedure for the establishment of the report.

Starting from to-morrow, we shall review the memoranda submitted to us, without, however, discussing them word by word. I would remind you that the memoranda submitted to you are documents which are in a sense personal, and which serve as a basis for the work of the Committee, but that the result of that work will be a final report which should be unaniiously adopted. We will accordingly review the Introduction and the three memoranda. The delegates, as they have already stated in the general discussion, will then draw attention to the various points of detail which call for consideration, will submit new suggestions, and indicate the views which they would like to see definitely expressed in the reports of the Committee.

If the Committee so desires, the Bureau might, as the discussion proceeds, take into consideration all that is said in the Committee, either as regards the recommendations and the draft resolutions already presented, or as regards the texts of model treaties. The Bureau might then prepare some material to be passed to a Drafting Committee, which will examine the texts of the model treaties and of the recommendations or resolutions submitted to the Committee in plenary meeting.

If my proposal is adopted, I would suggest that to-morrow afternoon we should examine the Introduction and the Memorandum on Arbitration. We should then have suggestions on the subject of arbitration or the Introduction for submission to the Drafting Committee, which might then begin work on Friday morning. On Friday afternoon the Committee will continue the examination of the memoranda, and the results will be submitted to the Drafting Committee on Saturday morning, and so it will continue.

M. Paul-Boncour (France). — I would ask whether it is the intention of the Chairman to discuss the whole text of the memoranda or only the conclusions.

The Chairman. — I did not intend that the texts should be read paragraph by paragraph. Objections, reservations and new suggestions have been in effect indicated during the general discussion. It is, however, possible that certain delegates will wish to raise other questions during the special discussions. It is on that reason that I thought it well to review the memoranda, in order to enable those who so desire to bring forward their special suggestions. Doubtless the conclusions of the memoranda must be regarded as the essential part of them, and it is by considering the conclusions that it will be easiest to formulate any possible objections or new suggestions. I think it would be superfluous to read the text of the memoranda line by line, as there is no question of amending these documents with a view to their adoption. The Committee is to frame a special report in which the point of view and the reservations of each Government will be clearly embodied.

The procedure proposed by the Chairman was adopted.
8. Appointment of the Drafting Committee.

The CHAIRMAN. — The Drafting Committee should not, in my opinion, comprise more than twelve members. I have consulted a certain number of my colleagues in order that the various tendencies which have appeared in the Committee may be represented. I propose that the Committee should be constituted as follows: the Bureau of the Committee, namely, the Chairman, the Vice-Chairman, and the three Rapporteurs, together with a representative of Great Britain, France, Germany, Italy, Japan and Poland.

Moreover, owing to the absence of the Vice-Chairman, who represents a South American State, I propose to complete the composition of the Committee by the appointment of the delegate for the Argentine.

The proposal was adopted.


The CHAIRMAN. — I invite the delegates who wish to formulate observations on the Introductory Note or on the Memorandum on Arbitration to forward to me their proposals in writing—if possible, before the afternoon meeting, in order that the Bureau may examine them.

The morning will be reserved for the work of the Drafting Committee, and the afternoon for the plenary meeting of the Committee.

Lord CUSHENDUN (British Empire). — In order to avoid any misunderstanding, I wish to ask a question. The delegate of Germany has submitted proposals, and a copy of them has been circulated. I would ask at what stage of our proceedings these particular proposals will be brought before the Committee.

The CHAIRMAN. — The representative of Germany, when he submitted his proposal, asked me to bring them up for discussion at the appropriate moment. I think that this discussion might take place during the examination of the Memorandum on Security of M. Politis, as there is a certain connection between the German proposals and that memorandum.

One of the tasks of the Bureau will be to decide at what stage of the proceedings any particular question would be examined.

The meeting rose at 6.10 p.m.

SIXTH MEETING.

Held on Thursday, February 23rd, 1928, at 3 p.m.

Chairman: M. BENES; later, M. UNDEN (Vice-Chairman).


The CHAIRMAN. — We have received from certain delegations notes on the Introduction and on the Memorandum on Arbitration. These notes have been forwarded by the Roumanian delegation (Annex 2), the Polish delegation (Annex 3), and the French delegation (Annex 4). The Serb-Croat-Slovene and British delegations have prepared notes which will be communicated to us later.

I propose to refer at once to the Drafting Committee the portions of the various notes submitted by the delegations relating to the Introduction. When we have received the British and Serb-Croat-Slovene notes, we shall examine them and apply to them the same procedure.

Lord CUSHENDUN (British Empire). — Mr. Chairman,—As you have just announced, I should like to submit to the Committee a short text and to invite its adherence to it for the following reason. The Committee will remember that, when we were engaged on the general discussion, I ventured to call attention in the Introductory Note to certain statements made by you which I thought of very great value. As long as they remain merely in the Introductory Note they will, technically speaking, remain merely the expression of your personal point of view, and, although that personal view very naturally carries the utmost weight, I think that it would be to the advantage of our future work if the principal declarations contained in that Introductory Note were formally endorsed in the form of a resolution passed by this Committee, and it is for that purpose that I have put on paper what appear to me to be the most valuable statements contained in it. I have not the least wish, of course, to interfere in any way with the declarations that other delegations have prepared; in fact, I did not know that any such declarations were in contemplation. If I had known, I might perhaps have merely put in a declaration in the same way.

I am not certain that the procedure I am asking you to adopt is the best. I do not wish in any way to interfere with the full discretion of the Committee or to obtain any sort of advantage over any of my colleagues. All I am anxious to do is to obtain the sanction and approval of the Committee as a whole for the valuable principles contained in your Introductory Note, and if I am able to do that, I am quite willing to submit myself entirely to your guidance or to the views of my colleagues in the Committee. I have the declaration here, and perhaps, Mr. Chairman, I may hand it up to you and leave you to decide in what form I had better bring it formally before the Committee.
The CHAIRMAN.—I will read the text submitted by the British delegation:

“The Committee on Arbitration and Security:

"After studying the Introduction to the Memoranda on Arbitration, Security and the Articles of the Covenant submitted by the Chairman, "Declares its concurrence in the views therein enunciated that:

"(1) The Covenant itself creates a measure of security which needs to be appreciated at its full value and that its articles are capable of being applied in such a way that in the majority of cases they can prevent war;

"(2) The common will for peace of the States Members of the Council can be exercised effectively within the framework of the Covenant; all the more so because that instrument does not provide any rigid code of procedure for the settlement of international crises and that it is, therefore, inexpedient to attempt to draw up in advance a complete list of measures for preserving international peace;

"(3) Those nations which consider that the general measure of security afforded by the Covenant is inadequate for their needs must at the present moment regard the conclusion of security pacts with other States in the same geographical area as the only practical or possible form of supplementary guarantee."

We have to decide first whether the Committee feels it desirable to make a declaration of this character. The text of the declaration would have to be established in such a way as would enable it to be adopted unanimously, taking into account the views of all the delegations, and it should therefore be previously submitted, in my opinion, to the Drafting Committee.

M. MARKOVITCH (Kingdom of the Serbs, Croats and Slovenes).—We have three drafts submitted by the French, Roumanian and Polish delegations. I have myself prepared a text which I desire to submit to the Drafting Committee in the form of a suggestion (Annex 5).

We now have before us a draft resolution submitted by the British delegation. The question arises whether we are ready to discuss the very important points embodied in these five proposals without having had time to study them. Personally, I am not yet ready to discuss them. Meanwhile, I would venture to read the draft suggestion which I intend to submit to the Drafting Committee and which differs appreciably, I regret to say, from the draft resolution submitted by the representative of the British Empire. I have thus an additional reason for asking the Committee to adjourn the decision to be taken on the British proposal.

For the moment, I will confine myself to reading my suggestions on the Introduction:

"The object of the Covenant is to create security, but the exact meaning of security has to be defined. The provisions of the Covenant may then in certain cases prevent war. There have, indeed, been instances in the last few years in which the Council has been able to forestall a conflict. In theory, therefore, the members of the Council possess, under the Covenant, a fairly wide possibility of maintaining international peace. In the domain of practical politics, the system laid down in the Covenant has not yet gained, in its actual working, the importance and character of quasi-automatic international machinery guaranteeing within the framework of the Covenant the effects which the Covenant was intended to produce. The system of security, as contained in the Covenant, must be applied and studied for some time yet before any final conclusions can be drawn. Its value will have to be proved in cases of serious crises, in which the interests of great Powers are involved, in order that the peoples of the world may feel an absolute confidence in the unfailing action of the Covenant. Time is necessary for this.

"The Serb-Croat-Slovene Delegation feels that an effort should be made to strengthen the authority of the Council of the League, so that it may take certain and effective action in all the cases, without any exception, covered by the Covenant.

"Not until public opinion in all countries Members of the League has accepted in all sincerity and confidence the rôle of the Council as final arbiter of peace or war, shall we be able to speak of security guaranteed by the Covenant, with all its logical consequences as regards the limitation and reduction of armaments. This is not the case at the present time in most European countries."

M. SOKAL (Poland).—The Polish delegation, in the note which I had the honour to present, has explained as follows what I have already had occasion to put before my colleagues regarding the Introduction in my speech during the general discussion:

"1. The Polish delegation feels justified in accepting as a whole the principles set forth in the Introduction, and proposes no amendments. In order, however, to make its views on these principles clear, it desires to offer certain observations which it thinks might be taken into consideration when the Committee’s final report comes to be drawn up.

"2. The Polish Government realises that the Covenant of the League in itself affords the States Members a certain degree of security, inasmuch as the signatories of the Covenant have formally undertaken to co-operate in the preservation of peace, more particularly by the following clause in Article II:
to express their views, and, this being so, I consider that the suggestion of the representative of Roumania is the best. We have before us the proposal of the British delegation and I have not repeated paragraphs 11 and 12 of the Introduction, but they are closely connected with paragraph 5, about which the representative of the British Empire has made a declaration. I think that this declaration certainly requires detailed examination, but I desire immediately to express my complete agreement with the passage in it concerning regional agreements.

M. ANTONIADE (Roumania). — In the short observations which I made on the Introduction, I tried first to emphasise the fact that the Roumanian delegation adhered to the very just and judicious observations contained in that note. I desired rather in a concise way to refer to the defects in co-ordination, if I may use this expression, between the tenor of this note and certain passages in the memoranda. The present discussion shows, I think, that we are anticipating our discussion on the great question of security. I expressly refrained from speaking on this great question in my observations, either in order to wait for the examination of the memorandum concerning the articles of the Covenant which deal with the amount of security which the Covenant can offer, or until the examination of the memorandum concerning security itself. It was for this reason that I said that the Roumanian delegation agreed with the principle contained in paragraph 5, to which the Council is invested for the maintenance of peace are adequate, and that the action of the Council to prevent conflict and to mediate is backed, if necessary, by sanctions.

4. While accepting the idea that the undertakings given by the various States in virtue of Article 16 can be amplified if the Members of the League are honestly desirous of co-operating for the establishment of international peace, the Polish Government reserves the right to state more fully, when the Memorandum on Security comes to be discussed, its views regarding the part to be played by the League in the organisation of regional security by supplementary treaties of guarantee and assistance between groups of countries.

5. The Polish Government desires to emphasise specially the importance it attaches to the ideas developed in paragraphs 11 and 12 of the Introduction. "

I have not repeated paragraphs 11 and 12 of the Introduction, but they are closely connected with paragraph 5, about which the representative of the British Empire has made a declaration. I think that this declaration certainly requires detailed examination, but I desire immediately to express my complete agreement with the passage in it concerning regional agreements.

The CHAIRMAN. — I think that the Committee will agree to adopt the procedure suggested by M. Antoniade. Obviously, the questions raised are of great importance and they may give rise, as M. Markovitch has pointed out, to very long discussion. During the general discussion, however, almost everything has already been said on this point. Members have had sufficient opportunity to express their views, and, this being so, I consider that the suggestion of the representative of Roumania is the best. We have before us the proposal of the British delegation and that of the Serb-Croat-Slovene delegation, as well as the observations of the delegates of Poland and Roumania. These represent two currents of opinion concerning the question covered by the Introduction. I propose, therefore, that the Drafting Committee should start to-morrow by discussing these proposals with the object of seeking a formula which may meet with the approval of the Committee.

This proposal was adopted.
11. Discussion of the Memorandum on Arbitration and Conciliation : Chapter I.

The CHAIRMAN. — The procedure to be followed in regard to this question will be, I think, a little more difficult. We must first decide what should be the result which we wish to achieve as far as the Memorandum on Arbitration and Conciliation is concerned.

From the general discussion it appears that the Committee takes the view that it is necessary to be prepared to propose model treaties of arbitration and conciliation. A model treaty of this kind has been submitted by the Swedish delegation. I think that, as a whole, this proposal has met with general assent. As far as model treaties of conciliation are concerned, the Secretariat has already been dealing with the matter and the Bureau will be in a position to submit models of such treaties to the Drafting Committee. The Drafting Committee will thus forthwith have before it immediately the necessary proposals and will be able to begin its work to-morrow.

The discussion on the Memorandum on Arbitration ought to make it possible for the various delegations to submit their observations in order that the Drafting Committee may take into account, as it is its duty to do, the note of the French delegation and the passage concerning arbitration to be found in the notes presented by the Polish, Roumanian and Serb-Croat-Slovene delegations.

I will now, therefore, pass in review the various paragraphs of the Memorandum on Arbitration in order to give an opportunity to other delegations immediately to make their reservations or their observations.

I will commence by taking the first part of the Memorandum on Arbitration, which I will briefly analyse.

Paragraph 16 concerns that form of arbitration which is an essential element of the system established by the Covenant. Paragraph 20 points out that the procedure of conciliation is compatible with the Covenant and that it strengthens the means for the peaceful settlement of disputes. Paragraph 21, in mentioning the resolution of the Assembly of September 25th, 1926, points out that the Council has not up to the present had occasion to offer its good offices and has not been asked by any State to do so. Paragraphs 22 and 23 emphasise the evolution of and the increase in arbitration treaties, conciliation treaties and treaties of both arbitration and conciliation. In paragraphs 24 and 25 it is stated that the value of an arbitration treaty depends on the importance of the States bound by such treaties and on the measure in which the relations between those States are capable of endangering the peace of the world. Finally, paragraph 26 notes the increasing readiness to accept arbitration or conciliation and to abandon the traditional reservations or to diminish their force.

General de Marinis (Italy). — I understand that we shall proceed to this examination, referring to the conclusions following each memorandum. It is perhaps a little difficult to submit observations which cover all the paragraphs.

M. Paul-Boncour (France). — I merely desire to support the observation of General de Marinis. In my view, it is mainly, and perhaps only, when we discuss the conclusions that the observations which delegates may have to make can usefully be put forward. On the one hand, the main body of the report is rather the expression of the Rapporteurs' view, and, on the other, it is very difficult to disconnect the various ideas from it. Consequently, delegates may repeat themselves or not make the observation they desire at the proper moment. Observations can therefore usefully be made when we discuss the conclusions. With regard to the observations which the French delegation may desire to make, it has submitted a note on the subject in order to render it unnecessary to make them verbally.

The CHAIRMAN. — I entirely agree with General de Marinis and M. Paul-Boncour regarding the procedure to be followed. Nevertheless, the Bureau must show the necessary liberal spirit and must not demand too rapid a discussion, but must give everyone an opportunity of expressing his views. On the other hand, if delegates think that it is more logical and more useful to discuss the whole memorandum on the conclusions, I will not oppose such a proposal.

M. Sato (Japan). — For my part, I admire the speed with which the Chairman has taken us through the numerous paragraphs which we have already reviewed. I think, however, that this is a somewhat too rapid procedure, for some of these texts naturally give rise to difficulties.

Perhaps we should achieve a compromise between the procedure proposed by the Bureau and that proposed by General de Marinis. The first consists in grouping the paragraphs for discussion, the second in limiting the discussion to the conclusions. If members of the Committee could themselves have before them the table in which the paragraphs are grouped, the discussion might perhaps be more effective and might continue with that speed desired by the Chairman, while at the same time avoiding all confusion.

The CHAIRMAN. — I certainly do not wish to go too fast. On the contrary, as I have already pointed out, I desire that all delegates should be able to express their views most freely on each question submitted.

As far as the suggestion of M. Sato is concerned, I would reply that the grouping of paragraphs is only to be carried out in order to help the Chairman to preside over the discussion with greater ease. I would point out that, if we are to circulate to all delegations a copy of this table, it will have to be roneoed, which will cause us to lose all to-morrow.

I propose, therefore, that we should continue the discussion in the manner in which we have begun, but specify a little more definitely the questions to be raised and perhaps put them in smaller groups.
M. SATO (Japan). — I do not press my point.

The CHAIRMAN. — It is understood that we will examine the conclusions at the same time. In so complicated a question as that before us, it is very difficult to simplify the procedure. We will do our best, however.

Lord CUSHENDUN (British Empire). — As regards paragraphs 17 to 26, these clauses appear to me to be chiefly statements of fact, records of what has taken place, and the only point to which I should like to draw attention is contained in paragraph 20, which refers to what was done in 1922, when a model set of articles was drawn up and it was proposed that the Council should use its good offices. That is in that paragraph or in the succeeding one. At any rate, it was proposed at some time or other — I think in 1921 — that a model set of articles should be drawn up, and they were drawn up. It was also proposed the Council should use its good offices. Then we are told that, in point of fact, that machinery has never been used.

Before we finally part with these clauses it might be well to consider whether we are content that the machinery which was devised in 1922 should be put on the scrap-heap, or whether it may not still be possible to get some good out of the proposal which was then made. I quite realise the difficulty of using that machinery if the Council has not seen fit to offer its good offices, but if the members of the Committee will do me the honour of turning to the memorandum of my Government (Annex I), they will see that we propose that, "in accordance with the Assembly resolution quoted above, the Council place its good offices at the disposal of all States desirous of concluding suitable agreements likely to establish confidence and security". Would not it be possible either to induce the Council to be prepared to use its good offices with regard to the promotion of agreements, or could we not recommend different States in different regions, which are prepared perhaps to conclude regional agreements, to approach the Council and ask that the Council should use its good offices by way of mediation in order to get over any preliminary difficulties that may exist, and in fact to smooth the way towards arriving at regional agreements?

I do not wish to delay the Committee by discussing the matter at great length, because I recognise it is a minor point, but I think it would be well, while we are on this part of the memorandum, to see whether some use could not be made of that machinery.

M. PAUL-BONCOUR (France). — I for my part desire to associate myself completely with the very important words just spoken by the representative of the British Empire, and, as I prefer to follow my own method, I ask that they be discussed with the conclusions. There is only one thing of interest, and that is the conclusion which we reach. Lord Cushendun, in my view, gave a very interesting suggestion just now. In the conclusions there is no trace whatever of any provision of this nature — or, at any rate, it is not so clearly stated as he himself has just stated it.

Consequently, I entirely associate myself with what my colleague has said, and I hope his words will be repeated in a concrete manner in the conclusions.

The CHAIRMAN. — With regard to the suggestion of the representative of the British Empire, I would draw the attention of my colleagues to the fact that the same question has been indirectly dealt with in the report of M. Politis in paragraph 89. I consider that this suggestion is of great importance and that the Drafting Committee should take account of it. It is perfectly possible that this suggestion of the delegate of the British Empire may lead us to adopt a kind of recommendation or formula which we might adopt at some future date when our work is finished and insert in our resolutions. This depends on the extent to which the Drafting Committee takes account of it.

M. MARKOVITCH (Kingdom of the Serbs, Croats and Slovenes). — Despite the observation of the Chairman, I desire to revert to the proposal of the British delegation in order to support it with all the strength which I can command, because, in my view, it is a proposal to which the general assent can be given. Though we may not all hold the same views regarding the degree of security guaranteed by the Covenant, though we may have different opinions concerning regional agreements, I do not think that there is anyone who disagrees with the proposal that the peaceful settlement of international disputes should be effected by arbitration, either by judicial means or by the procedure of conciliation. Here before us is a proposal of the British Empire, I would draw the attention of my colleagues to the fact that the same question has been raised in paragraph 20, which refers to what was done in 1922, when a model set of articles was drawn up and it was proposed that the Council should use its good offices. That is in that paragraph or in the succeeding one. At any rate, it was proposed at some time or other — I think in 1921 — that a model set of articles should be drawn up, and they were drawn up. It was also proposed the Council should use its good offices. Then we are told that, in point of fact, that machinery has never been used.

It is for this reason that I rise to speak. The Drafting Committee must be assured that on this question at least there is no divergence of views. It must therefore push its study as far as possible in this direction without taking account of a too rigid formula, if I may use the expression of the British delegate, and without fearing to go a little beyond the limits laid down in the statements which refer solely to the existing state of affairs.

M. VON SIMSON (Germany). — If I have properly understood the observations of the Chairman, the suggestion made by Lord Cushendun is connected to a certain extent with paragraph 89 of the memorandum of M. Politis. I would like to point out, however, that in my view there is an important difference between these two proposals.
In the memorandum of the British Government it is stated:

"It seems to them that if States which, owing to any doubt or suspicion, hesitate to open negotiations were mutually to agree to place themselves in the hands of the Council and to conduct their conversations under its auspices, the conclusion of further agreements on the lines recommended would be greatly facilitated."

In the memorandum of M. Politis, in paragraph 89 Annex 1 it is stated:

"It will be possible to go even further, and the next Assembly might proclaim that if, in any specific area, two or more States desired to conclude a security pact with the other States belonging to that same area, they might apply to the Council, requesting its good offices for this purpose."

This is not the same thing.

M. POLITIS (Greece). — I think that this is the same thing.

M. VON SIMSON (Germany). — I do not think so. In any case, if it is the same thing, what I say about your report also applies to the proposal in the British memorandum. I wish merely to recall what I said during the general discussion. I said that the German Government maintained the view that agreements could not be effective and could not advance the cause of peace unless they were concluded freely by countries and not under any form of pressure. I do not wish at the moment to dwell on this point, since the Chairman has said that the Drafting Committee will discuss this question.

The CHAIRMAN. — I think that we all agree with M. von Simson's proposal to submit the question to the Drafting Committee. It will then be possible to see whether there is any contradiction between the two proposals or whether they are connected.

I think that it is the duty of the Bureau to draw the Committee's attention, since we desire the Drafting Committee to know exactly where it stands, to a resolution of the Assembly of 1926 which also refers to the subject and which contains an invitation to the Council to make an offer of its good offices in certain eventualities.

All the observations of delegates and all documentation will be sent to the Drafting Committee, which should try to find a formula meeting with general satisfaction.

Lord CUSHENDUN (British Empire). — I would like to remove what possibly may be a misunderstanding. I rather gathered from the speech of the honourable delegate of the Kingdom of the Serbs, Croats and Slovenes that he was making rather more out of my suggestion than was intended. You will remember that I made my observation because we were discussing Chapter I of M. Holsti's memorandum, and I found that the first of his conclusions was that means be sought to facilitate and make more effective the procedure already contemplated in an Assembly resolution whereby the Council should lend its good offices with a view to the conclusion of arbitration and conciliation conventions. All that I intended was to support that conclusion. I do not make any new proposal at all. All I say is, as we have carried out what he there proposes.

M. UNDEN (Sweden). — Lord Cushendun has recalled a resolution adopted by the Assembly in 1922 which recommended a procedure of conciliation by means of permanent committees. I think that this resolution has encouraged to a certain degree the conclusion of bilateral treaties regarding the procedure of conciliation. Nevertheless, when that resolution was adopted in 1922, hope was expressed in various quarters that this method of conciliation would be the beginning in order to make it possible to conclude a general treaty of conciliation in the near future. In my view, it would therefore be desirable to take a step forward at this juncture and to draft a general treaty of conciliation to be combined with an arbitration treaty. If a general treaty of the nature proposed by the Swedish Government be accepted, the recommendation of the Assembly of 1922 loses its significance in view of the fact that a still more efficient system of conciliation will have been adopted than that recommended in the Assembly's resolution.

M. MARKOVITCH (Kingdom of the Serbs, Croats and Slovenes). — I must ask the pardon of the Committee for having misinterpreted the proposal of the British delegation, but in this case I must ask the Committee to take note of the fact that I maintain what I have said and submitted in the form of a proposal on behalf of my delegation.

The CHAIRMAN. — You will probably agree with me when I propose that all these observations and proposals should be submitted to the Drafting Committee.

12. Discussion of the Memorandum on Arbitration and Conciliation: Chapter II.

The CHAIRMAN. — Paragraph 27, which heads the chapter, contains three suggestion of M. Holsti.

The first consists in drawing the attention of Governments to one or more types of treaty which might be adopted between two States or between restricted groups of States.

The second concerns the eventual expansion of these treaties to other States with the consent of the contracting parties.

The third comprises the negotiation of a general treaty open to the signature of all Members of the League or even to all States.

I think that these three alternatives will have to be taken into account by the Drafting Committee when it deals with the drawing up of model treaties.
General DE MARINIS (Italy). — I ask your permission to say a word with special reference to No. 4 of paragraph 49 giving the conclusions of the Memorandum on Arbitration, which refers to paragraph 27. When I made my general observations I expressed the view that, if a model regional treaty is to be drafted, it should contain various formulae between which it may be possible to choose, and that the parties desiring to adhere to it should be left the possibility of making reservations.

When, however, it is a question of general arbitration, the application of a system of reservations to a single model type of arbitration treaty appears less opportune, for it would impair the practical efficiency of such a treaty. I think we should realise that, while these reservations may be limited in number in a regional treaty, they would be much wider in extent in a general treaty of arbitration concerning all States. It is for this reason that we prefer special treaties of arbitration. I am all the more in a position to express this view, since my country concluded a certain number of arbitration treaties after the war which apply to all disputes without exception. These treaties have been negotiated with Switzerland, Spain, Chile, etc.

This does not mean to say that we are opposed to the drafting by our Committee of treaties of arbitration, but—and this is the conclusion which I reach—we take the view that there must be several models of these treaties, to be applied to differing circumstances. I hope that the Bureau will take account of my observation.

Lord CUSHENDUN (British Empire.) — I think paragraph 27 is a very important one. It raises some very important principles as well as methods, and it may afford a convenient opportunity for me to express the views which I hold on the subject of arbitration treaties, and to which I shall have to invite the Committee to agree. Let me say, with regard to the three alternatives (a), (b), and (c), that, while I am quite prepared to give my strong support to the first of these alternatives, namely, (a), as at present advised, I should not be prepared to support either (b) or (c).

That brings me to the consideration which we all have to keep in view as to the sort of treaty which we think will give the security which the world wants. That is really what we are here to try to give, namely, such additional security to that already provided by the Covenant as may enable disarmament to take place.

I have listened to the remarks of a member of the Bureau, who expressed the view that we should endeavour to agree upon a general treaty or general agreement. The question whether or not general agreements should be entered into is one of the points which appears from time to time all through these reports and which has cropped up constantly in the speeches of the delegates. I say quite frankly that I am opposed, speaking generally, to what I think we all understand by general treaties as distinguished from special treaties. I say that, speaking generally—I do not say without exception—I am opposed to them. I have noticed that both the reports which are before us and a good many of the speeches which have been made take the same view. I should like to explain very shortly why I take that view. I have no doubt other delegates for the same reason take the same view.

If I could see that the signing of a general agreement or general treaty open to accession by all States Members of the League, and perhaps others as well, offered more and better security to the world and, therefore, better hopes of maintaining peace than other sorts of arrangements, I should be one of the keenest supporters of general treaties, but that is not the case. I see no reason for supposing that a general treaty of arbitration or of conciliation offers any more security to the world or to individual States than a series of individual treaties, bilateral or group treaties; in fact, I strongly hold the contrary view. I believe you obtain less security instead of more by having a general treaty covering a large number of States whose circumstances are utterly dissimilar.

I was interested in the speeches made last night by the delegates from two South American States (Chile and the Argentine), both of whom brought to our attention the totally different circumstances with which they are familiar, and the totally different conditions for which they have to provide from those familiar to us in Europe. I was not surprised to hear that; it seems to me to be common sense. What possible object will you gain by having a general treaty in identical terms for all of us, whether big States or small States in Europe, Republics in South America, or Canada or other Dominions of the British Crown? That all these countries with utterly dissimilar conditions should think they are getting or giving better security by signing some pact in identical terms is a thing I have never been able to understand. I believe that it is a pure delusion. I cast my eye down this report; I look at paragraph 37. I see there: “The diversity of the provisions of these treaties, both as regards their scope and the procedure and choice of the tribunal, undoubtedly corresponds with the diversity of the circumstances which govern the relations of these groups inter se.” To my surprise, I find the last sentence is: “At the present time, it would seem to be difficult to reduce this varying practice to one common type.” My comment to myself when I read those words was: “Of course it is difficult, but why in the world should we try?” Why in the world should we try all these diverse circumstances which govern these groups to a common type? If we had reduced them all to a common type before we left this room, we should not have done one iota towards producing greater security in the world or in enabling disarmament to take place. Therefore, that is the first point on which I wish as strongly as possible to insist—that in the examination of the treaties which we can recommend, or the models that we can draw up, let us be clear in our minds, as I think the Rapporteurs are clear, and as certainly several of my colleagues are clear in their minds, that general treaties, for which there seems to be such a curious hankering in some minds, are really not of the slightest service to the objects we have in view. Let us try to devise something which will be more serviceable.
The next point on which I wish to insist is this. It is laid down very clearly and strongly in the British memorandum. We draw the clearest possible distinction between justiciable disputes and non-justiciable disputes, and that distinction is drawn in our minds not as the result of any clearly thought-out academic theory; it is not the result of university studies; it is the result of long, hard, practical experience of what arbitration can do and cannot do, and what conciliation can do and cannot do. We draw a clear distinction between justiciable disputes which can be settled by reference to a code of law and other disputes which arise out of political conditions, or which cannot be reduced to an actual violation of law. That distinction is very important, and it is not clearly kept in view by some of the delegates who have both spoken and written on this subject. We are anxious to maintain this distinction not merely for its own sake and because it is both logical and practical, but because it is perhaps still more important for the sake of the court to which justiciable disputes are, or ought to be, referred. I do not know that all States at the present moment are really prepared to trust all sorts of disputes to the Permanent Court. If they are not, the only reason for that distrust is that the Court has not yet had time to establish itself in the confidence of the world. That is through no fault of its own, but simply because it has not had a code of law sufficiently universal and sufficiently well established to be able to deal with every case that is brought before it. It would be very unbecoming in me to take up your time by referring to the as yet imperfect extension of international law, but no one knows better than my friend M. Politis and other authorities on international law that there are great stretches of subject-matter which are not as yet covered by clearly determined and defined law. We in England are familiar with long centuries of legal development, ultimately from the Roman law through our common law, and through long series of legislative enactments, until at last our courts have at their disposal a great code of law applicable to almost any case that can be brought before them. In the course of time, and indeed in no very long time, the Court at The Hague will also have as a result of its own decisions, always acting as precedents for future developments, a great code of international law sufficient to cover all the matters of dispute that can be brought before it; and, as that time progressively arrives, we shall all be increasingly content, whatever dispute arises, as long as it is a matter of law, to refer it to the Permanent Court.

Now, if you begin referring non-justiciable disputes to the Permanent Court, you do that Court an injury, because you are submitting to it disputes which cannot be determined by the same ratio decidendi, and which cannot be determined by reference to any code of law. Some other reason may be brought in; they may call it equity, or they may call it doing substantial justice. You may call it what you like, but it is not law, and the more the Court is used for extraneous purposes outside its proper domain of law, the longer it will be before that Court assumes a position similar to the domestic High Court of any country, such as my own, or France, or Germany, or Italy, or any other highly civilised country. Therefore, for the sake of the Permanent Court as well as for the sake of keeping a clear distinction in regard to disputes, we in England emphasise this distinction between justiciable and non-justiciable disputes.

And that brings me to a similar distinction between arbitration and conciliation. I think in some passages of these reports that distinction is not kept quite clear. It appears to me that the word “arbitration” is used where conciliation is intended. We say they are perfectly distinct, that arbitration is one thing and conciliation is another. Now, we are all in favour of the furthest possible extension of treaties between different States consenting to refer justiciable disputes to arbitration, we hope in every case to the Permanent Court, in order that it may grow in prestige and experience. We deprecate setting up by arbitration treaties other tribunals when the Permanent Court is there to be used, but we have no wish, of course, to coerce other people. If there are States which prefer in their arbitration treaties to name some other tribunal than the Permanent Court, I do not think that anybody has any right either to interfere with them or to attempt to put pressure upon them; but, as a matter of principle, we support the reference of all justiciable disputes subject to arbitration to the Permanent Court.

When we come to non-justiciable disputes, which cannot be determined by any principle of law but by some other method, then we want a totally different tribunal. The delegate for Canada has referred yesterday to the Commission which deals with a certain class of disputes as between Canada and the United States. There are a great many models which might be followed, and if we keep fairly in our minds, as I have endeavoured to suggest, that the individual circumstances of each country should determine the treaty which that country forms with neighbours or groups of neighbours, then the particular kind of commission—whether permanent or ad hoc, I do not think it matters very much—to be set up as a tribunal for conciliation or arbitration treaties other tribunals when the Permanent Court is there to be used, but we have no wish, of course, to coerce other people. If there are States which prefer in their arbitration treaties to name some other tribunal than the Permanent Court, I do not think that anybody has any right either to interfere with them or to attempt to put pressure upon them; but, as a matter of principle, we support the reference of all justiciable disputes subject to arbitration to the Permanent Court.

As I said the other day, we have a very long experience of these treaties, going back well over a hundred years. I do not say for one moment that the exact form of reservation which we have usually found sufficient and consistent in the past is altogether suitable for the present day; it is quite possible that some better form of reservation will be found, and it so happens that at the present time there are certain arbitration treaties in which my country is involved...
which have to be reconsidered because they require renewal within a short period, and it is quite possible that the form of reservation will be a new one. I do not, however, want this Committee to suppose that it would be possible for the British Empire to accept any form of arbitration treaty which was altogether free from reservations.

I think that these observations, which I have made to the best of my ability, cover the point of view with which I approach these particular clauses. I have no doubt that you, Mr. Chairman, and the Committee will not consider me committed beyond the possibility of exception by what I have said; and, as we consider these clauses, if some other point arises which I have omitted to mention, I shall venture to put it before the Committee.

The Chairman. — As you have observed, the British delegate has not confined his observations to paragraph 27 but has covered paragraphs 28 to 35, where reference is made to the difficulties which may be regarded as arising in a system which aims at submitting all disputes, with a view to their final settlement, to a procedure established in advance. I think that we can now proceed with the discussion not only of paragraph 27 but of the whole of the chapter.

M. Valdés-Mandeville (Chile). — We have just heard some very important observations by Lord Cushendun and I am in entire agreement with the first part of his speech concerning general and regional treaties. Paragraph 27 (c) appears to me at the moment to be impracticable, not only because of the diversity of conditions to which Lord Cushendun referred, but for reasons which I mentioned yesterday when I pointed out that, with a general treaty, the limiting provisos and the reservations would necessarily become too extensive for the treaty to be a really effective instrument.

I support what has been said by General de Marinis, and I may be permitted to express myself in the same freedom as was shown by him, since my country has given proof of its warm support of arbitration. I gave yesterday certain examples, among which, in fact, was the treaty which we have signed with Italy. I have already mentioned the compulsory arbitration treaty which we have signed with Spain without reservation. Many other treaties are at present being negotiated.

The Pan-American Conference which has just been held showed a desire to conclude a regional arbitration treaty, since it decided to convene next year a conference which will endeavour to establish an arbitration treaty for disputes of a legal character. I expressed yesterday my opinion in regard to conciliation and quoted an example which the Committee will, I hope, take into consideration.

M. Politis (Greece). — I intervene in this discussion in order to ask for some explanations. It seems to me that there is a misunderstanding.

I quite agree in substance with the representative of the British Empire. I think that at present it is absolutely impossible in practice to conclude a general arbitration treaty between all States and covering all disputes. I would go even further. I think that at present it is impossible to carry into effect a general arbitration treaty limited to disputes which are purely legal. Even for disputes of a legal character, I do not think that it is possible at present for a large number of States to agree upon one and the same formula. According to the special interests of the majority of these States and according to the parties with which they will conclude the treaties, they will feel a very legitimate need to make a certain number of reservations. It may even happen, in view of the diversity of the circumstances arising, that it will not always be the same tribunal or the same jurisdiction which will be considered most suitable to settle their disputes and to inspire them with equal confidence.

Accordingly, in answering substantially the question whether at present it is possible to conclude a general arbitration treaty, I would reply, with Lord Cushendun, in the negative.

I wonder, however, whether something else may not be done. It appears from the conclusions of the report of M. Holsti that he proposes with considerable hesitation to examine whether it would not be possible to achieve the conclusion of a treaty which would be general so far as the number of States was concerned but which would be extremely elastic and would accept compulsory arbitration only up to a certain point and subject to certain qualifications.

I imagine—and this is an idea which I developed at some length before the First Committee of the Assembly in September last—that it would be possible to establish a general treaty, open to the signature of these States which desired to bind themselves by such a treaty. In order, however, to facilitate the adherence of a large number of States, it might be possible to permit each State to adhere to the treaty subject to such reservations and stipulations as it believed to be necessary for the safeguarding of its particular interests.

It will be asked what can be the value of a convention general in its external form but in detail varying according as it was applied to a dispute arising between countries A and B or between countries C and D.

Well, gentlemen, we cannot refrain from noting that, at present, arbitration as a pacific institution is becoming a real symbol and that there are numerous countries which believe that the more arbitration assumes a generalised form, even though it does so with considerable timidity, the stronger will be the existing guarantees for peace and for the future welfare of nations.

These are the considerations which inspired the proposal of the Swedish Government. You will all remember that the Swedish Government at first desired a very much wider and extensive treaty containing much stricter undertakings. In the draft finally submitted, the Swedish Government confines itself to requiring a general undertaking in regard to legal disputes and in regard to other disputes—that is to say, for non-legal disputes—confines itself to the procedure of conciliation. In other words, the Swedish Government, as indicated in
its note, proposes to generalise the form of pacific procedure adopted at Locarno, drawing a very clear and very useful distinction, in my opinion, between disputes of a legal character and non-legal disputes.

I believe that it is possible to go even further in the direction of making the idea more elastic. In the general framework of the Convention which all States who so desire would be invited to sign, a whole series of reservations might be accepted as to time and as to the extent of the obligations incurred and even as to the States with which the contracting parties desire to contract. There would be in this arrangement something which, at first sight, might seem a little odd, namely, that in a general treaty the signatory States would limit their obligations towards certain other signatories and would not accept those obligations towards the world in general.

I think that it is possible to find a formula and, in any case, I believe that this Committee will not have fulfilled its task if it does not endeavour to do so.

I would therefore ask whether the words of the representative of the British Empire mean that he objects to the Drafting Committee studying an elastic formula which might be submitted to the plenary Committee with a view to a more general discussion. If the British representative does not object to that course, I think that the Drafting Committee might here do some very useful work.

I venture to hope that the British Government does not object to my proposal since, in its memorandum, which we very thoroughly examined, I read on page 52, paragraph 22, the following words concerning a scheme of Dr. Nansen which went considerably further:

"The utility of studying the draft of any such agreement depends on whether there are any States which feel themselves able to accept and sign such a general agreement. If there are, the draft of such an agreement should be worked out."

M. UNDÉN (Sweden). — After the observations of M. Politis, it is perhaps hardly necessary for me to speak, but since Sweden has submitted a draft general arbitration treaty, I would like to add a few words concerning the reasons which induced my Government to submit that draft to the Committee. Its object was to render more precisely effective Article 13 of the Covenant. Under Article 13, the Members of the League agree that, whenever any dispute shall arise between them which they recognise to be suitable for submission to arbitration or judicial settlement, and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject-matter to arbitration or judicial settlement. The article goes on to enumerate the cases which are generally suitable for submission to arbitration or judicial settlement. I would like to add that these cases, generally, do not include the kind of dispute which constitutes, so to speak, a safety valve. A State may declare that in the particular case the dispute is not suitable for submission to arbitration or judicial settlement, and refuse to submit it to an arbitration tribunal.

I fully agree with the representative of the British Empire that it is not necessary to frame a uniform general treaty which would prevent States from concluding bilateral treaties permitting them to choose other tribunals or forms of pacific settlement for their disputes. A general treaty would simply play the part of an undertaking supplementary to the Covenant, which would come into play in the event of a dispute having arisen between two States for which there exists no bilateral agreement or any undertaking to arbitrate. It is in no way the intention of the Swedish Government to impose on States the obligation to choose a particular method of pacific settlement. It merely wished to establish an undertaking which may, in the last resort, serve as a supplement to the Covenant. If the Covenant is not completed in this respect, a case may easily be imagined in which a dispute of a legal character suitable for settlement by arbitration would not be submitted to any arbitration tribunal owing to the refusal of one of the parties in the case.

M. RUTGERS (Netherlands). — I entirely agree with the representative of Greece. I do not think I am to interpret the conclusions of the speech of Lord Cusshendun to mean that he considers it as impossible or in practice useless to establish a collective convention which would enable a judicial settlement to be reached of all disputes of a legal character. That can hardly be his contention, in view of the existence of the Optional Clause of Article 36 of the Permanent Court. It cannot be maintained that that clause is impossible or in practice useless.

I fully agree with the representative of Greece. I do not think I am to interpret the conclusions of the speech of Lord Cusshendun to mean that he considers it as impossible or in practice useless to establish a collective convention which would enable a judicial settlement to be reached of all disputes of a legal character. That can hardly be his contention, in view of the existence of the Optional Clause of Article 36 of the Permanent Court. It cannot be maintained that that clause is impossible or in practice useless.

The establishment of an arbitration convention in addition to the Optional Clause has the advantage—emphasised in the note of the French delegation distributed this afternoon—of offering greater elasticity and enabling States to resort at their discretion either to the Permanent Court of International Justice or to an arbitration court of the type which exists at The Hague.
The following inference might be drawn from the speech of M. Politis. He argues that a collective treaty would perhaps only be signed by several States with a great number of reservations, whereas these States would be ready to sign bilateral agreements with other States with fewer reservations. In these circumstances, more real progress would be achieved by means of a bilateral agreement than by a collective agreement. A collective agreement, however, would leave it entirely open to States to sign bilateral arbitration treaties, and I do not, moreover, see any objection to leaving States which have signed collective agreements with reservations free to abandon them wholly or partially in respect of certain States by a special agreement.

For these reasons, I am convinced that by a collective agreement more rapid progress would be achieved than by bilateral or multilateral agreements.

I hope that the members of our Committee who see no advantage for the States which represent in the establishment of a collective agreement will not object to such an agreement being concluded and opened for the signature of States which see an advantage in signing it.

General de Marinis (Italy). — M. Politis, in the important declaration which he has just made, in order to render possible the adherence of numerous States to a general arbitration treaty, contemplates the introduction into the treaty of a very large number of reservations. This induces me to refer once more to what I have previously said, namely, that the practical effect of the treaty would be greatly diminished.

What is the essential clause of an arbitration treaty? The essential clause is precisely that which defines the cases suitable for submission to arbitration. If, in the classification of these cases, one is obliged to make a great number of exceptions for certain States in respect of certain other States, it seems to me that the progress obtained is really of small importance. One feels justified in saying that things remain almost the same as they were before.

I venture to observe that there is a close connection between the difficulties of forming a clear idea of an arbitration treaty and its utility. If the treaty is made extremely elastic in order to admit of the adherence of numerous States, I venture to think that in fact the practical advantage of the treaty is almost non-existent.

I therefore think it well to adhere to the principles explained by the British delegate in this connection.

Lord Cushendun (British Empire). — I think it would be discourteous if I were not to give a short answer to a question which I understood was put to me by M. Politis. I understood him to ask whether it was to be inferred from the speech I made a short time ago that I objected to the Drafting Committee including in its text an examination of general treaties and agreements. I did not intend any such objection. Reference has been made to Clause 22 in the British memorandum, in which we say that the utility of studying the draft of any such agreement—that is a general agreement—depends on whether there are any States which feel themselves able to accept and sign an agreement, and that if there are any such States the draft of an agreement should be prepared. We desire, however, to arrive at the largest possible measure of agreement. It is now quite clear that there is a considerable number of delegates—perhaps a majority—who are opposed to the conclusion of general treaties. Therefore, while I have no objection, if it is so desired, to entrusting the examination of such treaties to the Drafting Committee, I venture to doubt whether we are going to get more forward in our work by doing so, and I am wondering whether we should not really arrive at more practical conclusions by limiting ourselves to subjects on which we are all agreed, namely, particular agreements, whether for arbitration or conciliation. Even if there are some members of the Committee who feel strongly that a general agreement has advantages, it would perhaps be wiser for them to join with their colleagues on ground which is common to us all.

If that suggestion does not appeal to my colleagues, I wish to repeat that the very last thing I desire is to be obstructive. I am perfectly willing that the whole subject should be examined in all its bearings and in the fullest possible way.

M. Sato (Japan). — It seems to me that we have reached an important point in our discussion. Must we give to the model convention which we are going to draft a general or merely a regional character? I have already had occasion to define the attitude of my Government on this subject, but I think it would be useful for me to repeat some of the explanations which I gave during the general discussion.

I pointed out that, in the opinion of the Japanese Government, the best method of serving the cause of peace would consist in the conclusion of arbitration agreements between two or several States; that is to say, between a small number of Powers able to give certain undertakings with the full knowledge of their practical scope and bearing. These undertakings would be defined, having regard to the special situation of each of the contracting parties.

It seems to me that the point of view of the Japanese Government is the same as that of the British Government, which Lord Cushendun has just explained. I think also that General de Marinis has the same views, together with a certain number of our colleagues from South America.

When one comes from the other side of the world to discuss the question of arbitration at Geneva, one naturally attaches special importance to the differences which will be necessary in the drafting of arbitration treaties. As the representative of Italy has very well said, the formula which would be applicable to all States would inevitably be very vague. On the other hand, a text applicable to European States would be too rigid for the States of other continents, and the formula which States like mine would accept would be too vague to be of any use to European States.
In these circumstances, it seems to me that we must content ourselves first of all with seeking a formula which may be applied to States of the same region whose economic, financial or political constitutions are analogous. A formula too broad in its conception would not be of any use.

Dr. RIDDELL (Canada). — I merely wish to recall what I said in this connection yesterday, when I mentioned that provision would presumably be made for a multilateral treaty or model bilateral treaties furthering arbitration in justiciable and conciliation in non-justiciable disputes through special ad hoc commissions. There is nothing in my instructions which would make me oppose the consideration by this body of a multilateral treaty. On the other hand, it does seem that we might get further if we were to confine ourselves not to a bilateral treaty but to bilateral treaties. It has been abundantly evident in the last two or three days that there is not support here for one definite model bilateral treaty. We have heard from South American countries of the kind of treaty adopted there, a treaty that has met their needs, and, as other speakers have said, those countries are not likely to abandon a type that has been of great value to them. In going over these reports, I turned to the model that was proposed by the Assembly in 1922. I see that it differs very materially from the one concluded between Canada and the United States in 1909. It could not be expected that my Government, after seventeen years of experience, and fifteen years of the most satisfactory experience of a certain model of treaty, would abandon if for something that had been worked out theoretically at Geneva. That is not to be supposed. I have gone over the model proposed by the Swedish Government, and I think the Swedish Government is to be congratulated on that model. No doubt it would meet a certain situation, but it is difficult to presume that it would meet all situations. I conceive that we might have two or three model bilateral treaties if we are really going to accomplish the purpose we have in mind. I want to make it clear that I am not here to oppose the consideration of a multilateral treaty. On the other hand, it seems to me that we shall get further by dealing with model bilateral treaties.

The CHAIRMAN. — We may regard the discussion on Chapter II as closed. The observations of the various speakers will be referred to the Drafting Committee. I draw attention, however, to the fact that, from the drafting point of view, a general treaty is hardly to be distinguished from a multilateral treaty concluded with a limited number of States.

The meeting rose at 6.45 p.m.

SEVENTH MEETING.

Held on Friday, February 24th, 1928, at 4 p.m.

Chairman: M. UNDÉN (Sweden).


The CHAIRMAN. — During yesterday’s discussion on arbitration, various opinions were expressed as to whether it was opportune to recommend the conclusion of a general treaty on arbitration. I think, however, that no member of our Committee is opposed in principle to the drafting by the Drafting Committee of a model collective treaty of arbitration.

Various opinions have also been expressed on the question of ascertaining what categories of disputes ought to be covered by a general arbitration treaty, more especially whether such a treaty ought to include only disputes of a juridical nature.

I now call upon the Committee to discuss Chapter III, paragraphs 38 and 39, in which the Rapporteur states that such a model treaty should only concern disputes of a juridical nature. Further, paragraph 39 deals with the reservations excluding certain categories of juridical disputes from arbitration.

Is the Committee of opinion that the Drafting Committee should draw up a model general treaty of arbitration and insert in it provisions concerning only juridical disputes, in conformity with the suggestions of the Rapporteur?

M. ROLIN JAQUEMYNS (Belgium). — As I have not had an opportunity of attending the meeting of the Drafting Committee, I desire to know what the question put by the Chairman exactly means. When mention is made of drafting a general agreement, does this mean a general arbitration agreement or a general arbitration and conciliation agreement? Is it to be a general agreement drawing a distinction between the juridical disputes to which arbitration is to be applied and non-juridical disputes to which a procedure of conciliation is to be applied? Is it an agreement based on the modified Swedish draft?

In my view, if it is desired to achieve something which can usefully be taken into consideration, the draft to be drawn up must be a draft general agreement drawing a distinction between the juridical and non-juridical disputes, and applying in principle, though allowing for exceptions, arbitrations to disputes of a juridical nature and conciliation to other disputes.
Lord CUSHENDUN (British Empire). — I do want to make it clear that, if I acquiesce in the proposal which has been made, I do not withdraw at all from the position I have taken up with regard to general treaties. The Committee will understand that, personally, I think we should leave general treaties aside, but I do not want to obstruct in any way the inclusion in the draft to be made by the Drafting Committee of a model of that sort if it is thought desirable.

I should like to repeat that, as far as I have been able to follow the opinions of the Committee, there is a very considerable body of opinion which considers general treaties undesirable or impracticable at the present moment, and I think that is the opinion to be deduced from the three reports also. I do not know whether there is any procedure at our disposal for determining which side has a majority on a point of that sort. I am not anxious to press the matter to a division, but I confess, as a mere matter of curiosity, I should rather like to know whether a majority of the Committee is or is not in favour of general treaties. I leave that, however, entirely in the Chairman’s hands.

The CHAIRMAN. — At the moment, I do not propose that our Committee should recommend the conclusion of a general treaty or of bilateral treaties. It is merely a question of instructing the Drafting Committee to perform its task. Our Committee will have an opportunity of examining the texts of a model treaty drawn up by the Drafting Committee.

From paragraph 39 it appears, in the view of the Rapporteur, that it would be useful to draft the text of a model treaty on the basis of the Locarno Treaties. The representative of Belgium has also suggested that the Swedish draft could serve as a basis for discussion when the text of this model treaty is drawn up.

As far as the procedure of conciliation is concerned, the Committee will have an opportunity of discussing it in a moment, during the examination of Chapter IV.

M. SATO (Japan). — Yesterday, I had the honour of supporting the view in favour rather of bilateral agreements. This view was supported by several members of our Committee. It would appear, however, from the explanations just given by the Chairman, that our work is tending in a somewhat different direction. If I have properly understood him, our Chairman proposes to instruct the Drafting Committee to draft up the text of a model general treaty of agreement. I do not entirely approve of this suggestion, which, if it be adopted, will be in opposition to my view. I ask, therefore, that the Drafting Committee should be instructed to draft a model bilateral agreement.

This does not mean that I have any great objection against the Drafting Committee being instructed to draft a model general agreement also. But I could not accept a suggestion that its labours should be confined solely to that task.

The CHAIRMAN. — I would draw the attention of the representative of Japan to the fact that, in paragraph 40, the Rapporteur has also suggested the drafting of a model bilateral treaty.

If I have properly interpreted the views of the various members of the Committee, my colleagues agree that the Drafting Committee should be instructed to draw up a collective or general treaty on the basis of the Locarno Treaties and of the Swedish draft, which is founded on the same principles as those treaties.

It still remains to decide whether the Committee wishes also to instruct the Drafting Committee to draw up other model bilateral treaties.

M. ROLIN JAQUEMYNS (Belgium). — I entirely understood the reservation made by Lord Cushendun when he said that the fact of preparing a general treaty would in no way alter the objections which he has put forward, and that to agree to such a preparation did not mean that he bound himself in any way to accept such a treaty.

I wish merely to say, with reference to the proposal that model bilateral treaties should be drafted, that my agreement to such a proposal does not in any way mean that I attach the least practical significance to such treaties. I think, even, that if it is decided to instruct the Drafting Committee to draw up a new draft, and if it were definitely to be adopted, this could have but one result, which would be to confront Governments ready to conclude treaties of arbitration and conciliation with an additional difficulty resulting from the multiplication of texts presented to them.

Nevertheless, if it is thought useful, I will not oppose such a suggestion, but I wish to express the desire that the Committee should in any case pay great attention to the general treaty.

General de MARINIS (Italy). — I desire also to express my opinion on the task to be entrusted to the Drafting Committee. I would remind you of what I have already said in my general observations regarding a general treaty. The Italian delegation shares the views of the representatives of the British Empire and Japan, and other colleagues, that a general treaty of arbitration would not be of great practical use.

I would, however, in no way object to the proposal that the Drafting Committee should draw up a general model treaty of arbitration, but I remain in the position which I have taken up, and I reserve my approval for bilateral or special treaties.

The CHAIRMAN. — I think that the discussions of yesterday and to-day have clearly shown that it is not possible at the moment to achieve a general treaty, but, as I have already pointed out, a collective treaty and a general treaty do not differ, from the drafting point of view.

If no member objects, I think we could instruct the Drafting Committee to draw up a model collective treaty, which might, at some future date, be signed by a certain number of States.

This proposal was adopted.
The CHAIRMAN. — I next pass to paragraph 40, which concerns the question, already discussed, as to whether the Drafting Committee should also be instructed to draw up several bilateral treaties. Several members have expressed doubt as to the utility of this work. Perhaps we could leave it to the Drafting Committee to decide whether or not some model treaties should or should not be submitted.

Lord CUSHENDUN (British Empire). — Mr. Chairman,—May I respectfully say that I hope that the last suggestion will not be adopted. I have already several times expressed the opinion that if model treaties are to be of any use they should be special, bilateral or regional and not general, and I am afraid that, if the Drafting Committee were to prepare a model of a general treaty and were not at the same time to supply us with models of bilateral treaties, whatever might be said in this Committee, the effect of that, when the document was before us and became public, would be to suggest that, in the opinion of this Committee and in the opinion of the Drafting Committee, a general treaty was really to be preferred to a particular treaty, and as that is quite the reverse of my own view and, I venture to think, the reverse of the view of the majority of this Committee, I hope that equal weight will be attached both to general treaties and to particular treaties, by having the models side by side in the document to be prepared by the Drafting Committee.

Perhaps I may say one word more. I should like at some time or another if some more competent member of the Committee than myself would explain, for my own information and, it may be, for others as ignorant as myself, what precisely is the object of a model treaty; when we have got a model treaty—whether it be of a particular treaty or a general treaty—what purpose is it to serve? I have no objection to having dozens of model treaties, but I should like to know what their purpose is. As I have already explained on a former occasion, we, in my own country, do not require a model treaty; we could produce a treaty at very short notice, and I should have thought anybody could have done the same. It appears to me a very simple thing to do, but if there are States which think that facilities in the way of arbitration would be supplied to them by these model treaties, by all means let us have them, and the more the better. I think, however, it would be convenient that, at some stage of our proceedings, it should be explained, as a matter of instruction to less intelligent members of the Committee like myself, by someone who understands this matter (my friend M. Politis would be very competent to do it), exactly what is the purpose in view of these model treaties, which is not at all clear to me at the present moment.

M. POLITIS (Greece). — I cannot resist the kind invitation which has just been addressed to me and I will explain to you to what extent standard bilateral treaties or special treaties are, contrary to the opinion of M. Rolin Jacqueyns, likely to be of use.

I have noticed since public opinion has been interested in arbitration—that is to say, since the time when the Hague Peace Conferences have successively come together to examine questions relating to arbitration—that, without anyone having assumed the least obligation, the mere fact of having proclaimed certain principles and of having sketched certain treaties has resulted in the conclusion immediately afterwards of a certain number of treaties of this character. To some people the reason for this result remains perhaps something of a mystery. Personally, I attribute it to a psychological cause. This cause became effective after the Conference of 1899, which confined itself to stating that the conclusion of arbitration treaties was highly desirable. The same result was noted again after the Conference of 1907, when at The Hague the bases of certain arbitration treaties were laid down.

I am deeply convinced that the same results will follow in the present case, not only because the cause of arbitration has made more progress but also because the League of Nations has in the eyes of the world moral authority greater than that of the Conferences at The Hague.

For that reason, it seems to me useful to establish one or several special model treaties without prejudice to the establishment of a model collective treaty. All these models will be useful and will all lead to the same end, since they all contribute to increase the credit of arbitration in public opinion.

I am well aware that many countries have no need of these models, either because they have in their archives the necessary elements to establish treaties for themselves or because they have advisers who are able to dispense with such models. I maintain, however—and this is an important point—that for certain States which do not belong to either of these categories it will suffice for the League of Nations to give its imprimatur to certain model treaties for them to attribute to these models a very considerable value in practice.

Even if this were not the case, it would be sufficient merely that there was no danger in following this course to justify us in proceeding in this direction and in elaborating treaties which will be merely offered to States, but which, of course, will not be imposed on anyone.

Lord CUSHENDUN (British Empire). — I thank M. Politis for his very kind response to my request for instruction. I am very glad in this matter to be his pupil, and I would like to say my final word on the matter. If I may say so respectfully, I think he has made a very good reply. No one in this room is more anxious than I am to see arbitration carried out in the widest possible way. I quite agree with him that it has been given a great stimulus by the foundation of the League of Nations. I feel a certain amount of justifiable national pride that the example which we have set for more than a hundred years is now being so largely followed in consequence of the Covenant and of the League, and, as M. Politis has persuaded me that movement for arbitration may possibly be further stimulated by providing these model treaties, and, as he quite truly says, it can in no case do any harm, I would like to range myself along with him as acquiescing at all events in the provision of these models.
In these circumstances, it seemed to us that to subordinate our adherence to the clause of but the facts of the case compelled us to state that its practical realisation was at least deferred.

evidently the ratification of the Protocol was not a supposition which we completely discarded, and as the result of a note of the Minister for Foreign Affairs—we pointed out that Chamber, we recently resumed a discussion of the question—in agreement with the Govern-

subject to the ratification of the Protocol. This means that from the outset its attachment to Foreign Affairs of the French Chamber, is as follows: when the French Government signed a been given by M. Politis. He finds a close connection between adherence to the clause of provisions of Article 36 enlarged, and a recommendation by means of which the recommendation made so many times may be renewed, point of view.

It is possible to go even further in this direction and to indicate other categories of reserva-
tions which might be made. It will be objected that it may be unsatisfactory to multiply the possibility of reservations. What would finally remain if a State adhered with a considerable number of reservations? I would answer that it seems to me preferable for a State to adhere to Article 36 even with reservations which very greatly restrict its undertakings rather than for any suggestion in regard to the possibility of encouraging States to adhere to the Optional Clause of Article 36 of the Statute of the Court. I suppose the reason for this is that it is not clear, as is stated in paragraph 41, by what procedure it would be possible to encourage States to accept such an arrangement. I do not think, however, that it is possible to pass over this question completely in silence when we frame the conclusions resulting from our work. Article 36 represents a serious step forward in the progress of international justice. On several occasions during the last four years the League of Nations has recommended States to adhere to Article 36. I appreciate that it would perhaps be useless and even open to criticism merely to renew a recommendation already put forward on so many occasions. It seems to me, however, possible to give this recommendation a somewhat new form, modifying the expressions which the Assembly has hitherto used. I am thinking in particular of the following point: in 1924, after a very thorough study of the question, it was realised that Article 36 of the Statute of the Court was extremely elastic and possibilities were indicated for States wishing to adhere to the clause of doing so subject to certain reservations. These reservations were analysed, either from the point of view of the period of validity of the undertaking or from the point of view of the exclusion of one out of the four categories indicated in Article 36, or from the point of view of the limitation of the cases covered by each of these four categories.

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I think, therefore, that it would be possible to instruct the Drafting Committee to find a formula by means of which the recommendation made so many times may be renewed, but with definitions indicating to the States what are the principal reservations which may accompany their adhesions.

M. Politis (Greece).—I do not see in the conclusions of the memorandum of M. Holsti any suggestion in regard to the possibility of encouraging States to adhere to the Optional Clause of Article 36 of the Statute of the Court. I suppose the reason for this is that it is not clear, as is stated in paragraph 41, by what procedure it would be possible to encourage States to accept such an arrangement. I do not think, however, that it is possible to pass over this question completely in silence when we frame the conclusions resulting from our work. Article 36 represents a serious step forward in the progress of international justice. On several occasions during the last four years the League of Nations has recommended States to adhere to Article 36. I appreciate that it would perhaps be useless and even open to criticism merely to renew a recommendation already put forward on so many occasions. It seems to me, however, possible to give this recommendation a somewhat new form, modifying the expressions which the Assembly has hitherto used. I am thinking in particular of the following point: in 1924, after a very thorough study of the question, it was realised that Article 36 of the Statute of the Court was extremely elastic and possibilities were indicated for States wishing to adhere to the clause of doing so subject to certain reservations. These reservations were analysed, either from the point of view of the period of validity of the undertaking or from the point of view of the exclusion of one out of the four categories indicated in Article 36, or from the point of view of the limitation of the cases covered by each of these four categories.

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M. von Simson (Germany).—I would like to say a few words on the question under discussion. The point of view of the German Government on this subject is well known. We have signed Article 36 and we are very shortly to ratify that arrangement, as Dr. Stresemann has already announced. We can therefore very keenly hope to see the field of application of the Court jurisdiction in disputes relating to the interpretation or application of the treaties. The paragraph, secondly, states that, under the special arbitration treaties, disputes of a legal character should be referred to the Court rather than to other forms of arbitration tribunal.


The Chairman. — Paragraph 41 deals with the Permanent Court of International Justice. The Rapporteur suggests that a recommendation should be framed urging that general treaties of every kind should contain, as far as it is possible, an article conferring on the Permanent Court jurisdiction in disputes relating to the interpretation or application of the treaties. The paragraph, secondly, states that, under the special arbitration treaties, disputes of a legal character should be referred to the Court rather than to other forms of arbitration tribunal.

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M. Paul-Boncour (France).—I would like to follow up the invitation which has just been given by M. Politis. He finds a close connection between adherence to the clause of Article 36 and our desire further to encourage arbitration.

The position of my country, as appears from a recent discussion of the Committee for Foreign Affairs of the French Chamber, is as follows: when the French Government signed a Protocol in October 1924, it signed at the same time its adherence to the clause of Article 36, subject to the ratification of the Protocol. This means that from the outset its attachment to the clause of Article 36 was not in doubt. When, in the Committee for Foreign Affairs of the Chamber, we recently resumed a discussion of the question—in agreement with the Government and as the result of a note of the Minister for Foreign Affairs—we pointed out that evidently the ratification of the Protocol was not a supposition which we completely discarded, but the facts of the case compelled us to state that its practical realisation was at least deferred. In these circumstances, it seemed to us that to subordinate our adherence to the clause of
Article 36 to the ratification of the Protocol, however faithful we might remain to the Protocol, would be to attach to our adherence a condition which would not be realisable in practice. We agreed that this condition should be withdrawn, and that our adherence to the clause of Article 36 should be made independently of any ratification of the Protocol.

I would, however, draw attention to a fact which will show the importance attached by the Committee for Foreign Affairs of the Chamber to the work on which we are engaged. In view of the fact that the Security Committee was on the point of meeting under the resolution of the Assembly of 1927, in accordance with which we have come together, in order to find a means of giving further encouragement to the cause of arbitration and to co-ordinating and generalising that procedure, the Committee for Foreign Affairs assumed as a hypothesis that a general treaty of arbitration such as it desired would be adopted. In those circumstances, it thought that the adherence to the clause of Article 36 was a step towards arbitration of less importance than adherence to the general treaty. It took this view for a simple reason. It is still necessary to define exactly the scope of the undertaking implied in adherence to the clause of Article 36. Article 36, paragraph 4, contains a very precise list, from which it seems that disputes which come to the Permanent Court of International Justice are disputes of a purely legal character, and that therefore, in adhering to Article 36, States were undertaking to bring these disputes before the Court.

There clearly remained the very wide field of disputes which are not of a legal character. I do not think I am pessimistic when I say that these disputes are precisely those which must obviously endanger the maintenance of peace. We do not, therefore, disguise the fact that adherence to the clause of Article 36, important and desirable as it may be, leaves out of account the unfortunately wide field both of danger and possible disaster in disputes of a political character—in other words, disputes which are not legal, and which therefore do not come within the jurisdiction of the Permanent Court at The Hague.

In conclusion, as the Chairman very justly remarked, it appears from the very authoritative declarations which have been made in this Committee that to persist in the endeavour to frame a general arbitration treaty will bring us to a deadlock. In spite of that, however, it is recognised—and this is a very courteous and confident concession made by our colleagues—that it may be interesting to define the general lines of such a treaty. It is, in fact, possible that such a definition will act as a stimulus, but in reality the Committee has moved in the direction of special treaties. This circumstance means that adherence to the clause of Article 36 resumes its previous importance.

The CHAIRMAN. — I thank the delegates of Germany and France for the important declarations which they have just made on the attitude of their respective Governments concerning arbitration.

I will venture to propose that we ask the Drafting Committee to frame a recommendation in the sense indicated by M. Politis.

This proposal was adopted.

The CHAIRMAN. — The Rapporteur has suggested in paragraph 41 the framing of two recommendations which I have quoted. I propose to refer them to the Drafting Committee.

M. POLITIS (Greece).— M. Holsti proposes in effect that a recommendation should be made that the Permanent Court should be recognised as a common law jurisdiction by means of two procedures. The first procedure would consist in inserting an arbitration clause in every general treaty under which the Court would be given competence for any dispute relating to the interpretation or application of the treaty in question. By the second procedure, the competence of the Court for all legal disputes would be recognised in special arbitration treaties.

I willingly accept the first proposal. It does seem to me useful that for the interpretation and application of the treaties there should be constituted a sole jurisdiction. That jurisdiction has been in course of preparation since the Court began working at The Hague, and has already been applied to numerous treaties.

I should, however, hesitate to accept the second proposal. I believe that it is desirable to leave States which enter into a special treaty free not to submit all disputes of a legal character which may arise with other States invariably to the Court at The Hague. It is possible that, according to the special relations of the contracting countries, disputes, even of a legal character, not anticipated when the arbitration treaty is concluded may be of such a character that the parties consider that a special arbitration tribunal would offer them a safer guarantee and leave them easier in their minds. I think that the adoption of the second procedure would rather hinder than facilitate the movement towards the conclusion of special arbitration treaties.

I will therefore ask that the first recommendation should be retained and the second discarded.

M. VON SIMSON (Germany).— To a certain extent I associate myself with the declarations of M. Politis. I think, with him, that it would not be desirable to establish as an absolutely rigid rule that disputes of a legal character should always in special treaties of arbitration be referred to the Permanent Court at The Hague. It is easy to imagine disputes of a legal character which have at the same time a very technical character, and for the solution of such disputes the Court would not perhaps always be quite adequate. Moreover, an endeavour should be made to avoid overburdening the Court with work with which it would not be very familiar.

Personally, however, I did not interpret the recommendations of M. Holsti so strictly, for the Rapporteur says in effect that such disputes should be referred to the Court whenever
possible. As a general rule, I approve the suggestion that disputes of a legal character should be referred to the Court at The Hague. As the representative of the British Empire pointed out yesterday, such a procedure would give the Court an opportunity of framing a system of international law. The Drafting Committee might endeavour to find a more elastic formula.

The CHAIRMAN. — I think that there is no difference of opinion within the Committee concerning the first proposal of the Rapporteur. I accordingly consider that proposal as adopted.

M. POLITIS (Greece). — There does not seem to be any disagreement either as to the second recommendation. I entirely accept what M. von Simson has just said. It would be sufficient to find a formula somewhat more elastic than the one to which he referred whenever possible. Something must be found which will clearly indicate that the parties are free to choose another tribunal if they so desire.

The CHAIRMAN. — The two proposals will accordingly be referred to the Drafting Committee, which will take account of the observations which have been made within this Committee. The proposal was adopted.

15. Discussion of the Memorandum on Arbitration and Conciliation: Chapter III, Paragraph 42, and Chapters IV, V and VI.

The CHAIRMAN. — We will now pass to the chapters on conciliation. I think that it is preferable to discuss at the same time the whole problem of conciliation.

General de MARINIS (Italy). — I would like to say a few words concerning the general conciliation treaty, and I will begin by stating that the Italian delegation entirely agrees with the point of view expressed on this subject by the French delegation in Point VIII of its Observations (Annex 4). The French delegation has given an entirely exact idea of the value and the desirability of having a general conciliation treaty. I ask my colleagues, however, for permission to submit to them my own point of view.

We also note that the Covenant already offers a general system of conciliation which may be applied to all disputes which arise. It can very easily be argued that this system may be completed by special conciliation treaties which would render easier the pacific solution of a dispute by leaving it to be dealt with by the parties in question on the basis of a procedure contemplated in advance and accepted by them. It does not, however, seem to be useful to provide a system of general conciliation to be added to that already embodied in the Covenant.

The system which consists in providing a first phase of conciliation before the Council gets to work may have advantages, but it also has disadvantages. Such a procedure may help to elucidate the subject of the dispute, but may, at the same time, render it difficult for the Council to propose to the parties with the full weight of its authority certain solutions already unsuccessfully proposed by the conciliation commission.

It accordingly seems desirable to leave the two States by means of special conciliation agreements free to adopt or not to adopt of their own initiative this system of preliminary conciliation, and it would perhaps not be very desirable to fix by a general agreement regulations according to which the work of conciliation of the Council would only come after that of the conciliation commission. Moreover, it would be difficult, as the Rapporteur himself emphasised, to co-ordinate the two systems.

It therefore seems to me neither necessary nor desirable to adopt a general conciliation treaty. There already exists in the Covenant a system whose application is entrusted to a body which enjoys a great moral authority.

The point which I most emphatically insist upon is that nothing should be done which may prejudice the powers enjoyed by the Council under the Covenant.

M. Rolin Jaquemynts (Belgium). — I would ask permission to say a very few words on the question because, as you perhaps remember, I drew attention in our general discussion to the possibility, in default of an agreement upon a general arbitration and conciliation convention, of falling back upon the idea of a general conciliation convention. I must confess that I did not think it likely that an agreement would be reached in favour of a general arbitration convention, and it seems to me that the achievement of a general conciliation agreement would mark a progress of which public opinion would certainly be sensible. The achievement of such a convention would also indicate an understanding between the States which would constitute a beginning and be capable of development in the future.

I see that there have been almost unanimous objections from the various delegations, although the reasons for those objections may be different. In the French note, which I have before me (Annex 4), it is stated in Point III that "a system for the pacific settlement of international disputes which only includes conciliation procedure without arbitration, even for conflicts of a juridical nature, seems to the French delegation to be inadequate". I am absolutely of the same opinion, and I am speaking for the Belgian Government. The attitude of the Belgian Government is shown by its signature of Article 36 of the Statute of the Permanent Court of International Justice. We are, in the first place, in favour of the settlement of legal disputes by means of arbitration, but, in default of a general agreement in this direction, a general agreement of conciliation seems to me desirable.
But, on the other side, I have also heard it said that it does not matter whether this or that solution is adopted, as the Covenant already provides the necessary procedure, and that to provide an alternative would be to diminish the value of the Covenant.

In face of this objection, I dare no longer insist that the Drafting Committee should undertake to prepare a general conciliation agreement. I renounce this idea the more willingly as I have noted that the Drafting Committee will be required to draw up a general arbitration and conciliation agreement, which I personally prefer; therefore I consider that my views have been met, at least provisionally.

The Chairman. — I think I may conclude from the speeches which have just been made that there is no opposition to the system of conciliation in itself.

In 1922, the Assembly of the League of Nations adopted a resolution drawing the attention of all the Members of the League to the advantages of conciliation as a method of settling international disputes, and inviting them to conclude conventions with a view to the institution of conciliation commissions.

The representative of Belgium has said that, in his opinion, there is no need to frame a special model treaty embodying the procedure of conciliation, but that it would be preferable to combine conciliation and arbitration in a single treaty. As the Drafting Committee has been asked to prepare such a combined treaty, it does not seem to me that there is any need to ask it to draw up a model conciliation treaty pure and simple.

Dr. Riddell (Canada). — I rise again to emphasise the great importance attached by my Government to conciliation and investigation as a means of avoiding disputes. I have listened with great interest to what the honourable representative of Belgium has said with regard to the combination of arbitration and conciliation in a single treaty. If it is possible to accept such a proposal from the Drafting Committee, I would agree to it, but I would like to make sure that this Committee is given every opportunity to consider most carefully a proposal with regard to conciliation and investigation. I think this Committee would lose a great opportunity if it did not give to conciliation and investigation their proper place in the settlement of international disputes.

In the opinion of my Government, they are by far the most important, and this view is based on years and years of experience with arbitration and also with conciliation and investigation. I would not wish to see a draft come back from the Drafting Committee dealing simultaneously with arbitration and conciliation and discover that the two combined are unacceptable. In that way we might overlook conciliation. I want to make sure that conciliation and investigation, as a means of settling international disputes, will have the full and careful consideration of the Drafting Committee and then of this Committee.

M. Valdès-Mendeville (Chile). — I am happy to support the observations of the representative of Canada, and I would refer to paragraph 42, which is as follows:

“The treatment of the question of conciliation depends to some extent on whether an endeavour is to be made to draft a general arbitration treaty.”

In this connection, Lord Cushendun has observed that no decision has been taken by the Committee, either unanimously or by a majority, in favour of drafting a general arbitration treaty. No one has objected to a model treaty of this kind being examined, but there has not been any formal decision.

I think that it is essential not to connect the question of conciliation procedure with that of arbitration procedure, but that an endeavour should be made, as stated in paragraph 43, to draw up a general conciliation treaty on the basis of the five proposals of the Rapporteurs, which seem to me to be quite acceptable.

The second of these proposals consists in laying down that the “conciliation commission” should be permanent. I think it would be better to refer to “commissions of conciliation”. As to a general treaty, it would be advisable to provide for several types. The model to which I ventured to refer the other day, and which is a regional conciliation treaty, provides for two conciliation commissions. We might well be guided by this example. I had requested the Bureau to submit this treaty to the Drafting Committee as a basis of study.

Another important point has reference to the co-ordination of conciliation treaties with Article 15 of the Covenant. Like the Rapporteurs, I will forbear from going into a thorough examination of this question. I will merely state, with reference to the example which is quoted of a treaty concluded by Chile, that in negotiations which are at present proceeding concerning treaties this provision has been abandoned.

I would venture to draw attention to a mistake in paragraph 45. The paragraph refers to a treaty signed between Chile and Spain, whereas the treaty in question was between Chile and Sweden. It is important to correct this mistake, as the treaty which we have signed with Spain is a compulsory arbitration treaty.

In conclusion, I would add that the solution proposed in paragraph 46 should, in my view, receive special consideration. It consists in recognising the jurisdiction of the Council and the jurisdiction of the conciliation commission as parallel instances.

M. von Simson (Germany). — I would like to support the opinion expressed by the delegates of Canada and Chile. As you know, the German Government attaches the greatest importance to the procedure of conciliation. I will not repeat what I have already said on the subject, but I would draw your attention to the memorandum of my Government.
On the question whether it is necessary to frame a general arbitration and conciliation treaty only, or in addition a treaty of conciliation pure and simple. In the view of my Government, it would be sufficient to frame an arbitration and conciliation treaty, since we are in favour of these two procedures. I support, however, the conclusion of the Rapporteur which suggests that special attention should be given to conciliation and that the framing of a general conciliation treaty should be considered in the event of a general arbitration treaty not being favoured. As the representative of Canada has emphasised, there is a certain danger in combining the two procedures of arbitration and conciliation in the same draft, since one portion of the members of the Committee cannot accept the arbitral procedure. For that reason, it seems to me important to frame a treaty of conciliation pure and simple.

My Government, however, does not attach cardinal importance to the establishment of a general conciliation treaty. We stated in our memorandum that "such a scheme for peaceful settlement of disputes could be embodied both in bilateral and in multilateral treaties". The German Government, however, considers that it is very important for a general system of conciliation to be provided, and I think that the Drafting Committee might examine this question in detail.

The German Government in its memorandum indicates that, in its opinion, it is important to consider these questions thoroughly. The German Government states:

"The idea of settling all disputes of an exclusively political character by a compulsory and final decision to be pronounced by an arbitral tribunal cannot be realised in present circumstances. An advance, however, may be made in this direction by adopting other procedures which, taking into account the legitimate needs of the nations and of their development, will ensure in practice, as far as possible, the settlement of their disputes."

This is the point which seems to us important. We must find a method to settle all disputes by means of conciliation. I think that on this point a work of the utmost importance can be done by the Drafting Committee.

As regards the relations between the conciliation treaties and the Covenant, my Government holds that this too is a point of great importance. It is necessary that an attempt should be made to increase the value and the authority of the recommendations made by conciliation tribunals by bringing them into relation with those which come from jurisdictions provided by the Covenant.

M. Rutgers (Netherlands). — Mention is made in paragraph 45 of the clause of a treaty. I will not say much concerning it because we have learned it no longer exists, as I understood from the speech of the honourable delegate of Chile, according to which the parties who have signed the conciliation treaty cannot for the moment make use of Article 15. The memorandum on this subject points out that the question of the special agreement, or even a collective agreement on conciliation, should extend the mandate of the Council. The memorandum holds that this too is a point of great importance. It is necessary that an attempt should be made to increase the value and the authority of the recommendations made by conciliation tribunals by bringing them into relation with those which come from jurisdictions provided by the Covenant.

I would contribute modestly to this study by raising two questions. The first deals with the following point: if a treaty of conciliation contains a clause that any dispute which has not been settled by conciliation under the treaty shall be referred to the Council, which will act as provided in Article 15, the memorandum on this subject points out that the question whether this result is desirable in all cases and whether it is fully compatible with the system of the Covenant constitutes a problem which will require a thorough study. This applies also to the whole question of the co-ordination of the treaty of conciliation with Article 15 of the Covenant.

Take, for example, Article 17 of the Swedish draft. It is said in that article that:

"If the two parties have not reached an agreement within a month from the termination of the labours of the Conciliation Commission, the question shall, at the request of either party, be brought before the Council of the League of Nations, which shall deal with it in accordance with Article 15 of the Covenant of the League."

According to the Covenant, the Council can only deal under Article 15 with disputes which may lead to a rupture, whereas the Swedish draft applies to all disputes of whatever kind in which the parties mutually contest a right and which it has been impossible to settle by friendly negotiation. There is here a difference which may be fairly important. It seems necessary to ask whether the organisation and methods of work of the Council permit of this extension of its powers, which may perhaps be considerable. It may also be asked whether the fact of bringing disputes before the Council which are not in themselves very serious would not give to such disputes a regrettable and perhaps dangerous importance.

Moreover, if disputes which have been submitted to a conciliation procedure and which are not in themselves of a nature to be referred to the Council under Article 15, because they are not yet considered as likely to lead to a rupture of the peace, are in fact submitted to the Council and if the Council decides in regard to them under Article 15, the question arises whether in that case paragraph 7 of Article 15 would apply.

That is the first question which I would wish to raise. The second is as follows: If, on the one hand, it is necessary to ask whether it is desirable that a special agreement, or even a collective agreement on conciliation, should extend the mandate of the Council under Article 15, it may also be asked, on the other hand, whether the competence of the Council under Article 15 can be diminished by a special or collective agreement.

I do not, of course, dispute the automatic effect which the extension of arbitration will give to the conciliatory mission of the Council. That effect follows from the first paragraph of Article 15, which refers to disputes likely to lead to a rupture of the Covenant and which are not subject to the procedure of arbitration. I would, however, draw attention to the fact that the League of Nations, in establishing the Permanent Court of International Justice,
The paragraph is in the following terms: "If there should arise between Members of the League any dispute likely to lead to a rupture which is not submitted to arbitration or judicial settlement."

The last words were added when the Permanent Court was set up. There may be a legal advantage in the right which States have to resort to the procedure of Article 15. Paragraph 2 of Article 12 states that: "In any case under this article, the report of the Council shall be made within six months after the submission of the dispute."

I would draw attention to the serious consequences which the procedure before the Council may entail, and I wonder whether that procedure would be applicable in virtue of a special or even a collective agreement. I speak with all reserve imposed by the complexity of the problem. It would perhaps be preferable to make no allusion to Article 15 in special agreements, or in collective agreements of conciliation. We might limit ourselves to inserting a phrase such as is contained in the resolution of the Assembly of 1922, which reserves the rights and obligations mentioned in Article 15 of the Covenant. If my fears were well founded, it would perhaps be better not to refer either to the co-ordination of conciliation treaties with Article 15 of the Covenant, but merely to recognise that special or collective conciliation treaties are and must remain subordinate to Article 15.

Lord Cushendun (British Empire). — The last speaker has raised some extremely important points, but they are under Chapter V, which I did not know we had yet reached. The very few observations which I wish to make are directed not to Chapter V but to Chapter IV. I think the points he has raised will deserve very careful consideration later on. I want to refer to the numbered paragraphs in paragraph 43, where it is stated: "The following ideas might be taken as the basis of a system of conciliation." I think these ideas illustrate what the disadvantages I have already intimated are, both of general treaties and of the very few observations which I wish to make are directed not to Chapter V but to Chapter IV. I think the points he has raised will deserve very careful consideration later on.

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best will in the world and the most commanding intellects, always be in a position to say precisely that such-and-such action aggravates the dispute. What is going to be the principle on which they will decide? It appears to me that people might be submitting themselves perfectly that such-and-such action aggravates the dispute. What is going to be the principle best will in the world and the most commanding intellects, always be in a position to say upon it before we pass from the chapter in which this machinery for conciliation is dealt with. The word "arbitration" has very often been used, as we think, rather loosely to cover both accepted. I think it quite possible that the clause, as it stands in the conclusions, really agrees decision; and I think, from what I have heard in the Committee, that that view is very generally this morning, we in Great Britain draw a very clear distinction between juridical and non-juridical disputes. I am not quite certain in what sense the word "arbitration" is there used, but, as I tried to explain to the Committee that consideration be given to the distinction between juridical and non-juridical disputes. I very thoroughly agree with that proposal, as I have already explained earlier this afternoon. Non-juridical disputes are those which will be submitted, no doubt in the majority of cases, to the conciliation procedure upon which we are engaged at the moment. "That consideration be given to the distinction, . . . with a view to the framing of special rules in regard to procedure and decisions"—I particularly call attention to these concluding words—"so as to facilitate the acceptance of arbitration for non-juridical disputes". I am not quite certain in what sense the word "arbitration" is there used, but, as I tried to explain to the Committee this morning, we in Great Britain draw a very clear distinction between juridical and non-juridical, and we do not want to see non-juridical disputes referred to arbitration, because, as I explained, in our view it is only those juridical disputes which can be settled by the application of principles of law that can properly be submitted to arbitration. This we distinguish from conciliation, which we think suitable for non-juridical disputes. I would therefore like, so far as I respectfully may, to insist that the Drafting Committee, so far as we can instruct it, should make it quite clear that non-juridical disputes are not to be sent to arbitration but to conciliation; and I think, from what I have heard in the Committee, that that view is very generally accepted. I think it quite possible that the clause, as it stands in the conclusions, really agrees with my view, and that the word "arbitration" is used in rather a different sense, because the word "arbitration" has very often been used, as we think, rather loosely to cover both classes of dispute. I think it is a matter of such importance that I should like to be quite clear upon it before we pass from the chapter in which this machinery for conciliation is dealt with.

The CHAIRMAN. — I desire to point out that the discussion concerns the whole of the chapters dealing with conciliation.

M. HENNINGS (Sweden). — I hope you will forgive me if I intervene in this discussion as a substitute member of the Committee. Since our first delegate for Sweden is to-day in the Chair and is consequently prevented from putting forward the point of view of the Swedish Government, I desire to say something in view of the fact that several members have referred to the draft on arbitration and conciliation which the Swedish Government has submitted. The delegate of the Netherlands, M. Rutgers, wondered at the outset whether it was really necessary to insert in such a draft general treaty the provision contained in Article 17 of the Swedish draft, which is to the following effect:

"If the two parties have not reached an agreement within a month from the termination of the labours of the Conciliation Commission, the question shall, at the request of either party, be brought before the Council of the League of Nations, which shall deal with it in accordance with Article 15 of the Covenant of the League."

I wish to draw the attention of the representative of the Netherlands and all other members of the Committee to the fact that this provision is a reproduction of a similar provision in the Locarno Agreements. It is to be found in Article 18 of the Arbitration Convention concluded between Germany and Belgium and also in the other arbitration treaties of Locarno. The Swedish Government, in drawing up its draft, tried to model it as closely as possible on the Locarno Agreements, of which the value is recognised and of which the provisions have been
submitted to a very close preliminary examination. The objections which M. Rutgers has made to the Swedish draft should therefore be applied equally to the Locarno Agreements.

As far as the substance is concerned, I cannot but think that there is considerable advantage to be gained in cases where the procedure before the special conciliation commission has been exhausted without achieving agreement between the parties, if an organisation exists before which the dispute shall in any case be laid. Though this organisation is not a court of arbitration—which might be of still greater advantage—it is useful to endeavour at any rate to induce the parties to agree that the dispute should be submitted to an organisation of the League of Nations which can, if necessary, bring the proper pressure to bear.

The representative of the Netherlands has also raised the question of the co-ordination between the Council and the conciliation commissions. I fully agree with him that the question is very difficult and complicated. M. Undén devoted a great part of his speech to this question in the general discussion. He pointed out that it raised various points which must be taken into consideration. On the one hand, he emphasised that it seemed incontestable that the Council should not in principle interfere with the duties of a conciliation commission without very grave reason, and that it would be desirable in principle to leave such conciliation commissions to carry out their task. On the other hand, there are certain cases in which the Council must intervene in order to maintain peace when a grave dispute has arisen. It is for this reason that M. Undén said that he hoped that the final report of the Committee would emphasise more definitely than the memorandum of the Rapporteur that it is only in exceptional cases—that is to say, in cases which really endanger peace—that the Council ought to declare itself competent to deal with a dispute which, according to a treaty in force, ought in the first instance to be submitted to a conciliation commission. I think it very difficult to insert provisions of this nature in a general draft convention, but I think it would be possible perhaps to insert in the reports certain considerations of the kind to which I have given expression. I think in any case that it is desirable that the Drafting Committee should bring all its attention to bear on this problem.

Lord Cushendun also criticised somewhat severely the point inserted in paragraph 43 of the memorandum of M. Holsti. He wondered, at first, why the conciliation commission had to be permanent. For my part, I think that in principle it would be an advantage to have permanent commissions, but if it is a question of a general convention, it is obviously difficult to choose a permanent commission to deal with every possible combination of countries. The Swedish draft contains a provision in this respect to which I should like to draw your attention. Article 5 is as follows:

"The Conciliation Commission, to which the disputes referred to in Article 3 must be submitted, shall either be permanent or specially set up for the settlement of the dispute which has arisen between the parties.

On a request to that effect being sent by one of the signatory States to another signatory State, a Permanent Conciliation Commission shall be instituted. If, at the time when a dispute arises, no permanent conciliation commission appointed by the Parties to the dispute is in existence, a special Commission, constituted in accordance with the provisions of the present Convention, shall be set up to investigate the said dispute."

The system provided for in this article of the Swedish draft is therefore as follows: If a party requests, in the case of any dispute it may have with a particular State, the establishment of a conciliation commission, such a commission should be established. If in the relations between two States the establishment of such a permanent commission is not requested and, consequently, if there is no permanent commission in existence when a dispute arises, a special commission should in that case be constituted, composed in conformity with the provisions of the Swedish draft, for the examination of the particular dispute.

I think that this is the way in which the difficulties pointed out by Lord Cushendun may be solved and his hesitations overcome.

Lord Cushendun also laid special emphasis on point 4 of paragraph 43 of the report, which contains the obligation for the parties to refrain, during the course of the procedure, from any act which might aggravate the dispute, and which authorises the conciliation commission to point out to the parties the provisional measures necessary.

As I have already pointed out, Lord Cushendun has been somewhat severe in his criticisms with regard to the considerations put forward by the Rapporteur. I would, however, point out that the Rapporteur appears to have copied exactly the Locarno Treaty. In the Convention on Arbitration between Germany and Belgium you will find the following provisions in Article 19:

"The German and Belgium Governments undertake respectively . . . to abstain from all measures likely to have a repercussion prejudicial to the execution of the decision or to the arrangements proposed by the Conciliation Commission or by the Council of the League of Nations, and in general to abstain from any sort of action whatsoever which may aggravate or extend the dispute."

"The Conciliation Commission, or, if the latter has not been notified thereof, the arbitral tribunal or the Permanent Court of International Justice . . . shall lay down within the shortest possible time the provisional measures to be adopted."

The text of the Rapporteur and the text of Article 19 are therefore practically identical. The criticism of Lord Cushendun therefore applies equally to the Locarno Agreement.

M. HOLSTI (Rapporteur). — Lord Cushendun has been good enough to put some questions to me, but as M. Hennings, the delegate of Sweden, has been good enough to give some explanations already, there is not much I need add.
According to statistics, out of fifty-two treaties of this kind in existence, forty-nine have permanent conciliation commissions, and as regards membership, out of these fifty-two treaties, forty-six provide for five members.

So far as point 4 in paragraph 43 is concerned, numerous treaties contain stipulations to the same effect. I should like to say, therefore, that these principles which are recommended in the report are merely generalisations from treaties now in existence.

Lord CUSHENDUN (British Empire). — I only wish to point out that the treaties referred to are bilateral treaties. It is quite clear that you can put a clause of this sort into a bilateral treaty with a particular nation when you know exactly where you are. My objection was to applying that sort of clause to a general treaty, where you have not that knowledge. That also answers what was said as to the Locarno Treaty. There is no objection to it in the Locarno Treaty, which is in fact a bilateral treaty; it is only when you have a general agreement to which everybody may accede and which is a model to everybody that, in my opinion, it becomes impossible to have a provision of that sort.

M. POLITIS (Greece). — I wish in a few words to cause the discussion to return to its starting-point. The question is whether the Drafting Committee was or was not to be instructed to draw up a general treaty of conciliation. You have heard various members express doubts as to whether this work was opportune, and you have heard others who have, on the other hand, declared themselves entirely in favour of such a treaty. I belong to the latter group. In my view, to draw up a general treaty of conciliation will be of great use for several reasons.

In the first place, such a treaty would be supplementary in cases where the collective treaty of arbitration and conciliation does not meet with final general approval when it is returned to us by the Drafting Committee. Even if such a model arbitration treaty is agreed to by the Committee, I think that it would still be of use for this Committee to submit to the League a model treaty of conciliation.

The objection made against the draft appears to me to result from a confusion due to the fact that M. Holsti has spoken of the "conciliation commission". He seemed to mean that there would be but one organisation instituted; that being so, members were perfectly right, as was the case with General de Marinis, in expressing doubts as to whether there would not be some sort of authority competing with the Council of the League. I think, however, that M. Holsti did not wish to make provision in any such model treaty of conciliation for a single organisation only. When it is examined by the Drafting Committee and eventually by the Council, it will be of advantage to make its provisions in this respect as supple as possible in order that a combination of separate commissions may be established, to sit as and when the parties may have reason to use them.

The usefulness of drafting such a treaty is, in my view, as follows: To-day, there are a large number of special conciliation treaties in existence. When they are studied, it is to be noted that they nearly all repeat themselves, that they possess a large number of provisions in common, and that, apart from these, there are some varying provisions. I think this fact shows us that a kind of codification, though of a fragmentary nature, of the important instrument of peace constituted by international conciliation has already been achieved. It will be of use to take a further step in this direction and to codify finally the general regulations concerning conciliation and lay them in a common framework before all States.

The advantage in practice would be the following. In the future, a State which desires to conclude a conciliation convention with another country might simply adhere to a convention already in force.

I do not wish to be pedantic and quote you the figures, but it has been calculated that, by the present system of bilateral agreements, more than three hundred and fifty treaties would be necessary to establish conciliation as a general practice for our continent alone. Although the number of treaties concluded is already considerable, the lapse of a certain number of years would still be necessary. If we have a general treaty in which the regulations already common to several treaties are inserted, States which, one after another, desire to conclude similar treaties would, by a single act of adhesion, increase the number of contracting States.

In this way it is to be hoped that, in a relatively short time, such a system would become a common law, at any rate, I would repeat, in our continent.

These are the reasons why I am in favour of drafting a model collective treaty of conciliation, of which the provisions shall be as supple as possible for the various reasons which I have explained.

The CHAIRMAN. — We find ourselves in the same position as we were in regard to the question of arbitration. Some members of the Committee are in favour of a general treaty; others are opposed to it. For the moment, there is no question of recommending these types of treaties but only of causing a model treaty to be drawn up by the Drafting Committee.

The representative of Belgium was the first to propose that no action should be taken on the suggestion of the Rapporteur to the effect that such a treaty should be drafted. He has, however, now informed me that he will not press his proposal. In those circumstances, I think that all members of the Committee will agree to instruct the Drafting Committee to draft such a model treaty. We shall have an opportunity on a subsequent occasion of examining the text, but for the moment we shall make no recommendation.
As far as the conciliation procedure is concerned, the composition of the commissions and the co-ordination of the procedure of conciliation with the procedure of mediation, which belongs to the Council, I think that we ought to rely on the wisdom of the Drafting Committee. We shall also have an opportunity of discussing these questions when the Drafting Committee has submitted the results of its work.

M. Rolin Jaegemyns (Belgium).—I wish to explain what the Chairman has just said with regard to my suggestion. It would appear from what he said that I had proposed that no instructions should be given to the Drafting Committee to draft a general treaty of conciliation. This is not quite what happened. On the contrary, I think I was the first to say that I was in favour of drafting a treaty of that kind. From motives of discretion and fearing lest the Drafting Committee should be overburdened with work, I proposed that no action should be taken on this suggestion, thinking that we could return to it on a subsequent occasion in default of an agreement on a draft general treaty of arbitration and conciliation. After having heard, however, the proposals of the representatives of Canada and Germany and the subsequent remarks of M. Politis, I note that these colleagues of mine are in agreement with me. In those circumstances, I would be very happy if the Committee would examine the question of the general treaty of conciliation only, and I hope that it will do so.

The proposals of the Chairman were adopted.

16. Discussion of the Memorandum on Arbitration and Conciliation: Chapter VII (Conclusions) and Paragraphs 50 and 51 (Sub-Annex).

The Chairman.—It remains for us to discuss the conclusions of the report. I think, however, that we have discussed all the problems with which they deal. We will pass, therefore, to the Sub-annex of the memorandum.

M. von Simson (Germany).—The paragraph 51 deals with the various kinds of reservations which are often added to arbitration and conciliation agreements. I am far from denying that some States might be led to make such reservations. In principle, however, I think they are not desirable, in view of the fact that they invariably weaken the value of the agreements. I hope, therefore, that our Committee will avoid any recommendation in favour of such reservations.

The Chairman.—The observations of M. von Simson will be submitted to the Drafting Committee.

M. Holsti (Rapporteur).—You have been kind enough to go through the report which I have the honour to submit for your approval, and I avail myself of this opportunity to extend to all the delegates in the Committee my very sincere thanks for their learned and very friendly criticisms.

The Committee rose at 7.30 p.m.

EIGHTH MEETING.

Held on Saturday, February 25th, 1928, at 10.30 a.m.

Chairman: M. Unden (Sweden).

17. General Discussion of the Memorandum on Security Questions.

The Chairman.—We are now to discuss the memorandum of M. Politis on questions relating to security. The Bureau has received a note from the British delegation (Annex I, appendix 4, pages 166-176).

M. von Simson (Germany).—I excuse myself for speaking at the beginning of this meeting, but I would like to submit a few general observations on the important memorandum of M. Politis. As you have realised from the speeches which I have already made at previous meetings of this Committee, I often start from a different point of view from that of M. Politis. I fear that I may try the patience of the Committee if I repeat in regard to various paragraphs of the memorandum what I have already said on previous occasions.

If I understand the memorandum rightly, M. Politis attaches the utmost importance to the necessity of providing sanctions as a guarantee of security. He accordingly devotes his attention chiefly to Article 16 of the Covenant and its consequences, whereas my Government considers that Article 11 of the Covenant should be given pride of place.

In these circumstances, I would repeat in regard to each paragraph that I am not entirely in agreement with M. Politis, since the general idea underlying his memorandum is everywhere apparent. I would accordingly ask you to remember this general observation, which I am making once and for all, in discussing the whole of the memorandum. No country in Europe or even in the world is more interested than Germany in the question of increasing security. Germany is disarmed, whereas the other nations, particularly her neighbours, are not disarmed. This state of things prompts us inevitably very carefully to consider the increase of our security.
I have already several times explained that, in our opinion, the conclusion of regional agreements is not the only means of increasing guarantees of security. The essential aim is not to suppress a war which has already broken out but to establish measures which may prevent it from arising. We do not think that it is in the spirit of the Covenant to create a system of measures intended to stop war. The principal idea of the Covenant of the League of Nations is the prevention of war.

We believe that measures of security cannot be effective without mutual confidence on the part of the Members of the League. We consider that mutual confidence is no less important than mutual assistance.

As I have already said, regional agreements concluded between two or several States can only, in our opinion, contribute to the stabilisation of peace if detailed discussions have taken place in advance with a view to clearing the political atmosphere between the countries concerned. Such discussions preceded the conclusion of the Locarno Treaties. I would here repeat that we appreciate the work of Locarno at its full value. Personally, I am entirely in favour of agreements of this character, and I must confess, not without some embarrassment after the somewhat sceptical criticism which the delegate of the British Empire directed yesterday against permanent commissions, that I am a member of the Permanent Commission set up by the Locarno Treaties. I would add, however, that my French colleague and, I would venture to say, my friend, M. Saydoux, once declared that we are members of a Commission which is permanently on holiday. We have, at any rate, had nothing to do up to the present, and in that respect we may be regarded as harmless.

I am bound to intervene at the outset of this discussion in order to show in a few words that the ideas which have just been explained are not as remote as might be imagined from the spirit which inspired the report submitted for your discussion.

M. von Simson has just said that the idea of Article 16, which is the idea of repressive action, constitutes the backbone of this report, and that it would be better to prevent rather than to repress, in other words, that it would be better to establish confidence than to guarantee mutual assistance.

I think we are separated merely by a slight difference of outlook, or, I might even say, a mere misunderstanding. I believe that we all agree, and that we cannot fail to agree, in declaring that it is infinitely better to prevent than to repress war, and that confidence is infinitely more valuable than mutual assistance. I would observe, however, that in any social organisation, even in those which are the most developed and the most civilised, and a fortiori in infant or embryonic organisations like that of the League of Nations, the two ideas cannot be separated. In every direction an endeavour is made to prevent the evil, and repressive measures are considered owing to their preventive value. Whenever a thing is prohibited, the sanction which should accompany this prohibition comes immediately into view, and the mere fact of defining the sanction has a preventive force. I need not go into too many details in order to appreciate the truth of this fact in regard to all organisations.

The same is true of confidence. Confidence is doubtless more valuable than assistance, but assistance also, when it is provided for in advance, tends to increase confidence between States, as in society it increases confidence between men who are called upon to collaborate and to render assistance.

To abandon these abstractions in order to put before you the concrete reality of the truths which I have just expressed, let me refer to the case of the Locarno Treaties. These treaties were established on the basis with which you are familiar, and there was no hesitation in providing for and organising mutual assistance. Did this result in a lack of confidence between the contracting parties? Is it not true, on the contrary, that these agreements have tended, and very happily tended, to increase confidence between the parties? I would ask why it should be otherwise in other agreements of the same nature. We do not know in what part of the world such covenants may still be concluded, but we cannot say in advance that they are not likely to be concluded anywhere. In these circumstances, do not let us shut the door to the possibility of establishing agreements of this character, which, while organising but leaving in the background repressive measures and providing assistance, would have the effect of preventing a rupture of the peace and at the same time of increasing confidence between the contracting parties.

I would say the same in regard to the misgivings expressed by M. von Simson in regard to universality. We all desire the League of Nations to preserve the universal character which underlies its Covenant. We all desire to see this universality further developed, but the adoption of the universal formula which might have at once realised the security we are seeking did not depend on those who had the honour to support the thesis contained in this report. In default of a general system, it has been necessary to deal with the problem piecemeal, and to proceed from the specific to the universal. It is in this hope that we ask you to proceed in the direction of collective security agreements, in order that, by their multiplication and
repetition according to a common type and a uniform progression, we may one day arrive, by a co-ordination of the agreements, at a general universal system, which for the moment is impossible.

From these explanations you will see that there are hardly any real divergences of principle at issue and, as I said at the beginning, we are separated by a merely verbal misunderstanding. I hope that the explanations which will be furnished to you will finally remove this misunderstanding and enable us unanimously to achieve the object which we are pursuing.

I would like now briefly to indicate what, in my opinion, should be the practical method of procedure in examining the question which we are now to discuss.

After the exchange of views which has just taken place, the next step is to review the various suggestions formulated in the memorandum in order to determine the instructions which this Committee wishes to give to the Drafting Committee.

I perceive three series of questions.

The first deals with the model treaties of security to be elaborated. I have indicated a certain number of types: a collective security treaty embodying the principle of non-aggression, the pacific settlement of all disputes, and finally mutual assistance; bilateral treaties of the same character; collective treaties of non-aggression and pacific settlement; special treaties of the same character.

The first type offers, in my view, the greatest number of advantages for the security of States, but I recognise that in certain cases such a type may not be practical, and that the States would prefer not to go so far in undertaking engagements. The States may prefer to remain within the limits of a more modest treaty which embodies only the other principles which I have enumerated, and in particular the principle of non-aggression.

I think it would be useful at once to frame all these types of treaty, in order to offer them all to the States for selection, it being understood that each State will be free to make a choice at its discretion, either adopting a type as a whole or combining various clauses taken from the different models.

The second series of questions relates to clauses which it is desirable to insert in model treaties.

So far as models for collective treaties of security are concerned—which are the treaties I still prefer—it is proposed in the memorandum to distinguish between the essential clauses—such as the clause of non-aggression, the clause providing pacific settlement and, finally, the clause guaranteeing mutual assistance, which should always be inserted in a treaty of this kind—from the complementary or subsidiary clauses which may be adopted or omitted at the discretion of the parties.

In respect of each of these clauses it will be useful to indicate the intentions of the Committee, in order to ascertain whether they should be retained or not for the examination of the Drafting Committee.

The questions belonging to the third and last series deal with the co-ordination of security agreements as between themselves and with the Covenant of the League of Nations.

Finally, there remains the delicate question, with which we have often previously dealt, of the part to be played by the Council of the League of Nations with a view to the conclusion of security agreements.

That seems to me to be the order in which it is necessary to examine the various suggestions contained in the memorandum if we are to follow a logical and expeditious method of work.

The CHAIRMAN. — I propose that the order indicated by the Rapporteur should be followed. The first question which he has submitted to the Committee is the question concerning the types of treaties to be elaborated by the Drafting Committee. Perhaps M. Politis would again explain the classification which he has adopted for the various types of the treaties.

M. POLITIS (Rapporteur). — I contemplate three principal types of treaty.

The first is the most complete type, covering the whole field of security. It embodies the principle of non-aggression and of the pacific settlement of all disputes, and the provision of mutual assistance. This first type may serve either for collective or multilateral treaties (according to a time-honoured expression which I do not very much like), or for bilateral or special treaties between two States.

The second type embodies the principle of non-aggression and the principle of pacific settlement, but omits mutual assistance. Here, again, the type may serve for collective treaties between several States and special or bilateral treaties between two States.

The third type embodies only the clause of non-aggression. This type may also serve for collective treaties or special treaties.

I would ask you to entrust the Drafting Committee with the task of framing the different model treaties. When you have the text of them before you, it will be possible for you to discuss them with a full knowledge of the facts.

Lord CUSHENDUN (British Empire). — I am not raising any objection to any proposal that has been made, but I want to be sure in my own mind what the Rapporteur means by collective treaties, and whether collective treaties might be equally well described in English as general treaties. If so, I gather the proposal now before the Committee is not quite in harmony with paragraph 65 of the memorandum, in which the Rapporteur says "the conclusion of a general treaty binding on all States Members of the League at the time being, be excluded". I do not know whether the Rapporteur now advises us to depart from that principle.

I have already expressed my own preference for bilateral and regional as against general treaties. I still wish, of course, that this view may be considered by the Committee. If, however, the Rapporteur now recommends us not to act on the principle laid down in paragraph 65, but suggests that the Drafting Committee should prepare general treaties, I do not wish to raise any objection to that course being taken.
M. Politis (Rapporteur). — There can be no possible confusion. Paragraph 65 clearly indicates that it is not possible for the moment to consider a general treaty. We are considering only collective treaties—in other words, treaties to which more than two States are a party, or treaties which are merely bilateral and are made between only two States. The term “general treaty” means a treaty open to all States. That kind of treaty is not covered by my proposals.

M. Erich (Finland). — As regards security and non-aggression, the Finnish delegation ventures to draw the attention of the Drafting Committee to a question raised during the general discussion, namely, the possibility of transforming the resolution unanimously adopted by the Assembly on September 24th, 1927, into a general convention.

Without desiring to submit a more precise suggestion at the present moment, we hope that the Drafting Committee will consider the various possibilities which may present themselves in this connection.

M. Rutgers (Netherlands). — I would ask for some information on the subject of the type of bilateral treaty to which M. Politis referred, namely, the type which will include the principles of non-aggression, of pacific settlement and mutual assistance.

What is the significance of mutual assistance afforded as between only two States? Such a system can only apply in the event of aggression by a third State. This question of mutual assistance, when it arises as a result of aggression by a third State, is dealt with in paragraph 82 of the memorandum. The Rapporteur with a great deal of reserve, and a possible extension of a treaty of mutual assistance. When, however, we are considering a bilateral agreement, we are not dealing with the possible extension of an existing treaty, but with the treaty itself, which deals with the case of aggression by a third State.

I would ask whether, by adopting the proposed procedure, we are dealing at the same time with this kind of agreement.

M. Politis (Rapporteur). — I will briefly reply to the interesting observation of M. Rutgers. The reply depends on the fate reserved for the suggestion contained in paragraph 82 of the memorandum. If the idea of extending the guarantee against aggression of a third party is rejected, bilateral security agreements cannot, obviously, include mutual assistance, and so will only include non-aggression and the pacific settlement of disputes.

M. von Simson (Germany). — I associate myself with the opinion of M. Rutgers, but I do not wish to go into the substance of the question, as I understand that it will be discussed later on. I would merely ask for an explanation. If we decide that the Drafting Committee should elaborate three types of treaties, as I said yesterday in reference to arbitration and conciliation, such a course does not imply that the Committee on Arbitration and Security will have to recommend the texts which are framed. We shall be entirely free to decide that question later. I would venture, however, to point out that treaties which are limited merely to providing for non-aggression appear to have a very limited scope. Personally, I have no objection to this type of treaty, but I think that a treaty which provides for non-aggression should at the same time provide for the pacific settlement of disputes, since the principle of non-aggression is of no great value unless it is accompanied by pacific settlement. I reserve the right to defend my views in the Drafting Committee.

M. Sokal (Poland). — The Rapporteur has put to us a definite question. He asks what are the views of the members of the Committee in regard to three categories of regional agreements, and he has asked for our views in order that useful instructions may be given to the Drafting Committee.

I think that we shall perhaps find ourselves in a rather difficult position if we cannot reach unanimity on the subject. I wonder in advance what will happen if the Drafting Committee, and later on the Committee on Arbitration and Security, presents to the Preparatory Commission the Council various types of regional agreements, between which the interested parties will have to choose, without signifying what in the opinion of the Committee is the type which it specially recommends.

I do not wish to reopen the general discussion, but I would nevertheless draw attention to two facts. First, I would venture to remind you, although it may not be necessary, that the Assembly constituted this Committee in order to seek out methods of increasing security, and we must not forget the object of our work.

In the next place, our Rapporteur, as M. Paul-Boncour has reminded us, points out in paragraph 91 that, in order to afford nations a greater degree of security, the conclusion of a general agreement, adding to the obligations of the Covenant, cannot at present be contemplated. M. Paul-Boncour has psychologically explained the difficulty in which our Rapporteur found himself involved, but you will perhaps permit me to analyse the position in a political sense. The Rapporteur asks us to choose between three types of treaties, each type being divided into collective and bilateral treaties. In order to guide the Drafting Committee, I do not think it will be necessary for our Committee to confine itself to presenting various proposals without indicating any preference, as the result of that procedure would be null. It is necessary that we should say exactly what we want.

We wish to increase security. I entirely agree with the representative of Germany, who says that the treaty of non-aggression alone has no value. It is necessary to complete it by means of other essential factors, which the Rapporteur has enumerated. There is the
M. Paul-Boncour (France). - I have no special observation to make on the point now under discussion. I wish merely to voice a feeling which, I think, is shared by a certain number of my colleagues. Without in the least degree changing the procedure adopted, all of us are beginning to feel the difficulty under which I personally labour. I persist in the view that a useful discussion can only take place on definite conclusions. In taking the body of the report, which is, for the most part, an expression of the personal views of the Rapporteur and of which the object is to lead, by a series of arguments and statements, to the conclusions which are proposed, we are faced with a very difficult task. Since the opening of the discussion I have listened, on more than one occasion, to the statement of very important declarations. With some of them I agree, while from others I differ fundamentally. This divergence of view ought to be given expression at the proper moment and it ought, if possible, to be settled by means of agreement, which we all desire.

Nevertheless, I have not asked to speak, because I felt that, either in order to prove certain statements in the report or to show in what I differ from certain other statements therein, I should find, further on in the report, a number of points which would allow me to make such statements at a more prudent moment. Those of my colleagues who have spoken have not done so out of order, for, at any moment in the memorandum of M. Politis, it is possible to find an idea which a number may desire to approve and others may desire to reject. As far as I am concerned, I reserve the right to make my remarks only when the conclusions themselves are examined. The report of M. Politis ends by a series of conclusions of a very definite kind with regard to which, as M. Sokal has so justly pointed out, the Committee must certainly make known its opinion, for indeed, if we are merely to confine ourselves to the production of a series of model treaties which will be all the better the more numerous they are, as Lord Cushendun pointed out yesterday somewhat ironically, I do not think that we shall have added anything very much to the security of the world. I hoped for something quite different from this session. For me it is a question of discovering whether I shall be deceived in that hope or whether it will be fulfilled. We cannot discover this until we discuss the conclusions, and for my part I shall only speak when that time comes.

M. Politis (Rapporteur). - I wish to say a few words because I think that a misunderstanding has arisen. M. Sokal is doubtful whether we ought immediately to make a choice. I was careful to point out, at the beginning of the explanations made this morning, that various types of possible agreement in such a question can be contemplated. I asked you to instruct the Drafting Committee to prepare texts for these various model treaties and I carefully explained that it was upon these texts that our Committee could then take a decision with the full knowledge of the facts in order to choose that model among those submitted which it preferred and which it would recommend.

I have not hidden my thoughts for one moment. They are clearly set out in the report and I have not changed my point of view since I drew it up. In my view, the best model, that which gives the greatest practical view of security, is the complete model—that is to say, one which offers various clauses, to which I alluded just now, and which goes from non-aggression to a definite peace up to the safeguard of the population of a nation. This model is the one I suggest. I hope that it will be shared by the Committee. It is my duty, however, if I am to be impartial and methodical, to lay before you the various conceivable types of mutual treaty. I have done so in paragraph 60 of my report and I have classified them in order of importance. Once more I ask you to instruct the Drafting Committee to draw up the texts required. After detailed discussion concerning the other parts of the memorandum and after having considered the texts drawn up by the Drafting Committee, the members of this Committee will have a complete idea of the situation and will be able to take a decision with a full knowledge of the facts.

As far as I am concerned, I still hope that you will agree that the only type of treaty capable of giving real guarantees of security is the complete type, which I have designated as N. 1 in paragraph 60.

M. Sokal (Poland). - I would like to thank the Rapporteur for the reply which he has given me and which gives me entire satisfaction, for he himself considers the model type of treaty comprising complete regional agreement to be the type to be recommended. I hope that the Committee will agree with the Rapporteur and will give instructions to the Drafting Committee to this effect. I fear that, if we ask the Drafting Committee to prepare a series of model treaties, we shall be entrusting it with work which, as Lord Cushendun said yesterday, unless I am mistaken, will only be in the nature of a curiosity. If we wish to do something concrete, we must have a definite object and I think that the first thing for us to do is to adopt the proposals of the Rapporteur.

I would add that I rose to put a point of order. I warmly support the proposal of M. Paul-Boncour that, if we wish to consider the views of the Committee, we must examine the conclusions submitted and take up a definite standpoint with regard to them. Unless we do so, our discussion can have no positive result.
M. PAUL-BONCOUR (France). — While thanking M. Sokal for supporting my proposal, I wish to point out that I did not intend to raise a point of order. I do not in the least degree wish to prevent my colleagues, if they so desire, from following the report step by step. I merely desire to explain why, as far as I am concerned, I reserve my right to give my opinion and that of my Government on the definite conclusions submitted to us. I am still of the view that it is only by following this method that a useful discussion can take place. But it is not for me to change in any way the procedure which the Committee has adopted. I merely wish to inform you when I intend to give my views.

Lord CUSHENDUN (British Empire). — Although M. Paul-Boncour says he is not putting any motion before the Committee, he has, as a matter of fact, raised a very important question of procedure, and I must say I feel very much in agreement with what he has said. It does not appear to me that the procedure we are now following is likely to lighten our work. The memorandum of M. Politis is a document full of most interesting and important matter and contains a great many valuable propositions. I think I am in substantial agreement with it, but there are sentences or expressions with which I am not certain that I do agree, while there are others with which I certainly do not agree, and some as to which I am not clear to their meaning. It would be very laborious no doubt to go paragraph by paragraph through this long memorandum, and therefore I think it would be very much more precise and convenient to concentrate discussion on the conclusions, provided the conclusions cover all the ground, as to which I do not express any opinion at the moment.

Otherwise, it appears to me that, if we simply pass on to the Drafting Committee all this material, without sifting it in this Committee first, and if we ask them to prepare model treaties and to embody all the various propositions in its report, we shall be in a better position than we are now for arriving at a precise agreement. I think it would be better not to commit to the Drafting Committee more than we feel absolutely necessary; we should eliminate as much as possible in this Committee before anything goes to the Drafting Committee, so that when we get a document from the Drafting Committee it shall not cover all the matter we have already had before us in these reports, but shall deal only with the particular points on which this Committee is in general agreement. In that way I think we shall be in a position to carry the matter further. It is very difficult to pick out the various points which arise on the memorandum, some of which are very small, and make a set speech about them, and I do not feel myself in a position to do so. What we really want is to deal with the subject in a conversational way, so that we can ask what the meaning of something is, or object to something else, or agree informally with something else.

There are some important points which I think we might discuss and eliminate. For instance, there are various proposals here—I think the most important—which come under the heading of co-ordination with the Covenant and which raise very important principles. I think we might have a discussion on these proposals, I should hope with a view to agreeing to leave them on one side. If the opportunity occurs, I should like to state my reasons for thinking it would be unwise to adopt the proposals with regard to the clauses of the Covenant, but the particular point I am on at the present moment is that I should like to see some course followed that would minimise our labours and reduce the time we shall be called on to spend on these questions, which seems likely to be very prolonged if we first of all discuss this memorandum at large, and then practically discuss the whole thing over again when we have before us the document which has been prepared by the Drafting Committee.

The Chairman. — There seems to be a tendency to abandon the procedure followed hitherto.

If no member objects, I propose to pass immediately to the conclusions contained in the memorandum of M. Politis.

General de MARINIS (Italy). — Before settling this point of order, I wish to ask M. Politis a question connected with a very interesting discussion which has been going on, and which I followed with much attention.

In the classification which is given us of the various types of model treaties which it is proposed to draft, M. Politis has spoken of collective treaties and of bilateral treaties, while M. Sokal in his statement used the following expressions: "regional treaties" and "bilateral treaties".

Would M. Politis be good enough to tell us what is the precise meaning he attaches to the expressions "bilateral treaties" and "regional treaties"?

M. ERICH (Finland). — Before beginning the discussion on the conclusions of the report, I wish to reserve my right to make known my views on the question of demilitarised zones at any moment which the Chairman may choose.

M. POLITIS (Rapporteur). — This point is dealt with in the conclusions.

As far as General de Marinis is concerned, I would reply as follows: Between the expression "regional treaty" and "collective treaty" there is only a shade of meaning, but it is an important one. A regional treaty means that all States belonging to a particular region, that is to say, to a territorial district, somewhat vaguely defined, form a district to which the obligations of that treaty apply. It comprises a district—agree to become parties to the same treaty.

During the time that I have followed the discussions of the League, it has appeared to me to be more practical to make this term more elastic, and preferably to use the expression "collective" instead of "regional", for collective means any treaty comprising more than two signatures, i.e., three, four, five or a greater number. It may occur that in what is called...
more or less arbitrarily the region concerned, there may be only a few States which will agree on the treaty, but there may be a more considerable number of States than those in the region which signed the treaty. It is for this reason that the word "collective", which is more elastic, is preferable, in view of the fact that account must be taken of various shades of meaning which become clear during the course of our discussions.


The CHAIRMAN. — I consider the procedure of reviewing the conclusions as adopted, and open the discussion on paragraph 91.

M. ROLIN JAEQUEMYNS (Belgium). — I am not sure that I understand the exact meaning of paragraph 91. I assume that it has not any connection with the conclusions previously reached by the Committee as regards the draft general treaties of arbitration and conciliation or of conciliation only to be prepared by the Drafting Committee and that it is only a preliminary statement of facts, referring only to regional pacts. I would like to be assured that this is the case.

The CHAIRMAN. — The Rapporteur is of the same opinion as the Belgian representative.

M. VON SIMSON (Germany). — May I be allowed to make an observation regarding paragraph 91. I merely wish to point out that, by accepting the conclusions with which I am in agreement that "the conclusion of a general agreement adding to the obligations assumed under the Covenant cannot at present be contemplated", no prejudice is caused to the suggestions which I have submitted on behalf of the German Government, and which, as they have a general bearing, seem to come within the scope of paragraph 91. If I have rightly understood the matter, however, we shall discuss these suggestions separately.

The CHAIRMAN. — That is understood.


M. MARKOVITCH (Kingdom of the Serbs, Croats and Slovenes). — I should like to make a slight observation in regard to paragraph 92. My remark refers to the spirit in which this paragraph was drawn up. Mention is made of "States which require wider guarantees of security". Security is not referred to as a general political factor applicable to Europe as a whole (to take Europe first); on the other hand, reference is made to particular States which require guarantees of security as an exception.

I should like to know whether this means that there are countries which are not at present in a state of security, and the Committee's task consists in tranquillising these particular countries. Does the paragraph refer to exceptional cases of this kind, or is it a written formula the application of which was not clearly determined by the Rapporteur, to whom I desire to pay a well-deserved tribute for the excellent document which he has submitted to us?

I should be glad to have the Rapporteur's explanation on this point, because I consider that the drafting of this paragraph is not altogether consistent with the Covenant of the League of Nations and the duty of our Committee.

M. VON SIMSON (Germany). — I should like to say a few words with regard to paragraph 92. Without repeating what I have already said on many different occasions, I should like to stress three points.

According to this paragraph: "States which require wider guarantees of security should seek them in the form of separate or collective agreements for non-aggression". I have already said several times that I did not consider that this was the only means that could be employed to meet special situations. In that case, the words "should seek" do not seem correct, and should be replaced by "might seek".

The Rapporteur advocates as a method of guarantee and security the conclusion of separate agreements for mutual assistance. This is the point emphasised by M. Rutgers at the commencement of our discussion. For the reasons I have already stated, I am personally opposed to separate agreements containing a clause for mutual assistance, because, as stated by M. Rutgers, these agreements would be directed against a third State.

My third remark is as follows: we are of opinion that measures for arbitration and conciliation should always be added to separate or collective agreements for non-aggression.

M. PAUL-BONCOUR (France). — I merely wish to say that the reason I refrained from commenting on paragraph 92 was that this paragraph is amended by paragraph 93. If I took paragraph 92 by itself, I should be obliged to make express reservations. It states:

"States which require wider guarantees of security should seek them in the form of separate or collective agreements for non-aggression, arbitration and mutual assistance", etc.

If this paragraph stood by itself, the collective agreement—which I still call "regional", because I think it the most appropriate term—and the separate or bilateral agreement would apparently be placed on the same footing as regards guarantees of security. In my opinion, there is a fundamental distinction between these two systems from the point of view of security.
As it happens, however, this paragraph is followed by paragraph 93, which indicates the Rapporteur’s preferences, and I think that it is on this latter paragraph that a useful discussion might be opened.

M. Politis (Rapporteur). — In reply to M. Markovitch’s observations, I should like to point out in the first place, and would ask the Committee to consider my remarks as of a general nature, applicable to the discussion as a whole, but it seems to me that we should not take the formulas contained in these conclusions literally. Nothing is more difficult than to compress an idea into a phrase. These conclusions were somewhat hastily adopted at Prague. I can assure you that the matter was a difficult one. The conclusions do not contain all the exact shades of our meaning. They must not therefore be taken at more than their value in a general sense. In M. Markovitch’s observations, however, there is one statement which is worthy of notice. It was not my intention to say that only certain States require guarantees of security, but to refer to the existing situation: certain States say that they do not require guarantees of security; others say they do; if we give satisfaction to the latter, the former will have the benefit. I put forward this suggestion in paragraph 65, when I said that collective security pacts would not only increase the security of the contracting parties but would increase general security, and thus constitute a guarantee for every country in the world.

It was in this spirit that, at the conclusion of the last session of the Assembly, the Preparatory Commission asked us to work, it being our task to discover the best methods of increasing the security of all States. It is in order to obtain as a definite result the increase in the guarantees of security for all States that we have considered these pacts.

We have already furnished an explanation with regard to the observations of M. von Simson. The most important point is that referred to by M. Rutgers. As I have already remarked, this question will come up for discussion under paragraph 92, which is summarised in paragraph 98. I hope we shall be able to clear up this matter and reach an agreement when this paragraph is discussed.

I need hardly say that I am in agreement with M. Paul-Boncour: paragraph 92 must not be interpreted apart from paragraph 93, which explains it. My full meaning is set forth in the latter paragraph, and is, moreover, set forth in the clearest possible terms in the memorandum.

M. Sokal (Poland). — I should like to say a few words with regard to the very important question raised by M. Markovitch, although M. Politis’s reply to that gentleman was entirely satisfactory.

To facilitate our discussions, I think that paragraph 91 should be added to paragraph 92. Paragraph 91 cannot be regarded as a statement pure and simple, because it is dependent on paragraph 92. Our investigations and endeavours to determine the methods indicated in the excellent report of M. Politis are being continued, because we have not arrived at a general treaty.

Secondly—and this is a logical conclusion—if we accept this premise, there can be no question of using the word “might” as proposed by M. von Simson, but the word “should” must be kept. There is a fundamental distinction between the two: the League of Nations involves not only rights but also certain obligations, and by using the word “should” stress is laid upon the obligations of Members of the League.

In conclusion, I should like to make a third remark, which is perhaps merely a question of style. The Rapporteur meant to say that there is only a slight difference between the terms “collective” and “regional”; but, as in the other paragraphs—and, if I am not mistaken, all the way through—he uses the term “regional agreements”, it would perhaps be preferable for the sake of clearness to adopt the word “regional” instead of “collective”.

Dr. Riddell (Canada). — I wish to express my appreciation of what M. Sokal has said with regard to the use of the word “regional”. It seems to me, in view of the statement in paragraph 91, that it is better to give a more concrete idea of what we really mean, and I think “regional” does that better than “collective”. It is very difficult to draw the line between “collective” and “multilateral” and therefore I favour the word “regional” and I think that point has been well taken by M. Sokal.

I wish to compliment the Rapporteur most highly on the excellent work he has done. In Article 92 he uses the phrase “collective agreements for non-aggression, arbitration and mutual assistance”. I want to be sure “arbitration” in that phrase implies conciliation and investigation—i.e., all the pacific means for the settlement of international disputes and for avoiding them.

Then there is the question of separate and collective agreements. My Government is strongly of opinion that, if you are to have separate agreements, you must be exceedingly careful and scrutinise them very closely to see they do not become merely military alliances.

M. von Simson (Germany). — I had raised a certain objection against the word “should” employed in paragraph 92 and I had said that the method recommended in that paragraph was not the only one, and that therefore this expression was not correct. The honourable delegate of Poland has now attached to the word “should,” a meaning to which I must object still more strongly. He says that this word should be retained to make it absolutely clear that there is an obligation for everyone. This belongs to a type of idea which I have frequently had occasion to express before you already. We are opposed to pressure of any kind, and I desire to repeat this.
M. Rutgers (Netherlands).—Allow me to explain why I have no objection to the word "should". The only obligation which this word suggests is that of seeking wider guarantees of security by certain means, and this obligation is imposed on States which need those wider guarantees. I therefore think that this is not a very alarming obligation. In reality, I think that this word has about the same meaning as in a sentence like this: "If you want to go to Chêne, you should take tram No. 12". This does not imply an obligation preventing you from taking a taxi if you prefer it.

M. Cantilo (Argentina).—I associate myself with the remarks of M. Rutgers. I consider that the word in question is very clearly explained by the preceding paragraph. As no general agreement is possible, it remains for States which need guarantees to seek them. In these circumstances, the word "should" has not the meaning which our colleague attributes to it.

The Chairman.—I consider that the discussion concerning paragraph 92 may be summed up as follows: The members of the Committee approve the Rapporteur's remarks, but there are certain shades of difference between the different points of view. The observations made by the various delegates will be sent to the Drafting Committee.


M. von Simson (Germany).—I apologise for speaking again, but I desire to say that I do not agree with this point. This will hardly be a matter of surprise to anyone. As previously, and so as not to waste your time, I only desire to state clearly and briefly our objections in regard to this conclusion.

Paragraph 93 says first of all: "Regional pacts comprising non-aggression, arbitration and mutual assistance, represent the completest type of security agreement . . . ". I have nothing to object to in this statement, because these pacts in fact represent a complete type. The paragraph goes on: " . . . and the one which can most easily be brought into harmony with the system of the Covenant ". Here I can no longer associate myself with the Rapporteur, for reasons which I have already explained on different occasions, and to which I shall not revert now.

The report then says: "Such pacts should always include . . .", and here I think I shall not be mistaken in attributing to the word "should" a sense of absolute obligation. I resume:

"Such pacts should always include the following provisions:

(a) A prohibition to resort to force;

(b) The organisation of pacific procedures for the settlement of all disputes;

(c) The establishment of a system of mutual assistance to operate in conjunction with the duties of the League Council."

My Government's view is, as I have often explained, that this system of mutual assistance need not necessarily be an integral part of a regional treaty. I do not deny that, in certain circumstances, the political relations between States may be such that this third possibility may be added; but what I dispute is that, to be effective, each regional pact should in all circumstances include the establishment of a system of mutual assistance.

M. Paul-Boncour (France).—We have here reached a vital point in our debate and, although our respective views are still known, I rise to say, as I indicated just now with regard to paragraph 92, that, as far as I and my country are concerned, I give my unreserved approval to paragraph 93 of the conclusions of M. Politis's report. This paragraph develops an idea which was merely indicated in paragraph 92, and, while the latter spoke both of separate and collective treaties, paragraph 93 clearly shows that the Rapporteur's preference is for the latter.

I think this is quite legitimate. Bilateral treaties can, in my opinion, be nothing more than a makeshift, and it is only if they can get nothing better that States can be led to conclude them. These treaties may add to their mutual security, but I do not think that they add much to the general security, except in the rare case of a bilateral treaty between two States which have belonged in the past to different groups of alliances. I say "in the past", because it must be assumed here—although I am not really sure of it—that there are no such alliances at present, and that there will never be any more in future. In the case of a bilateral treaty concluded between two States which have been separated by age-long misunderstandings, or have belonged previously to different groups of alliances, I think there will be, all the same, some increase in the general security. An agreement between these two States, in addition to giving them greater individual security, solves disputes which might have endangered the general security. None the less, there is nothing to compare with regional agreements, even on this most favourable and, it must be admitted, in frequent hypothesis.

What we are seeking, in order to increase general security and permit of more effective measures of disarmament, is rather the application to the whole of a specific area of Europe what I may describe as an apparatus of security, which will settle conflicts and which will bring into being that harmony and agreement which experience has shown to have resulted from the Locarno Treaties. We do not desire to apply these treaties as they stand to parts of
Europe for which adjustments may be necessary. But we retain the general framework, the more so as this framework is itself the outcome of the principles of the Protocol, which ceased to be universal when it was transformed into a particular treaty.

If we look at the question from this angle, can it be denied that those regional treaties are superior to separate treaties from the point of view of general security? I do not think there can be any doubt about this. Consequently, the criticisms which may be levelled against regional treaties should not be the outcome of a comparison with separate treaties, but should be concerned with their intrinsic possibilities or with the drawbacks which may be inherent in them.

I admit that I cannot see the danger of defining these regional treaties as I have just done, and as the Rapporteur defined them himself. Presumably, in view of the number of signatories involved, these treaties are not concluded between States belonging to the same system of alliance, but between such States and one or more other States with which possible conflict was feared. I think, therefore, that general security is most certainly affected by the conclusion of agreements of this kind.

Would it be affected to the same extent by the conclusion of regional agreements embracing a certain number of States with varying historical or geographical features or systems of alliances, but limited (thus differing from the complete type proposed by the Rapporteur) to a pact of non-aggression? In any case, as the German delegate rightly remarked, a pact of non-aggression of this kind would have to be completed by the procedure of pacific settlement, which is obviously the consequence of any pact of non-aggression. Such a clause, when confined to a moral affirmation, may possibly be of interest—since everything is of interest—but it is certain that, from the point of view of positive guarantees of security, it is of far less value than a pact of non-aggression completed by the provision of pacific procedure which it involves. This is also the case if it is considered apart from mutual assistance, and if the third term mentioned by the Rapporteur is lacking. I would not go so far as to say that what remains is valueless, neither do I say that the League of Nations, by establishing types of treaties of mutual assistance, and by taking the necessary steps to enable its organs, and the Council in particular, to conclude such treaties, would do nothing to increase security, but I would remind all our colleagues that we are here on a definite mission. It must not be forgotten that we are here in virtue of the resolution of the 1927 Assembly. This resolution, which combined the German and French proposals with the Netherlands proposal, was adopted unanimously by the Third Committee. We must not forget that we are here as the result of the work for disarmament. We have not met together merely to deal with security in general; we have to endeavour to increase security, which is bound to influence the reduction of armaments.

I would therefore address the following appeal to my colleagues. If we bring before the Disarmament Conference a regional treaty excluding mutual assistance, and without a guarantee that, in the event of conflict, the forces maintained by a State after the reduction of armaments will be increased by the forces promised, shall we be in a suitable frame of mind to achieve a reduction of armaments? I do not think so. When speaking of the reduction of armaments, we must be careful to take a practical view. When a nation is asked what is the total number of effectives which it considers necessary for its security and the observation of its obligations under the Covenant according to Article 8, upon which all our work is based, on what grounds is that nation to appreciate this security? Not on any theoretical concepts, you may be sure, not even by bearing in mind this or that treaty which may afford it a reliable guarantee that conflicts will be avoided. It will fix the number rather in relation to the possible conflicts which it may fear. Do not let us forget that. Because, in other branches of the League's activity, this idea of conflict can be avoided, since everything tends to prevent it, we must not forget that, in discussing this special question of armaments and disarmament, we are reasoning in every case with the possibility of a conflict before us. A conflict breaks out when all preventive measures have been exhausted and have proved unsuccessful. The total number of effectives fixed by that nation at the Disarmament Conference will be based on this possibility. And, naturally, it will not be able to accept these reductions of armaments, I will not say light-heartedly, but with a calm and resolute mind unless in compensation it has treaties of assistance which provide it with a definite guarantee against all the possibilities of conflict it may apprehend.

Another criticism is that made by the German delegate at the beginning of our meeting. The argument is a strong one. Do not regional treaties, which are, after all, separate in relation to the whole and in relation to a general pact, run the risk of leading to a dislocation of a society which is universal in its essence? I agree, but I would beg our colleagues to note that, if we are obliged to take our stand on regional agreements, it is not in the case of many of us because we like it. We have shown in many circumstances that our preference was and continues to be for a general treaty. It is our profound conviction that the germs of conflict cannot be completely destroyed, or the security can be regarded as achieved, until the day when there is sufficient international solidarity and international spirit to create this general treaty. But, with great wisdom, the Rapporteur says to us: After the very clear declarations of September, to the frankness of which we pay a well-deserved tribute, we note what we can do and we know what we cannot do. We know that it is only by means of regional agreements and the partial and regional application of principles which indeed are general that we can achieve any success. Now we are committed to this course in virtue of the 1927 resolution and we are fully committed to it. This resolution leaves us no choice. No doubt our minds are entitled to choose, but they must observe the juridical bonds constituted by the Assembly's resolutions. We therefore must
not fail to seek every means of bringing about these regional agreements, of co-ordinating them and of generalising them. If, therefore, compared with a general treaty, regional treaties have drawbacks, which we who are in favour of a general treaty realise better than anyone, we must not hesitate in the face of these criticisms to go forward on the only course which remains open to us. To do so would be a serious matter. We can weigh these arguments, these drawbacks which are pointed out to us, and try and secure co-ordination—as the Assembly resolution stipulated—not only between the treaties themselves but between the treaties and the Covenant of the League of Nations.

In our discussions in the Third Committee and, later, in the Assembly, it became very clear—and our colleague of the Kingdom of the Serbs, Croats and Slovenes made very significant statements in this connection in 1926 and 1927—that the treaties which the League of Nations had to promote, co-ordinate and generalise would necessarily have to remain in conformity with the spirit and terms of the Covenant. We cannot reject the arguments put forward at the beginning of this meeting by the honourable German delegate. We must, on the contrary, give them our best attention and, in the resolutions which we are going to propose, endeavour to ensure that these treaties should remain completely within the scope of the Covenant. It is, in fact, for this reason that our Rapporteur proposes that we should draw up a model treaty. There is no other reason, for, if we are going simply to substitute ourselves for the jurists of the different countries, our meeting would be quite superfluous. Each country, each diplomatic service, each Ministry of Foreign Affairs, has legal experts who are perfectly capable of finding adequate formulae in conjunction with the jurists of the countries with which the treaty is to be concluded. The only real importance of the model treaty is to find a text which comes completely within the framework of the Covenant and is in conformity with the principles of the Covenant.

When this model treaty has been drawn up, a discussion will inevitably arise as to other conclusions of M. Politis's report, for I consider that we shall only have done half our work, or rather that only half the work will have been done. The other half will be for the Council to do. These model treaties must not remain in the archives as a testimony of the legal ability of those who proposed them and those who adopt them. They must serve the Council as a standard to judge what is good and what is less good, what is acceptable and what is not, what must be encouraged and what must be discouraged.

The meeting rose at 1.10 p.m.

NINTH MEETING.

Held on Monday, February 27th, 1928, at 4 p.m.

Chairman: M. Beneš (Czechoslovakia).

21. Appointment of a Member of the Drafting Committee.

M. Undén (Sweden).—I ask the Committee to appoint an additional member to the Drafting Committee, and I propose Baron Rolin Jaquémyens (Belgium).

This proposal was adopted.

22. Discussion of the Memorandum on Security Questions: Conclusions: Paragraph 93 (continued).

M. Rolin Jaquémyens (Belgium).—I thank the Committee for the confidence which it shows in me in appointing me a member of the Drafting Committee. I am very grateful to you.

May I explain the reasons why I have abstained from taking part in the discussion of the report and the proposals of M. Politis? My reasons were not due in the least to indifference. On the contrary, my Government is very much concerned as to what will happen regarding this question. It appeared to me, however, during the course of the discussion, that the observations on both sides of which the Drafting Committee could take account had been made in such a manner that, though my preferences might be for one view or for the opposite, it was unnecessary to give expression to them.

There is a further reason: as far as the direct interests of Belgium are concerned, we took steps during the discussions of the Locarno Treaty; consequently, the work of drafting now in progress does not directly concern us.

To speak from a more general standpoint, I thought that, whatever the nature of the texts you might adopt, the regional agreements achieved could never in practice be the exact reproduction of one of those drafts which we should have drawn up. Consequently, it will be far more the recommendation which will be of service—that is why this discussion is so useful—than the text itself, which may only be the skeleton or scarcely more than the skeleton of the agreements to be concluded.
To explain to you the interest which my country continues to feel in the question under discussion, I desire to inform you that, during the last meeting of the Belgian Senate, M. Hyman, Foreign Minister, said in the unanimous approval of that august body, that the Belgian Government was convinced "that the most effective system of security at the moment lay in the conclusion of regional pacts of non-aggression, arbitration and mutual assistance."

You will know from this statement that the help of the Belgian Government is already entirely at your disposal, and that, if it has any preference, it is for regional agreements fulfilling the threefold condition which I have mentioned—non-aggression, arbitration and mutual assistance.

M. Undén (Sweden).—In the name of the Swedish Government, I support the views expressed by the representatives of the Netherlands, of the British Empire and of Germany concerning the extension of the mutual guarantee in the case where a third State has committed an act of aggression. Although this question is dealt with in paragraph 98, it is also touched upon in paragraph 93.

It is obvious, as M. Rutgers pointed out at the last meeting of the Committee, that a bilateral treaty of mutual assistance is necessarily in the nature of an alliance directed against a third State. Such alliances exist at the present moment, it is true, and they may be inevitable for some time to come, but the League of Nations, when giving directions for the future, ought not to request States to form combinations of this kind.

These considerations also apply to the multilateral treaties which cover the case of an aggression committed against a contracting party by a third State. In my view, the League of Nations ought not to recommend the conclusion of treaties which would have the effect of giving rise to disquiet and fear on the part of certain third States and thus increase tension between peoples. The provisions in question are intended to increase the individual security of a contracting State, but in actual fact their tendency is to shake the mutual confidence existing between contracting States and certain third States, and thus the general security of Europe will be gradually diminished.

From the practical point of view, it seems very improbable that a State would be ready to accept an invitation to join a regional agreement which would impose upon it such wide obligations in connection with guarantees.

It is desirable, in my view, that the report of the Committee should, in reproducing paragraph 93 of the memorandum, expressly add that mutual assistance should only cover the case of an aggression directed by one of the contracting States against another contracting State.

M. Antoniadé (Roumania).—Before the end of the discussion on the first three conclusions of the Memorandum on Security Questions, I wish briefly to explain the attitude of the Roumanian delegation.

After the explanations of M. Politis and the declarations of the French, Polish and Serbo-Croat-Slovene delegations, what I have to say is merely repetition, but I think that it will not be without interest, in view of the fact that the moment is near when each of us will have frankly to define his position in this discussion.

It is my duty and pleasure to pay my tribute—one of many—to the brilliant study which M. Politis has submitted for your discussion. I am convinced, gentlemen, that this memorandum will remain in our records as a model of clearness, penetration, analysis and at the same time of legal and political construction.

As far as the first three conclusions are concerned, the Roumanian delegation desires, in its turn, to affirm the necessity of not losing sight for a single instant of the fact that this organisation of security is not an abstract problem or an academic point of international law. It is not a vague theoretical question of security but real security which will make possible the limitation of armaments or even general disarmament.

If it were a mere question of abstract security, the provisions of the Covenant might be sufficient. Many nations would feel tolerably secure under their protection and with bilateral treaties of assistance and with the armaments which each possesses.

It is proposed, therefore, as a means for organising this actual tangible security with a view to progressive disarmament, that special or collective agreements should be concluded on the basis of the three principles : the renunciation of war as a means of settling international disputes, the organisation of peaceful procedure for the pacific settlement of disputes, and a system of mutual assistance. It is proposed that we should take, say, three together, or else only two of them, or else only the first; hence the three models submitted by M. Politis, each divided into bilateral or multilateral agreements.

We are told as clearly as possible that it is the widest form of regional agreement with these three points which represents the most complete security and that which is most in harmony with the system of the Covenant, and I think that this is the general, if not the unanimous, feeling of the Committee.

Up to the moment, I have heard no serious criticism of this system, nor any suggestion which could advantageously take its place. It is true, I think, that not everyone likes the expression "regional"; let us therefore use the more crabbed expression "multilateral" or "plurilateral" or, more simply, the expression "collective". Will this change of wording, however, do away with the fact that, outside these States, there exist all over the world regions with their past history, their needs and their special interests, and also their special dangers and spots of danger?

It is also said that this idea of confidence in the regions will run counter to the notion of universality which is at the basis of the League of Nations. Is not, however, the idea of peace still more fundamental than the principle of universality? If regional agreements are likely to assure general peace, ought they not reasonably to be given preference over that cherished idea of universality? It is easy, however, to allay the apprehensions of those
who cling to universality so much. They can be shown that these regional agreements, after having spread their net over the whole world, may be co-ordinated, and thus a return will be made to the universality of the Covenant.

We are also informed that regional agreements will be "one way" of assuring security but that they are not the only way. I shall be very grateful to know what other ways there are. What can they be? There is the Covenant, with its guarantees, indefinite in their principle and hazardous in their application. There has been always, with an eye upon this idea of universality, a treaty of mutual assistance and the Geneva Protocol; both of them, however, have remained dead-letters. What is now proposed? We are told that any measures of security would be ineffective without mutual confidence, and that confidence is just as essential whatever form of agreement is in question. We are told that our main task must be to increase that confidence. I am the last to dispute the value of the psychological and moral factors in the life of peoples and their relations. Let our task be, therefore, to increase the yield of this moral factor which is of great importance, but do not let us forget that, for the moment, what we have to do is something of a very definitely concrete character which it is desired to achieve at short notice. Each one of us is now required to renounce a part of his armaments and to prepare for complete disarmament. Is it possible to renounce palpable guarantees in order to obtain in compensation—what? The prospect of happy years to come when a spirit of confidence will prevail everywhere?

Let us keep, in the absence of other panaceas, to complete regional agreements, based on non-aggression, peaceful settlement of disputes and mutual assistance. I own that I do not regard this as a maximum but, on the contrary, a minimum of that security which is to precede disarmament. I have heard more than one authoritative voice define this system as a pis-aller. As far as I am concerned, I share this view.

The Roumanian delegation expresses its preference, therefore, for this complete type of agreement, and desires to see it, after it has been discussed and drafted, put forward in the first place both by the present Committee and by the Preparatory Commission and the other organisations of the League. Obviously, we are only required to recommend it. We are not required to impose anything in this matter on sovereign States. We can, however, make recommendations which can be accepted or refused. The fact, however, that the Roumanian delegation shows this preference does not mean that it is opposed to the drawing up of the other kinds of agreements proposed by the Rapporteur. It is plainly conscious of their usefulness, which is the result, in the first place, of their possible adaptation to all needs and to all situations. They are still more useful from another point of view. After a firm and frank offer has been made, the acceptance in a particular region of a particular model treaty will be the measure of the limitation or the disarmament to be carried out. The wider the type of treaty accepted, the more numerous the guarantees obtained, the greater will be the measure of disarmament. Every State will then know how it stands as far as the intentions of the enforcement by common action of international obligations.

As far as I am concerned, I share this view.

M. von Simson (Germany). — I did not intend to speak again on paragraph 93, for I have already explained my Government's point of view. The speech just made by the representative of Roumania, however, compels me to rise once more.

The representative of Roumania said at the beginning of his speech that he was going to repeat words already used by other representatives, more especially by the representatives of France, Poland and the Kingdom of the Serbs, Croats and Slovenes. He has not only repeated but he has expressed with greater force the ideas lightly touched on by, for example, the representative of the univerisity of the Covenant and that he considered regional agreements a pis-aller. The Roumanian delegation shows this preference does not mean that it is opposed to the drawing up of the other kinds of agreements proposed by the Rapporteur. It is plainly conscious of their usefulness, which is the result, in the first place, of their possible adaptation to all needs and to all situations. They are still more useful from another point of view. After a firm and frank offer has been made, the acceptance in a particular region of a particular model treaty will be the measure of the limitation or the disarmament to be carried out. The wider the type of treaty accepted, the more numerous the guarantees obtained, the greater will be the measure of disarmament. Every State will then know how it stands as far as the intentions of its neighbours are concerned and its own security. If there is a refusal to accept any of the models, then there will be no disarmament.

The Members of the League recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations."