The Roumanian delegate next said that it had been pointed out that regional agreements did not constitute the only means and he asked what other means were contemplated. As it was I who made that remark, I suppose he was referring to me: I think also that in this point too we should abstain from being too pessimistic. At the beginning of the discussion we were all agreed, and the representative of Great Britain made special reference to it, that the degree of security given by the Covenant of the League of Nations was not a negligible quantity: it already amounts to something and it is something which we can still further strengthen. I would recall the Finnish proposal concerning financial assistance. I would also recall the suggestions made by the German Government, which have not yet been discussed. I think that this is a matter of clearly palpable guarantees, of which the consequence will be a very definite increase in security.

If I remember rightly, the Roumanian delegate said that there was no question of imposing the recommendations of the Committee on anyone, but that, if a State refused to accept them, neighbouring States would draw the requisite conclusions. I suppose this means that if, for example, the Council of the League recommends a certain State to conclude a certain regional agreement and if that State replies that it cannot accept this advice, there can be no further question of disarmament. I must say that I am not of this view.

The representative of Roumania has also said that he attaches great importance to the increase of mutual confidence. I would like once more to emphasise this point. M. Paul-Boncour said in his speech—he expressed it much more eloquently than I can and I must ask your pardon if I repeat badly what he said—that if the crown of mutual assistance is lacking in the regional treaties an essential element is lacking, and that mutual confidence cannot be established except by means of mutual assistance. I would once more repeat that I am not in the least degree opposed to regional treaties of mutual assistance, but what I must always protest against is that nothing will have been achieved if we do not succeed in establishing such a treaty. I must refer to the great impression made on me by the speeches of our colleagues from South America. Among the countries of that continent there exist only treaties of non-aggression and treaties for peaceful settlement of all disputes. There is not a single treaty of mutual assistance, to my knowledge, in that continent. Nevertheless, that is a part of the world where mutual confidence is much more highly developed than in Europe.

The Rapporteur has shown his appreciation of the practical value of demilitarised zones in connection with regional security agreements. He is right in considering that the establishment of demilitarised zones may assist in avoiding the use of force in an armed conflict. Further, in the explanations contained in paragraph 72, the Rapporteur has emphasised the fact that the establishment of demilitarised zones can be recommended as a measure suitable for the prevention of aggression and as one which facilitates, if necessary, the determination of the aggressor. At the same time, the report recommends that the greatest subtleness should be shown with regard to the extent of a zone and the other details connected with it. Account should be taken, among other things, of the configuration of the frontier line and of the relative importance of the States concerned.

The Rapporteur has thus pointed out in a few words the conditions and essential attributes of demilitarised zones. What he has said will certainly meet with the approval of everyone. This is a practical measure of security which cannot but encounter our unanimous approval. Any State which consents to this limitation of a territorial nature, as far as the exercise of its military power is concerned, will give, by so doing, a conclusive proof of its goodwill. It is thus possible to note in a tangible and measurable manner—to use the expression of M. Sokal and M. Paul-Boncour—that material security has increased in any case in a certain part of the world where mutual confidence is much more highly developed than in Europe.

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23. Discussion of the Memorandum on Security Questions: Conclusions; Paragraph 94.

M. ERICH (Finland). — The Rapporteur has shown his appreciation of the practical value of demilitarised zones in connection with regional security agreements. He is right in considering that the establishment of demilitarised zones may assist in avoiding the use of force in an armed conflict. Further, in the explanations contained in paragraph 72, the Rapporteur has emphasised the fact that the establishment of demilitarised zones can be recommended as a measure suitable for the prevention of aggression and as one which facilitates, if necessary, the determination of the aggressor. At the same time, the report recommends that the greatest subtleness should be shown with regard to the extent of a zone and the other details connected with it. Account should be taken, among other things, of the configuration of the frontier line and of the relative importance of the States concerned.

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awaiting the end of its mobilisation. Consequently, if it is desired to establish, in the circumstances which I have just outlined, a demilitarised zone which shall conform to the existing needs of security and which corresponds to real equality, and by that I mean to equity, it will be necessary to establish, at least as a general rule, a wider zone on the side of the frontier belonging to the more powerful State and a relatively smaller zone on the side of the frontier on which the military and material resources are inferior.

In this respect it must obviously be admitted, with the Rapporteurs, that a certain degree of suppleness is necessary. In each given case what is admitted to be just must be taken as a basis.

The points which I have just laid before you are implied in the arguments of the report, which, as we have seen, urges that account should be taken of the geographical configuration of the frontier and the relative importance of States. In order clearly to define what States individually appreciate as tangible security, it would be useful to emphasise expressly as a practical consequence of this relativity that a certain relation must exist between the breadth of the zone and the military importance of the States concerned and contracting, on the one part, and the size of the zones to be established alongside of the frontier on the other part.

As far as the proper working of a system of zones is concerned, account must be taken of the necessity for a control, as is mentioned in the report, in which the question is raised, in a somewhat vague way, of a temporary or permanent control which the parties might request the Council to organise. Nevertheless, the last observation in the argument, to the effect that it is for the Council to prescribe the necessary measures to ensure respect for the engagements undertaken, appears to indicate that in this field it is impossible to do without international control.

This observation should recall the important reality, which is that the establishment of a neutral zone between two States does not mean that their relations are strained, or that there is any mutual mistrust or special menace or susceptibility. This guarantee of security springs from the same notion as guarantees of security in general, that is, from a just appreciation of existing facts. There is nothing, therefore, strange or out of the ordinary in seeking to strengthen security by the establishment of a demilitarised zone. To prove this it is sufficient to recall the speeches made during the session of our Committee by the representatives of two States much in favour of ideas concerning security and international solidarity. The Vice-Chairman of our Committee, M. Undén, has expressed great satisfaction, among other things, at the demilitarised zone established along the frontier separating Sweden from Norway. The representative of Canada, Dr. Riddell, has recalled the example of the naval disarmament on the Great Lakes, as well as the military disarmament along the land frontiers separating Canada from the United States for a distance of more than 2,000 miles. The representative of Canada added that the absence of military forces engenders confidence and causes every kind of fear and suspicion—the two enemies of security—to disappear.

It is therefore quite natural that States, more especially those who are in the category of secondary or smaller States, should show a real and sincere interest in the establishment of demilitarised zones, and should at the same time urge that, when determining these zones, the organic conditions which differ more or less according to the countries concerned should be duly taken into consideration.

General DE MARINIS (Italy).—I desire to add something to the very interesting observations just made by the delegate for Finland. I regret that I am unable to express entire agreement with his conclusions.

M. Politis has submitted his suggestion regarding the establishment of demilitarised zones with much caution. In this part of his report, he has given further proof of that comprehensive spirit which has already been noted by the representative of the Kingdom of the Serbs, Croats and Slovenes, M. Markovitch, in a tribute in which I join. M. Politis said that demilitarised zones could be in principle recommended, but he added, nevertheless, that, in view of the number of varying situations, there was no need to fix rigid rules. The greatest suppleness is necessary in this direction, and account must be taken of the necessary circumstances. Finally, the violation of demilitarised zones ought not to be regarded as an action on the same footing as recourse to war. The establishment of such zones is a question which should therefore be left to the judgment of the countries concerned, among which there may be some which do not desire to have demilitarised zones. This, indeed, is the case in my own country.

This said, I wish to examine for a moment the question in an entirely impartial manner and I wish to do so with reference to a report which, in view of the authority of its authors, should be considered as really final. I would not say anything which is displeasing to any of us, and in saying this I do so mainly because I do not want to lose sight myself of its interest. I think that, for the proper continuity of our work, we should not neglect the conclusions already arrived at by properly qualified organisations of the League. When Committees to which certain very definite tasks have been entrusted have, after long investigation and numerous meetings, unanimously adopted certain conclusions, I consider that it is perhaps useless to examine the same questions all over again.

This is precisely the case with reference, however, to demilitarised zones. I would recall that it has been discussed for a long time by organisations of the League. Five years ago, the Permanent Advisory Commission on Naval, Military and Air Questions examined a very interesting memorandum submitted by the then Lord Robert Cecil on the establishment of demilitarised zones as an additional guarantee of security. This Commission, which was composed of representatives of Belgium, Brazil, the British Empire, France, Italy, Japan,
Spain and Sweden, unanimously adopted a report which is so interesting that I think it would be useful if I submitted it to you. I shall therefore read the opinion adopted at the meeting of July 7th, 1923, by the Permanent Advisory Commission:

"The Commission is unanimous in expressing its admiration for the untiring efforts of Lord Robert Cecil to discover means by which armed conflicts may as far as possible be avoided.

"It is obliged, however, to express the equally unanimous opinion that the scheme which has been submitted does not, from a military standpoint, attain the object it has in view.

"In any case, the Commission does not think that the scheme in question can ever be applied to States whose frontiers are constituted by natural obstacles, which these States would evidently not consent to abandon.

"The above opinion of the Commission, which is unfavourable to the proposal even in the case of artificial frontiers, is based upon the following considerations:

1. The author of the scheme considers that the establishment of these zones would render it more easy to decide who is the aggressor but, as has already been pointed out, the mere fact that a frontier has been violated is, in modern warfare, only a factor of secondary importance in deciding this question, and in many cases it has no bearing whatever on the issue.

2. The creation of these zones, which implies the abandonment of certain national resources and certain portions of territory, within a definitely limited area, is not an equitable arrangement, for it would constitute a far more serious disadvantage to the smaller than to the greater States.

3. It would perhaps oblige the armies of a smaller State to abandon further portions of its territory without striking a blow and this area might be far larger than that of the demilitarised zone.

"The proposal might, moreover, entail the gravest disadvantage for these smaller States by preventing them from basing their defence on the execution of an offensive movement before the aggressor has had time to bring the whole of his superior forces into action against them.

4. With regard to the statement that the establishment of such zones might include provisions the effect of which would be to render it very difficult, if not impossible, to carry out concentrations of troops, it should be pointed out that in many cases the result would be of an entirely contrary nature, because a State which intended to make a sudden attack could concentrate its troops at its leisure at some point in rear of the zone, while the other State, which was loyally carrying out the convention, would be prevented from observing the operations.

5. The measures proposed would, in many cases, gravely increase the difficulties of the defence for a country which was the victim of a sudden and unexpected attack; for, although the defender might secure a few hours' warning, he might be deprived of his right to make timely use of favourable defensive positions situated near his frontier.

6. Regarding the destruction of railway lines—which it is proposed to carry out in the demilitarised zone—it should be pointed out that the railways of chief commercial importance are sometimes the lines which are of greatest strategical importance because they follow the great natural lines of communication.

7. Finally, the creation of these neutral zones might involve the abandonment of all military measures for the defence of a territory which might be thinly populated; and this would involve a risk of provoking disturbances of every kind. It would, moreover, appear necessary to consider how these populations would be governed and administered."

I apologise to the Committee for having spoken at such length on a perhaps too technical question, but it appeared to me necessary to remind you of this conscientious work done by the Permanent Advisory Commission for Military, Naval and Air Questions, which I consider as conclusive.
The Chairman. — I would like to say that, during our discussions at Prague, we mentioned the possibility of establishing demilitarised zones with the greatest prudence and with every form of reservation. Nevertheless, we thought it necessary to indicate this point of view, because it may be that, despite everything, special cases may arise in which countries might possibly desire eventually to establish these zones. There are territories in which it may be necessary to make an attempt to establish them.

I think that we shall all agree that this is not an indispensable clause in a general treaty, but that an opportunity should be left to insert such a clause in the case of those countries which desire it.

M. Paul-Boncour (France). — Although the Chairman has spoken in terms to which I have nothing to add, I desire nevertheless to reply shortly to General de Marinis.

General de Marinis has very justly referred to the necessity of safeguarding the continuity of our work. I entirely agree with him. This is an idea which I have often expressed myself, but the work as a whole must be considered.

I have great respect for the technical opinions of the Permanent Advisory Commission. You know how often during the work of disarmament I have, in the teeth of entirely unjustified reproaches, paid a tribute to the incomparable value and use of the work of the experts. It is none the less true that, in a matter like this, there is not merely a strictly military opinion — there is also a political opinion. Though the Permanent Advisory Commission might have considered it necessary, at a certain moment and from a strictly technical point of view, to give a somewhat pessimistic opinion regarding the utility of demilitarised zones — an opinion which has just been read to us and which Lord Robert Cecil, if I remember rightly, agreed with at the time — on the other hand, in the following year, in our capacity as politicians representing Governments, we adopted in the Protocol of 1924 a provision which, on the contrary, showed the pre-eminent interest of demilitarised zones when it came to defining the aggressor. Even if, from a technically military point of view, they are without interest — which is a debatable point — from a legal and moral point of view, from a political point of view, if I may say so for the object which we have at heart, which is the clear, distinct and indisputable definition of the aggressor, we thought almost unanimously in 1924 that demilitarised zones were of great interest. Obviously, they can only be established with the consent of contracting parties, but everything we do here is based on the idea of a contract, for it is a question not of obligations newly imposed but of the possibility for States to assume more definite obligations by means of special treaties.

Consequently, I think it would be unfortunate from the legal point of view if the Committee remained under the impression that the establishment of demilitarised zones is not so interesting as our Rapporteurs, whose opinion I share, have urged.

Dr. Riddell (Canada). — I think it would be most unfortunate if we did not sufficiently appreciate the value of demilitarised zones. You may pardon a further reference to my own country. This was the first step in the erection of our structure of security more than one hundred and ten years ago. We look upon it as almost the keystone of the satisfactory relations we have had with our neighbours during these years. Previous to that time, our relations had not always been satisfactory, so that we have reason to feel very keenly on this subject. We believe that the absence of armed forces along a frontier is in itself one of the finest lessons that can be set before a people to inspire confidence in their neighbours on the other side of that frontier. Nothing impresses visitors to North America, as they go to the United States from Canada, more than the fact that they cross the frontier without ever seeing a soldier.

It seems to me that here we have one of the most essential things, and one that should not be passed over. It may not be possible to embody it in a contract or in an agreement, but it seems to me that this Committee should record its approval of the idea, and that it should stress the fact that the two countries (namely, Sweden and Canada) which have had the most experience have come out strongly in favour of it.

I do not believe in any international control. I do not think that is necessary. In our own case, our International Joint Commission would be there to look into the matter if there were the slightest suspicion that one or the other of the two countries were fortifying its frontier, or intended to do so.

General de Marinis (Italy). — I thank M. Paul-Boncour, who has recognised the essential continuity of our work. I would add that it is not my intention to prevent two countries establishing demilitarised zones if they so desire as between themselves. I merely wished to remind the Committee of the opinion expressed by the best-qualified technicians in this question. My opinion is that it is not advisable to recommend the establishment of such zones, but that it is sufficient to mention them, as confirmed by the declarations of the Chairman, who was guided by the same prudence as the Rapporteurs, according to which the desirability of these zones is limited to special cases where certain countries might wish to establish them between themselves.

As to whether security is or is not a military question, I consider that it undoubtedly involves political and psychological factors. In substance, however, security is a strictly military question. If the soldiers of a country should tell their people that they do not consider that their security is assured, I believe that the political and psychological factors would be determined by the view of the soldiers.

Lord CUSHENDUN (British Empire).—Among the conclusions, paragraph 95 is to my mind one of the most important, and paragraph 95 with paragraph 96, which we shall discuss presently, are the only two, I think, about which I have any serious misgivings.

First of all, I should say that paragraph 95 rests upon paragraph 75 of the memorandum, and I think that, in the whole of this extremely able memorandum, there is no part of it which is more masterly than the analysis contained in paragraph 75 of the situation which the Rapporteur sees might arise.

M. Politis, in sub-paragraph 6 of paragraph 75, says: "Without expressly recommending their adoption, one of the following suggestions might serve as a basis." I gather from that cautious mode of expression that the Rapporteur himself realises that there are probably serious objections to the suggestions he offers, and that, I think, is the case. We ought to be very grateful to him for putting before us the possibility of the situation which he foresees might arise, and also for so ably and ingeniously pointing out to the Committee the methods by which that situation might be met. The question which we have to consider is whether it would be desirable and wise to adopt one or other of these suggestions, and, as I said, I think the language used by the Rapporteur, in which he says he does not expressly recommend them, shows that he is very much alive to the objections that may be urged.

I have had the honour to submit to the Committee certain observations drawn up by the British delegation which express in some detail our point of view with regard to this clause. I think it would be very much wiser not to avail ourselves of the suggestions that are here made; I do not wish to trouble the Committee with any lengthy explanations; I think the matter is summed up in these words in our Observations:

"The effect of both of these alternatives is the same: Members of the League might be called upon to apply sanctions in the enforcement of a decision in which they do not concur and against which they might even have recorded a definite vote."

I will not argue that point now, because any member of the Committee desiring to know our argument will find it more clearly and more tersely set out in our Observations than I could give it in a speech. I do not, of course, wish to suggest any hard-and-fast principle. I believe that there are a few precedents already in existence for, I was going to say, tampering with (but that would not be quite the right word) the principle of unanimity on the Council.

I do not mean tampering with it, but taking steps to get round it, and, although I know there are precedents, I think the Committee will probably agree that these precedents should only be followed with very great caution and that it would not be wise to multiply them unnecessarily, unless some very great advantage can be gained by it. It seems to me that, even supposing that what is suggested is a wise thing to do, we are not the proper authority to do it.

I notice that M. Politis, in his conclusions, at the end of paragraph 95, says: "... so as to make good the legal deficiencies in paragraphs 7 and 8 of Article 15 of the Covenant."

I cannot admit that there are any legal deficiencies in that clause of the Covenant. I think we are bound to assume that those who drafted the Covenant, who fully discussed the bearing of the clause which they were drafting, must have had present in their minds exactly the situation which M. Politis has brought to our attention. They must have been perfectly well aware that the combination of Articles 13 and 15 left one particular case unprovided for, and it would have been perfectly simple for the framers of the Covenant to frame it so as not to leave that gap, and I think we are bound to assume that if they, of full deliberation and intention, drafted the clause in the way they did and as it now appears in the Covenant, they did it for very good reasons, knowing that more harm than good might be done if they attempted to fill that gap.

Therefore I submit, with great respect, that if any amendment is required, it ought not to be made by a device for getting round the provisions of the Covenant, but by frankly and straightforwardly amending the Covenant itself. It may be desirable (I express no opinion on that point) for this Committee to bring the matter to the attention of the Council and the Assembly, and suggest to them that the Covenant should be amended in this respect, but I think it is very undesirable, while the Covenant remains in its present form, that a Committee like this, or any other of the various organs of the League, should recommend the Members of the League to enter individually into special agreements which would be in violation of the spirit, if not the letter, of the Covenant itself.

I repeat, referring the Committee to the fuller observations which I have circulated, that I think we should do well to follow the caution of our Rapporteur, who does not expressly recommend these devices, and pass on, leaving that gap, even though it should be, from our point of view, possibly unsatisfactory, rather than attempt in a way that I think would be undesirable, by a roundabout method, to amend the Covenant itself.

M. POLITIS (Rapporteur).—It has often been said in public meetings that delegates come to them with their opinions already formed, and the discussions do not permit them to change those opinions. For once, however, I am going to show that this rule does not always apply. In this very delicate matter, on which I have reflected considerably for a certain number of years, and which we thoroughly discussed at Prague, where I desperately endeavoured to find a solution to a problem which had hitherto seemed insoluble, I am bound to recognise that the observations submitted by the British delegation have succeeded in convincing me that for the moment there is nothing to be done, and what the representative of the British Empire has just stated confirms me in that impression. I would venture, however, to indicate what precisely the problem is, as it is necessary that there should, at any rate, remain some evidence of the work we have done.
You all appreciate the importance of Article 15, paragraph 7. The paragraph means that, in any organisation of the pacific procedure as contemplated in the Covenant, there remains a gap. It is a considerable gap, and if you reflect on the circumstances which may entail the application of Article 15, paragraph 7, you will agree with me that the gap is not only considerable but extremely serious. It is serious because, in the most irritating questions which may arise between two countries, and which are brought before the Council, there will result, when the Council is not unanimous, a declining of responsibility. The Council will pronounce as a non possumus, which brings the parties in terms of procedure face to face. This would be a most critical situation when two countries were involved, and were disputing questions of such importance.

Article 15, paragraph 7, in a form which might be called a euphemism, says that "the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice". You are well aware that this, in other words, postulates the possibility of war.

In the agreements which we are now contemplating, where it is laid down as a principle that the first undertaking of the contracting parties is to prohibit resort to force in all cases, it seems that this gap in the Covenant is not of great importance, since the event which we fear will not occur. I am not, however, altogether sure of that, and for that reason my uneasiness remains. It is not good to leave questions in suspense, or that one should admit that it is impossible to settle them. If, however, no other means are found, it is necessary to make shift with a system which is incomplete.

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To speak the truth, the more thoroughly this problem is examined, the more one is convinced that there is only one solution. This solution is that the parties which are truly animated with the pacific spirit, and which desire to assume the obligation never to resort to war, together with the parallel and necessary obligation always to submit their disputes to pacific procedures, should organise these pacific procedures so that they may always result in a final solution, and the only procedure possible in these circumstances is arbitration, and arbitration which will cover all possible disputes. If, however, the contracting States have not decided to go so far as arbitration, I am bound to recognise that the method which I have suggested in paragraph 75 of the memorandum cannot serve any very useful purpose.

I would speak very frankly on the subject. We are looking for means of ensuring security, well-defined objects in view, of which it is unnecessary to remind you. There are some of us who attach a special importance to the system which we are constructing, resulting, if necessary, in sanctions. I find in Article 16 a capital provision of the Covenant, and I was very uneasy at Prague when we perceived that, by endeavouring to dispense with the rule of unanimity, we were running the risk of rendering the application of Article 16 impossible, and we realised that it would be a strange result of our work if we diminished security on one side in order to increase it on the other.

For this reason, the first solution considered at Prague was discarded. It is mentioned in the memorandum in paragraph 75. We then sought for other means. I have indicated such means with a caution which Lord Cushendun has just recognised. I had doubts on the subject. These doubts have been strengthened by the observations of the representative of the British Empire, and I am now clearly and deeply convinced that, so long as there is not compulsory arbitration applicable to all cases, we can do nothing to fill the gap left by Article 15, paragraph 7.

For these reasons, which I have very frankly explained to you, I am bound to state that I entirely accept the proposal of the British delegation.


Lord Cushendun (British Empire). — My experts advise me with regard to this paragraph that it would be extremely difficult to carry out. I have no opinion on it myself which would be of value, but that is the expert advice I have received. There is one thing we should bear in mind with regard to this clause. We are all most anxious that whatever model treaties or agreements we draw up and recommend should be accepted by as many States as possible. There may be a danger that we may put provisions into these treaties which, instead of encouraging people to adhere to them, may deter them from doing so. It may very well be—and I think it is probable—that delegates representing other States will receive from their expert advisers much the same advice as I have received, and it may be thought to be impracticable to impose on belligerents, because they will have become belligerents, an armistice as proposed in this paragraph. My observations on this paragraph, therefore, are the same as on the last, namely, that while I fully see that the object in view is very desirable, I think that, on the whole, it would be wiser not to include it.

Paragraph 97 did not give rise to any observations.


The Chairman. — Paragraph 98 deals with a question which has been dealt with in several memoranda, particularly in the German and British memorandum. It concerns the case of aggression on the part of a third party which does not form part of the group. I think that the various opinions on this question have been sufficiently expressed, and it seems to me that a further discussion of the matter would be useless.

Paragraphs 99, 100, 101 and 102 did not give rise to any observations.
M. Markovitch (Kingdom of the Serbs, Croats and Slovenes). — I do not wish to prolong the discussion, since I have already had occasion to state a reservation in regard to this paragraph. I would merely venture to express a doubt. I wonder whether the omission of the clause which provides for the maintenance of the territorial integrity of the contracting States, and which, as I reminded you the other day, is expressly dealt with in Article 10 of the Covenant, will not give rise among other States which would be parties to a regional agreement to further causes of distrust. I should be grateful if the Drafting Committee would take this misgiving into account, as the question of territorial integrity is the most delicate of all international problems. I understand that States which are not satisfied with their present frontiers will feel a certain hesitation in accepting this clause in good faith and without reserve, as Germany has done in the Locarno Treaty. While I fully understand their hesitation, I cannot, speaking on behalf of a country which considers that its frontiers have been fixed with justice and equity, and keeping the question within the limits of the principle of nationality, avoid having certain misgivings at the idea of not including in security agreements the clause which is embodied in the Locarno Treaty, and which guarantees the territorial integrity of the contracting States.

M. Politis (Rapporteur). — I do not wish to discuss this question thoroughly. You are well aware of all the delicate points to which it may give rise, but I would endeavour to remove the anxiety of M. Markovitch.

M. Markovitch takes up his stand on the Covenant, and I think that that is the basis on which we should always consider the matter. He has appealed to Article 10. If in a treaty established by us nothing is said in regard to the territorial status quo, in view of the fact that all our work is done under the auspices of the League of Nations and under the Covenant itself, it necessarily follows that Article 10 of the Covenant comes within the scope of our intentions.

It is well, however, to observe that M. Markovitch in his request goes a little further than Article 10. That article is as follows:

"The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League."

I would emphasise the phrase "undertake to respect and preserve as against external aggression". There is here an implication that the aggression would have for its object a change in the territorial position. The article points to a kind of mutual assistance and it must not be abandoned.

It was never my intention to suggest any weakening of Article 10, but the territorial guarantee which we are now discussing adds something to Article 10, since a State which undertakes to guarantee the territorial status of another State does more than promise not to embark upon an aggression the object of which is a modification of that status. The State undertakes to guarantee the other party against any threats to which it may be subject in the future. This is a reinforcement of the undertakings embodied in Article 10, as is actually the case in the text of the treaty which has just been cited.

On the other hand, if nothing is said, the position remains as it is defined in the Covenant, and that would meet the point which has been raised, since you are asking only for the application of Article 10.

I mention the point because we are thinking of collective security treaties to be concluded between all the States concerned, and we are being asked to discard from these treaties any points which may be directed against third parties. The object at which we are aiming, as excellently defined by M. Paul-Boncour, is to enable States of a certain region which hitherto belonged to opposed groups to come together within a common group in order that there may be both for them and for the group as a whole the greater degree of security, which may serve as a point of departure for a further development of mutual confidence.

If such is our object—and I think that it should be—it is essential that we should not add to the difficulties which may arise in the conclusion of these treaties. Let us rest content with the Covenant. Article 10 gives us a sufficient guarantee and we should not ask for more.

M. Markovitch (Kingdom of the Serbs, Croats and Slovenes). — I would thank M. Politis for the explanations which he has just given. I note his authentic interpretation, if I may use the word, of the question which we are at present studying.

Paragraph 87 gave me some anxiety and it was in order to fix exactly the scope of paragraph 103 that I raised the point. I quite understand that, in a given region, it may not be possible to reach a regional agreement including a territorial guarantee. As the Rapporteur has just said, such a guarantee would go beyond the Covenant. I associate myself with this interpretation.
Any security pacts which are concluded in any part of the world must be *pro tanto* a security for peace. It may be that security pacts, for instance, would be entered into in South America; it may be that security pacts would be entered into in Eastern Europe. I can see no particular reason why they should form part of a coherent and comprehensive scheme or, indeed, how they could possibly do so, and it appears to me to be unnecessarily limiting our recommendation of these contracts to say that it is essential. Even though such contracts should be insufficient and partial and very much less than we should like to have, it appears to me very desirable that we should approve of them. At the present moment we are all agreed as to the benefit of the Locarno Treaty, but it only covers a very small part of the world. None of us would like to see it abrogated; none of us would like to say anything against it. It is very useful as far as it goes, and I think in the same way that security pacts, wherever entered into and by whomsoever, are all so much to the good, and that we should encourage them as far as we can.

M. Paul-Boncour (France). — If we consider the French text, I do not think that the representative of the British Empire need have any misgiving on the subject.

I would remind my colleagues that this point explicitly concerns the terms of the objects of our resolution of 1927, in which we asked that means might be found to invite the Council to generalise and co-ordinate collective agreements. In my opinion, such co-ordination is absolutely necessary and it should be understood in two ways. First, there should be co-ordination with the Covenant, since, as M. Politis has emphasised, we are working under the auspices of the League of Nations. We must define the Covenant, leaving its provisions intact. Secondly, there must be a certain co-ordination between the various treaties. Lord Cushendun just now very rightly said that, if a regional pact or treaty of this kind is concluded in a region far distant from Europe, we should all be delighted, but our colleagues from other continents will excuse us if we think rather more closely of Europe. We have in present circumstances greater difficulties to contend with in our continent.

If we succeed in setting up, as we desire, a system of regional treaties of this character, co-ordination will be absolutely necessary, as it may happen that one and the same State may be pledged in various regional treaties, on the one hand, to a group of States of which it forms part, and, on the other hand, to another group of States of which it also forms part, since geographical regions cannot be absolutely and geometrically determined. The resolution of 1927 is still as valuable as it was. I consider, therefore, that it will be useful to keep this provision in regional treaties.

M. Politis (Rapporteur). — I would add only two words in order to say that M. Paul-Boncour has very carefully interpreted my opinion.

I do not think that there is any room for misunderstanding when one reads not perhaps the conclusion, which is only a summary of a very long passage of the memorandum, but paragraph 88. As M. Paul-Boncour has reminded you, we have undertaken, at the invitation of the last Assembly, a task the object of which is to avoid the least contradiction either between the agreements themselves, or with the Covenant of the League of Nations, or between two or several successive agreements. It is necessary that the same ends should be followed, perhaps by different means and with variations, but that there should never be any risk of a contradiction arising. For this reason, reference is here made to that principle. It might doubtless be understood without being expressed, but the idea is so essential that it has seemed to me necessary to indicate it. The recommendation is made that the parties, when they make an agreement, should be careful that its clauses are in no way in contradiction either with the Covenant of the League of Nations or with previous agreements concluded between States Members of the League. In order to give a more practical scope to this recommendation, I have indicated that it is possible for the parties, if they so desire, in order to be more sure that they are not making any mistake, to entrust the Council of the League of Nations before registering their agreement with the task of ensuring, by the light of the great experience of that body in matters of international organisation, that the agreement is altogether in conformity with the spirit of the general Covenant and that it is logically in keeping with agreements previously concluded with other States.

We approach a different class of ideas in paragraph 104 of the conclusions from those with which we have hitherto been dealing. We have studied the necessary clauses, either supplementary or complementary, of a security agreement. We are now examining what are the recommendations which we are going to issue in the form of resolutions.

The first of these recommendations is that the parties shall take for their guidance this necessary idea of co-ordination, and that they should entrust the Council, if they think it advisable to do so, with the task of exercising a certain supervision in this connection.

Lord Cushendun (British Empire). — I should like to thank M. Politis for his very detailed explanations, which entirely remove all misgivings from my mind and which entirely meet my views.


The Chairman. — Several delegates have expressed their views at some length on paragraph 106. I do not think it would serve any useful purpose to discuss the matter further—all the more so as proposals have already been made by the Drafting Committee which will be examined and submitted to you later on.

Paragraphs 105 and 107 did not give rise to any observations.
30. Programme of Work.

The CHAIRMAN. — A Committee will meet to-morrow afternoon in order to discuss the memorandum of M. Rutgers. There is not in this memorandum any special proposal for submission to the Drafting Committee; we are merely making certain observations regarding articles of the Covenant. If there are any reservations to be made on behalf of the delegations to these observations, or if the delegations desire to express contrary views, we will discuss them. Hitherto, the Committee has not received any note on this subject from the delegations. I therefore think that the discussion of the memorandum can be short. There remain for discussion the proposals of the German delegation. In these circumstances, we will to-morrow conclude the discussion of the reports and the memoranda.

The Drafting Committee will work Wednesday and Thursday, and will be able to present on Friday its proposals for consideration by the Committee, which will then be able to finish its work on Saturday with the adoption of its general report embodying all the proposals which are adopted. If the work of the Drafting Committee so permits, I will ask that the Bureau should be authorised to convene the Committee before Saturday.

M. Rolin Jaeguemyns (Belgium). — Is the question of financial assistance also to be examined to-morrow afternoon? This question may give rise to discussion.

The CHAIRMAN. — It will be discussed to-morrow.

Lord Cushendun (British Empire). — Before separating, may I say—and I am sure every member of the Committee will agree with me—how pleased we are to see the Chairman back again after his indisposition. We hope very much that his health is completely restored and that he will be able to preside over our work until the end of the session.

The CHAIRMAN. — I am deeply touched by this expression of sympathy, which will be to me a further encouragement to devote myself completely to the work of the Committee.

M. Politis (Rapporteur). — I would like, now that we are finishing the discussion of my memorandum, to express to you my cordial thanks. You have been extremely kind; you have addressed to me an abundance of compliments, and I greatly appreciate the spirit of conciliation which has inspired this very difficult discussion. I venture to see a good augury for the future in the way in which our discussions have progressed. We have begun to show to the nations how mutual confidence may arise between men of goodwill.

The meeting rose at 7 p.m.

TENTH MEETING.

Held on Tuesday, February 28th, 1928, at 4 p.m.

Chairman: M. Benes (Czechoslovakia).

31. General Discussion of the Memorandum on Articles 10, 11 and 16 of the Covenant.

The CHAIRMAN. — It remains to examine the memorandum of M. Rutgers on Articles 10, 11 and 16 of the Covenant, on the communications of the League in times of crisis, and of financial assistance to States threatened with aggression. We will then take up the proposals of the German delegation.

The discussion on the articles of the Covenant will result, I believe, in the adoption of a resolution or recommendation after the various views of the members of the Committee have been heard. We have already received the suggestions of the French delegation.

As regards financial assistance, I would propose the appointment of a Committee composed of three members of the Financial Committee and three members of our own Committee.

As to the question of the communications of the League in times of crisis, we might draft a resolution embodying proposals or suggestions made in the memorandum of M. Rutgers.

During the first session of the Committee, it was proposed to review some of the articles of the Covenant, but it was subsequently decided to confine the enquiry to Articles 10, 11 and 16, examining, however, their possible co-ordination with other articles. We might proceed to the examination of this part of the memorandum by considering first the conclusions. Perhaps there are members of the Committee who wish to present general observations on the question as a whole.

M. Markovitch (Kingdom of the Serbs, Croats and Slovenes). — I would venture to make some observations of a general character on the memorandum. At the last meeting, the Chairman said that the discussion of this part of the report might be very short, and he thought that all the members of the Committee would agree in unanimously accepting the conclusions of the Rapporteur. I agreed with that view so far as the arguments of a legal or dogmatic character were concerned. These arguments are explained at length in the memorandum of M. Rutgers. I much regret, however, that I am not of that opinion as regards the political aspect of the problem. The most important part of the three reports cannot be examined quite
so briefly, and it seems to me that they should not end in merely platonic conclusions which bear very little relation to the security at which we are aiming. This part of the report deals with essential articles of the Covenant and of the whole mechanism of the League of Nations, which is designed to safeguard peace. The problem before us consists in ascertaining up to what point the principles of the Covenant can guarantee security to the nations and maintain peace, by what precise rules an armed conflict can be prevented, and by what methods, in the unfortunate event of a conflict breaking out, the State which is attacked can receive the assistance due to it under the Covenant.

As a result of the examination of the memorandum of M. Politis, we almost unanimously approved the statement of the Rapporteur to the effect that the articles of the Covenant were indefinite and hazardous in their application. It was that consideration which led us to seek, in agreements of arbitration and non-aggression and mutual assistance, complementary elements of security or, in a word, security itself. Up to a certain point we were in agreement with the Introductory Note, which affirms that the Covenant of the League of Nations contains guarantees of security, but we are invited by a resolution of the Assembly to consider from the political point of view what the application of the articles of the Covenant can do for us, not so much in the light of a theoretical system constructed by lawyers, but as a matter of practical politics.

I have looked in the memorandum for some trace of the relationship which should exist between Articles 10, 11 and 16 of the Covenant and security. I have found nothing of consequence. I find a very thorough and well-documented study of the gaps of a legal character which exist in the Covenant. We find also in the memorandum of M. Rutgers very valuable applications of the various possibilities which may arise. The memorandum, however, throws very little light on the fundamental question of the value of the articles of the Covenant as a factor of the security which can be obtained in order to achieve a reduction of armaments.

I note there is a tendency which is somewhat exaggerated not to touch the articles of the Covenant and not to interpret them. They are regarded as something sacred which must not even be approached, and the Rapporteur himself indicates in several passages that it is not his intention either to interpret the articles of the Covenant or to remove or add anything whatever to the rights and duties of the States Members of the League of Nations.

I also think that we must remain within the limits of the Covenant, but it is impossible to avoid considering the political aspect of the question, although I am by no means unaware of the difficulties which will be encountered. For this reason, I venture to draw the attention of the Drafting Committee to this omission in the report by M. Rutgers. It is a gap which will place our Committee in a very difficult position when we come to indicate to the Preparatory Commission on Disarmament the value of the system established by the Covenant from the point of view of the security which the nations claim before proceeding to disarmament. We cannot, in my opinion, answer this fundamental question by presenting arguments of a purely legal character, such as we find in the report of M. Rutgers.

I would draw attention to another gap, and I raised this point at the first session of our Committee. I am referring to the last part of the resolution of the Assembly of 1927, which is as follows:

"The Assembly considers that these measures should be sought ..."

"In an invitation from the Council to the several States to inform it of the measures which they would be prepared to take, irrespective of their obligations under the Covenant, to support the Council's decisions or recommendations in the event of a conflict breaking out in a given region, each State indicating that, in a particular case, either all its forces, or a certain part of its military, naval or air forces, could forthwith intervene in the conflict to support the Council's decisions or recommendations."

This is the only really practical point which I find in the resolution of the Assembly under which we are studying the problem of security. This point, however, is scarcely mentioned in the memorandum of M. Rutgers. The Assembly invites the Council to ask the various States what measures they can undertake in order to guarantee peace in support of decisions or recommendations of the Council. It is clear that the Assembly is regarding the problem from a practical point of view. The Council, however, before putting such questions to the various States, should inform them precisely what it intends to do itself, and how it views the fulfilment of its task.

I am prompted to make the above observations by the sole desire to see our Committee achieve more practical results. On several occasions I have already insisted on the political and practical aspect of our task as a whole. I am afraid that our Committee may be lost in the study of arguments which are rather of a legal character, and, while paying a tribute to the scientific and objective way in which the memorandum of M. Rutgers has been framed, I cannot approve its conclusions unless they are completed by some estimate of the practical value of the working of the system established by Articles 10, 11 and 16 of the Covenant of the League of Nations. I would ask the Drafting Committee to take these observations into account as far as possible.

The CHAIRMAN. — Before continuing our discussion, I would like at once to submit a simple observation in reply to one of the remarks of M. Markovitch. He has said that, in this study of the articles of the Covenant, sight has been lost of the last resolution of the Assembly. I would draw his attention to the fact that M. Politis refers to the matter in his report in paragraph 81. In the programme which we drew up at the first session of the Committee, we thought it preferable to study this question in the report on security agreements.
M. VALDÉS-MENDEVILLE (Chile). — I would like to remind the Committee that, during the general discussion, I approved in principle the first conclusion of the memorandum of M. Rutgers, as I agreed with him that it was not desirable to establish a rigid and complete code of procedure for the League in times of crisis. I agree that his conclusions are not in any way intended to increase or to limit the rights and duties of the Members of the League.

In this connection, I would emphasise certain observations in the memorandum of M. Rutgers, which, in my view, elucidate the conclusions to which I have just alluded. Paragraph 128 states:

"Article 11 does not impose upon Members of the League any obligations which can be rigidly specified; the Council’s action under this article is political rather than judicial."

As to Article 16, the resolution of 1921 is referred to in paragraph 161, and, as I pointed out during the general discussion, we believe that it will be extremely difficult to depart from this doctrine, which is in agreement with the commentary which M. Rutgers has appended to that resolution.

Further, in paragraph 171 I endorse the following observation:

"It is not the Council which has the last word on the measures to be taken in execution of Article 16. It is for the Members, bearing constantly in mind their duty to enforce respect for the Covenant, to decide upon what measures they can take."

Nevertheless, I recognise, as I have already said, that the efforts of the Committee, as in general those of the League of Nations, must have for their principal object the prevention of war; and that, therefore, preference should be given to the indications to be made in respect of Article 11 without prejudice to the prerogatives of the Council and the rights of States.

In any case, the close connection between the articles of the Covenant is once again emphasised by the memorandum of M. Rutgers. For this reason, it seems to me that the conclusion not to lay down definite rules for the application of Articles 11 and 16 is particularly judicious, as otherwise it would be necessary to study the question in the light of Articles 11 and 12, and also, I think, in the light of Articles 15 and 17 of the Covenant.

I agree with the Rapporteur that the moment has not come to undertake this study, and I agree with the indication given in paragraph 176:

"The variety of cases which might arise is such that it is impossible to settle in advance what measures will be possible and expedient."

This leaves the Council free to act with the full knowledge of the facts when the moment for action arrives.

The CHAIRMAN. — The observations of M. Markovitch on the whole of the memorandum dealing with the practical scope of the articles of the Covenant are extremely important. The Rapporteurs, when they discussed this question at Prague, were confronted with several difficulties. They felt that they should not give any new interpretation of the Covenant, but that it was necessary rather to explore and examine the articles in order to ascertain all their possible consequences. In these circumstances, the problem was to undertake a legal analysis of the articles, and it was a fairly difficult task to emphasise all that might contribute to security in their application. I quite recognise that the contention of M. Markovitch that we should go still further is very important, and I believe that the note of the French delegation also draws attention to this point of view.

M. RUTGERS (Rapporteur). — I will for the moment confine myself to replying briefly to M. Markovitch. I imagine that, as regards the second criticism which he made, he has already received satisfaction from the reply of the Chairman, who has reminded us that I was not asked to deal with the point to which he has referred.

M. Markovitch contrasts the legal and the political value of the Covenant, and, according to him, the memorandum which I have submitted emphasises rather the first than the second aspect. It is a great disappointment for me to hear that my memorandum has produced this impression upon my colleague, for I endeavoured, on the contrary, to emphasise the political value of the Covenant, and I especially insisted on the great importance of Article 11 of the Covenant, which has no legal consequences, but which gives the Council not powers in the legal sense but a task which is in relationship with the political object of the League of Nations.

M. Markovitch has asked why the memorandum does not contain an appreciation of the degree of security which the Covenant actually gives and of the practical value of the articles of the Covenant. I think, however, that it is M. Markovitch himself who established a contrast between security which cannot be measured but which actually exists and security which can be measured and which he desires to obtain.

In examining the degree of security given by the Covenant, I might perhaps have added some paragraphs. I thought of inserting the observations of M. Scialoja on the value of Article 10, which was referred to by M. Sokal at the last Assembly:

"The true value of Article 10 lies in the fact that its principles will in future become part of the conscience of nations. At that moment they will have more than a legal value, because the moral conscience of mankind is of greater value than law."

I do not know whether such a quotation satisfies M. Markovitch. He may say that this is an evolution which remains somewhat hazardous, since the moral conscience of nations forms part of it, and since it is impossible to know in advance by what figure such an element can be represented on a balance-sheet.
I do not think that we can find a method of measuring with any precision the degree of security conferred by the Covenant. For, whatever importance it attached to that security, it must be recognised that its value resides in the confidence which we must have in the conscience of the Members of the League of Nations. I said something similar concerning Article 16 in dealing with the question whether it was necessary to give a strict and rigid interpretation of the article. I said that, if ever the question of its application arose, the decision of the States would not depend on legal interpretation and legal deductions, but that the important question would be whether the principle of Article 16 was not a living reality. I think this question will always arise when an effort is made to estimate the practical value of the Covenant. M. Markovitch was right when he said that this degree of security is not measurable and that, in dealing with such a matter, it is impossible to give figures which can be placed upon a balance-sheet.

The political value of the Covenant is based on Article 11, which entrusts the Council with the duty of doing all that is possible to preserve peace and which contains the point of view of the League of Nations; while Articles 12 to 16 concern rather a form of procedure, relations entirely of a legal nature. Article 10 also contains provisions of a legal nature. Article 11 is the article in which the main political value of the Covenant resides and in which, in my view, is to be found, first and foremost, the security which the Covenant affords to-day. It is for this reason that I have tried to continue what M. de Brouckère has so well begun and to lay special emphasis on the importance of Article 11. I think that, in order to appreciate the amount of security which the Covenant affords to-day, we must always refer in the first instance to Article 11.

M. Cantilo (Argentine). — I do not wish, by rising, to prolong this discussion, which has already been long and difficult. I am all the more reluctant to do so for I fully understand, as M. Paul-Boncour said yesterday, that what concerns the Committee is the affairs and views of Europe. I do not interpret this to mean that the Committee is indifferent, but rather that it wishes to pay a tribute to the state of international relations existing on our continent.

I have already said during the general discussion that, in my view, there is no necessity to add to the provisions of the articles of the Covenant which have been studied in the memorandum of M. Rutgers any strict rules of procedure and that, on the contrary, it could be advantageous to allow a certain elasticity with regard to these various articles and thus take account of what it was desired to accomplish by means of the Covenant, bearing in mind the freedom of action which Article 11 itself leaves to Members of the League.

Others, more especially my friend and colleague, M. Valdec, with whom I find myself in agreement on this point, have demonstrated the connection existing between the various articles of the Covenant. They have emphasised the usefulness of contemplating the various means by which the League of Nations may exercise its peaceful mission at any given moment. Any insistence on my part would therefore be useless.

Article 21, however, has been spoken of in connection with the articles of the Covenant now under discussion, though no direct mention of it occurs in the memorandum. You know the terms of Article 21. I would just remind you of them:

“Nothing in this Covenant shall be deemed to affect the validity of international engagements such as treaties of arbitration or regional understandings like the Monroe doctrine . . . .”

It is my duty to make objections, in the name of historical accuracy, to the wording of Article 21.

The Monroe doctrine mentioned in the article is a political declaration of the United States. The policy expressed or enshrined in this declaration in opposing, when it was made, the designs of the Holy Alliance, and in removing the threat of a European reconquest of America was, by a fortunate coincidence of principles, of very great service to us at the beginning of our existence. We fully recognise that in this sense the declaration has done and always will do great honour to the United States, whose political history contains so many fine pages with reference to freedom and justice. It would be untrue — it is, in fact, quite untrue — to give, as Article 21 gives, even by way of an example, the name of regional agreement to a unilateral political declaration which has never, as far as I am aware, been explicitly approved by other American States.

M. Markovitch (Kingdom of the Serbs, Croats and Slovenes). — I do not wish to prolong the discussion, but I must warmly thank our Rapporteur for having furnished us with explanations which show that my observations were not entirely useless. In any case, I see that M. Rutgers himself thinks that the work which we must accomplish is of an essentially political kind.

Though I made certain observations, I had no intention of criticising the work of the Rapporteur. I paid a well-deserved tribute to the efforts he has made to submit to us a report which, since it presents the problem in its various aspects, may usefully serve as a basis of discussion. My observation concerns rather the fundamental conception of the whole work of the Committee on Arbitration and Security. I repeat that observation in connection with the articles of the Covenant, and I do so because I made the same remark during the general discussion on the Introduction. I repeat it even more in order to emphasise that the work which we must accomplish should not end merely by the adoption of legal formulas, but that, as M. Markovitch has pointed out, it is, in my view, to lay special emphasis on the importance of Article 11. I think that, in order to appreciate the amount of security which the Covenant affords to-day, we must always refer in the first instance to Article 11.
M. Paul-Boncour (France). — Though I asked to speak when the representative of the Argentine made the statement, which is of very great importance, to which we have listened, it was not because I wished to comment upon it at all. I would, however, like to dissipate a slight fear which I thought discernible at the beginning of his statement, based on certain observations which I made yesterday, which might leave it to be supposed that I have not the most resolute faith in the universality of the League. It is not merely a feeling of friendly courtesy which causes me to say this. I have a very profound sense of the character and necessities of the League. Only what we were discussing yesterday dealt essentially with regional matters, for we were occupied with regional treaties, and it is obvious that we were obliged, in our capacity as unhappy Europeans, to turn back upon ourselves and agree that the state of security was very different in South America from what it was in Europe, and that, obviously, regional treaties of which the object would be to give greater precision to the mutual guarantees of the Covenant were of greater interest as far as we were concerned.

That is the only meaning of the words which I used yesterday, and I hope that no possible misunderstanding can subsist in the mind of our colleague and, generally speaking, in the minds of the delegates of countries beyond the Atlantic who have come here to give us their valuable help.

M. Cantilo (Argentina). — I warmly thank M. Paul-Boncour for what he has just said. I may say that I had already guessed that he was going to speak as he did, for I went beyond what he said in the preliminary remarks I made.

The CHAIRMAN. — I return to the statements of M. Markovitch, for they affect the memorandum of M. Rutgers taken as a whole. Our colleague asks us to discover not legal but practical formulae to indicate in what manner the working of the articles of the Covenant can assure a certain degree of security. I think that is what is in the mind of M. Markovitch. We are obviously faced with a difficulty which we must try to solve. How can we adopt a resolution based on the memorandum of M. Rutgers which shall indicate exactly to Governments what procedure is to be followed in any case of possible future conflict which may arise? As far as Article 16 is concerned, I think it would be easy to achieve agreement. You are aware that the Committee of the Council has examined, with the assistance of the work of the Preparatory Commission on Disarmament, the manner in which it is possible to proceed under Article 11, and a report has been drawn up upon this. This report lays down a kind of itinerary which the Council may eventually be able to follow. The memorandum of M. Rutgers prolongs this itinerary to a certain degree and shows in what manner the machinery of the League may be used in the case of conflict. In our resolution we can show roughly what would be the position of the Council when faced with a dispute, while at the same time avoiding too much rigidity. On this point I think we can satisfy M. Markovitch, and we can ask the Drafting Committee to put forward the necessary formulae.

As far as Article 16 is concerned, the problem is much more complicated. Last year, M. de Brouckère examined Article 16. Now M. Rutgers has examined it, and we have taken the question up once more at our meeting in Prague. Everyone who has examined it has found himself faced with a difficult situation. Article 11 has been applied on several occasions. Article 16 has never been applied. In seeking precedents and in enumerating them, we have been able to show the kind of procedure the Council could follow if it had to apply Article 11 again. Happily the Council has not yet had occasion to apply Article 16. It is therefore difficult to draw up a formula. It is far easier to base our discussions on what has happened than to do so basing them on what might happen eventually. This, however, is the position in which we find ourselves.

We all agree to recognise that a certain freedom of procedure must be left to the Council. Further, the note submitted to-day by the French delegation contains certain remarks regarding what action ought to be taken in the furute in cases of dispute. It is stated:

"To solve the problem of security, the three following types of solution are necessary simultaneously : organisation of the pacific procedure for settling international disputes ; mutual assistance against the aggressor ; reduction and limitation of armaments."
M. Rutgers (Rapporteur). — I thank M. Markovitch for the kind words which he has used regarding my memorandum.

I very willingly agree to the proposal of the Chairman, which should give satisfaction to M. Markovitch, as far as it is possible to do so. I think it will be difficult at this moment to decide what resolution or declaration the Drafting Committee might make on the subjects dealt with in the memorandum which we have now begun to discuss, but I think that in the conclusions of this memorandum material may be found to make it possible to draw up a declaration regarding the application of Article 16.

Lord Cushendun (British Empire). — I regret extremely to find myself in disagreement with M. Markovitch, to whose speeches in this Committee I have listened with great admiration. At the same time, I regret the decision—if it is a decision—which the Chairman has just announced, namely, that the Drafting Committee should be commissioned to attempt to find a formula for dealing with the article of the Covenant under discussion.

What does the Committee expect to gain by that instruction to the Drafting Committee? I submit — and I think other speakers have come to the same conclusion — that what M. Markovitch really wants to get is something which we cannot have. Nothing we can do and no investigation which we or any other committee can undertake can measure what is immeasurable. Security is not a measurable thing. I think we should be setting out on a hopeless task if we or the Drafting Committee tried to lay down any comparison between the existing security under the Covenant and some measure of security that may be additionally gained by the agreement we can undertake. I do not think we shall get an inch nearer to our goal by such procedure.

On the other hand, I think there would be great disadvantage in overloading the work of the Drafting Committee. I remember I said here in December that I hoped the work to be undertaken by the Secretariat and the Rapporteurs would not have the result of burying us under an avalanche of documents. I think there is some danger that we may so overload the work of the Drafting Committee that the ultimate result will cease to have any comparative value. Surely it would be very much better to restrict its work within limits of a practical nature which we will all recognise as the basis for some ultimate actual decisions to be submitted in a report to the Preparatory Commission.

If it is not already too late, therefore, I earnestly express the desire that, even if we should thereby cause some disappointment to a very respected colleague, nevertheless, in the interests of our work and in the interests of the duty we have undertaken, we should not consent to overload that work in the way I have described, and that we should—as I think for our advantage—keep our work within limits which will conduce to a practical conclusion.

The Chairman. — I should like to offer a few explanations to Lord Cushendun on his observations.

In the first place, no decision has been taken up to the moment. I have made certain suggestions, but they have not yet been adopted. Consequently, the Committee is still perfectly free to take any decision it likes.

Further, there is perhaps a slight misunderstanding, and the points of view of M. Markovitch and Lord Cushendun are not as far apart as may be supposed at first sight. Obviously, it is extremely difficult to find a formula in this respect which should make it possible to measure security, however, that we have made it is merely a question of indicating a little more precisely the possible future manner in which the Council could act in cases of conflict. There is no question either, as Lord Cushendun appears to have deduced from the observations of M. Markovitch, of making any addition, but merely of noting the precedents.

It would in this manner be possible to place before the eyes of everyone in a concrete form the proof that a certain procedure has already been employed, and that consequently it may in the future give a certain guarantee of security in the case of a dispute. This is comparatively easy to do with regard to Article 11, for something is already in existence.

I will not repeat my observations regarding Article 16. I agree with Lord Cushendun that the task is extremely difficult, but, in order to allay certain apprehensions and in an endeavour to conciliate the two points of view, I would like to explain the intentions of the Bureau. The Bureau has taken the view that the memorandum of M. Rutgers might afford the Committee an opportunity of adopting a resolution which should contain statements of fact but should not seek to deduce from the Covenant something which it does not contain. This resolution would emphasise merely what has been done already with regard to Article 11 by indicating that the procedure which has been followed, and which is the result of the work of last year and of the work of M. Rutgers, shows already that a certain system is in operation which is of a kind to give certain assurances to the various countries. As far as the second question is concerned, we have to discover whether we can give expression to a similar opinion with regard to Article 16 and explain the manner in which this article might eventually work. On this point we must take greater account of the future and ask the organisations of the Council and the League to continue the examination of this article in order to discover exactly in what manner it could be applied in the future.

In a word, it is a question of a mere resolution, short and clear, marking what has already been done and what ought still to be done with regard to Article 16.

It is now for the Committee to decide whether such a resolution ought to be drawn up by the Drafting Committee.

M. Rutgers (Rapporteur). — In the twelve conclusions at the end of my memorandum, the last eight deal with the application of Article 16. I hope that some of them at least will receive the approval of the Committee. At the end of the discussion on the memorandum,
the Committee may agree on certain points, which could then be indicated in a document to be prepared by the Drafting Committee. It might be wise not to decide immediately what instructions we should give to the Drafting Committee, but to take this decision as soon as the discussion is ended.

The CHAIRMAN. — We must now pass under review the conclusions of the memorandum paragraph by paragraph. A certain number of these paragraphs have already been discussed during the general exchange of views. It is not necessary to renew that discussion. It will be enough to pass these paragraphs rapidly in review in order to reach those concerning Article 16 and to see whether, as M. Rutgers has suggested, we could be successful in adopting any recommendation.

32. Discussion of the Memorandum on Articles 10, 11 and 16 of the Covenant: Conclusions: Paragraph 207.

The CHAIRMAN. — Are there any observations with regard to paragraph 207? It deals with a principle which has been adopted by everyone.

M. POLITI (Greece). — The observations of the French delegation deal with this article.

The CHAIRMAN. — The observations of the French delegation deal obviously with all the conclusions, with special reference to two or three points.

In the first place, the French delegation desired that the standards defining aggression should be rather more definite.

M. RUTGERS (Rapporteur). — I should be lacking in courtesy towards the French delegation if I did not say something with regard to the written observations it has submitted on my first conclusion, and which appear to take the place of a speech.

I think that these observations do not run counter to the conclusion put forward. The French delegation ends the first of its remarks by stating that it approves the first paragraph of the first conclusion of the Rapporteur in the sense recorded in its memorandum.

If I have properly understood the French delegation's note, which was given to me at the beginning of the meeting and which I have only just glanced through rapidly, the meaning given by the French delegation to its approval of the first paragraph is as follows: In cases where the Council is called upon to take preventive action and to recommend to the parties in dispute the adoption of a certain number of conservatory measures, the Council ought to establish a certain degree of control with the object of verifying the execution of the recommendations on which it had made. Further, the Committee should avoid enumerating too definitely, as far as the decisions of the Council are concerned, the conservatory measures to be taken in every case. This recommendation is in conformity with the spirit of the memorandum which I have submitted, for I also take the view that too definite an enumeration should be avoided.

With regard to the first condition, to which the French delegation has subordinated its approval of the first paragraph of the first conclusion, I am of opinion that it concerns solely cases in which the Council is to recommend the conservatory measures. This point might perhaps be discussed more quickly and more easily when we study the German memorandum.

33. Discussion of the Memorandum on Articles 10, 11 and 16 of the Covenant: Conclusions: Paragraph 208.

The CHAIRMAN. — As I said at the beginning of the discussion, we took the view that this point might give rise to a resolution on the part of the Committee with regard to wireless telegraphic and air communications.

M. RUTGERS (Rapporteur). — Here again there is a suggestion of the French delegation upon which the Committee ought perhaps to take a decision. The French delegation suggests that it would probably be useful, either through its Bureau or by means of a special sub-committee, if the Committee followed closely the work of the Transit Section of the Secretariat in so far as the improvement of the communications of the League in times of crisis is concerned.

I fully agree with the French delegation that it is impossible to attach too great importance to the work carried on by the Transit Organisation. This work, however, is of an extremely technical kind. When, for example, it is a question of constructing a wireless station, all sorts of questions regarding the choice of the spot upon which it is to be erected, its cost, its ordinary and extraordinary budget, have to be examined. These questions are so technical that they might appear to be beyond the competence of the Committee. Further, the Council is kept up to date with its work, and I do not think that it would be opportune to establish a new committee to follow the work of the Transit Committee.

M. PAUL-BONCOUR (France). — I wish merely to inform the Rapporteur that we are in agreement with him. If he would reread the observation submitted by the French delegation on his second conclusion, he would note that it is stated: "..." It is only for cases in which the Bureau has not been able to deal with the matter itself that I contemplated the establishment of a sub-committee. For my part, however, I am opposed to overlapping organisations. It seems to me that the Bureau is the best-qualified body to perform the task.

This observation results from the general idea which we consider of great importance, and which is that the Committee on Arbitration and Security is a permanent organisation.
with permanent interests. It is not necessary even for it to be in constant liaison with the Preparatory Commission, for it is in effect itself the Preparatory Commission. Every element of security which can be obtained by perfecting the mechanism of the League should be immediately brought to its knowledge.

Security does not exist apart from disarmament. I must insist on this, and I have reason to speak precisely, because this is connected with a general idea. Security does not come first and then disarmament. These are two tasks which must be pursued simultaneously. The interest of the organisation which the Assembly established last September, and which we represent, lies precisely in being the centre for all information concerning security.

At the meeting of the Council to which the Rapporteur has referred, the Council noted (and I am glad to think that I contributed to this result by the initiative which I took) how great might be the importance, in cases of dispute, of liaison between the organisations of the League. It is useful for us to be continually kept informed through the Bureau of the Committee of the progress made in this direction.

Lord Cushendun (British Empire). — After what M. Paul-Boncour has just said, I am not sure that it is necessary for me to trouble the Committee; I entirely agree with what he has said. But I would like to know just where we are. I understand that there is a proposal that we should pass a resolution based upon paragraph 208. That paragraph says that it is vitally important that the technical studies and preparations for improving the communications of the League’s organs should be actively pushed forward. I have no doubt that that is true, but what has that got to do with us? I understand from the Rapporteur that this work is being done by a technical committee. Have we any reason to suppose that it is neglecting its duty, and is there any necessity to stimulate it and call its attention to the fact that it is not doing what it is supposed to be doing?

I quite agree with M. Paul-Boncour that it is very necessary for us to keep in touch with all the technical work that is going on, but we shall not do that by passing a resolution; we shall do that by reading from time to time the reports of this technical committee and keeping ourselves informed by what it does.

M. Sokal (Poland). — I think that the wording is not entirely clear. In paragraph 208 it is pointed out that it is of primary interest that the investigations and technical preparations made with the object of improving the communications of the organisations of the League should be actively pursued. What does the phrase “communications of these organisations” mean?

The Chairman. — What is meant is communications of the organisations of the League with the Members of the League.

You have heard the observations of Lord Cushendun, who is opposed to the idea of submitting a proposal or of adopting a resolution on this point. If the Committee agrees with this view, the Drafting Committee will have no need to work on this point.

M. Rutgers (Netherlands). — I think that Lord Cushendun has defended the technical organisations of the League without it being necessary for him to have done so. I think really that no one could find in my conclusions any attempt at attacking these technical organisations. Are we not competent to say that this work is of primary interest in assuring the efficiency of the League’s action? There are perhaps reasons for acting in this manner, for this kind of work concerns rather technical experts and not the general public interested in politics; technical work easily escapes attention. I am certain that the technical organisations of the League would in no way be offended by the declaration which we should make in the resolution to be found at the end of the memorandum.

The Chairman. — I think the best course we could take would be to submit this question to the Drafting Committee, which can decide the matter for itself.

This proposal was adopted.

34. Discussion of the Memorandum on Articles 10, 11 and 16 of the Covenant: Conclusions: Paragraphs 209 and 210.

M. Erich (Finland). — Since paragraph 210 deals with the application of Article II in general, I desire to make certain observations on the latter and to recommend them to the Drafting Committee.

During the general discussion, I emphasised the important point arising from the terms of Article II. According to that article, any war and consequently all phases of a war are of interest to the whole League. The Council ought therefore, if necessary, to intervene when a war is being settled, that is to say, during the conclusion of peace, in order that peace should not be concluded in conditions contrary to the provisions of the Covenant and capable of constituting at some future date perhaps a danger for the maintenance of peace between nations.

I ask the Drafting Committee to take this point of view into consideration. I should also be grateful if the Rapporteur would give his views on the point.

The Chairman. — The observation of the representative of Finland is very important. We have already examined this question, however, during the discussion concerning security treaties. The Committee has already expressed its views. We could add M. Erich’s suggestion to what has already been said on the point, and the Drafting Committee should bear it in mind. The Rapporteur is in agreement with M. Erich.
35. Discussion of the Memorandum on Articles 10, 11 and 16 of the Covenant: Conclusions: Paragraph 211.

M. PAUL-BONCOUR (France). — I do not wish to delay the discussion, and it is indeed with the object of avoiding delay that the French delegation has submitted a written note in order that the Drafting Committee may have its views before it. As far as the third, sixth, eighth and ninth conclusions of the Rapporteur are concerned, our object in submitting this note was not to open a discussion on Article 16. I explained my views on this point at the beginning. I think, not out of personal preference, but because it is a fact that there is every danger in trying to seek new legal interpretations of Article 16, it is much more prudent not to mention them.

In my conclusions, I would be proper, in view of the strong attitude adopted by the French delegation on this point, an attitude from which it has not moved, to express the hope, without wishing to intervene in this discussion, that this article should not be raised in any form. We think that Article 16, with the sanctions it provides, is the inevitable end of all effective arbitration procedure, because the arbitral award amounts to a judgment. Some form of coercion must exist if it is not voluntarily carried out.

We hope that in the text to be finally adopted the respective different positions which we have taken up with regard to Article 16 should not be prejudiced in one direction or another.

The CHAIRMAN. — I desire to add that our observations at Prague were presided over by the spirit referred to by M. Paul-Boncour. Our object in that delicate question was not to weaken the strength of Article 16 and equally not to add anything to it. I think that on this point every member of the Committee is in agreement. If I have properly understood him, the observations of M. Paul-Boncour refer to all the conclusions concerning Article 16.

M. PAUL-BONCOUR (France). — It covered, Mr. Chairman, the third, sixth, eighth and ninth conclusions of the Rapporteur.

M. RUTGERS (Rapporteur). — I desire to say, in the first place, that nothing could be further from my intention than an endeavour to weaken the strength of Article 16. As has already been pointed out during the “discovery”, as it has been called, of Article 11, the light shed on this article should not have the effect of putting Article 16 in the shade.

Apart from the observations which M. Paul-Boncour has made on the point, the French delegation’s note contains certain remarks concerning the fifth conclusion, to which I desire to make a short reply. I have read and reread these observations. I think I can conclude that the French delegation is not opposed to an immediate, rigid and strict definition of the expressions “aggression” and “recourse to war”. The French delegation says, and these are its exact words:

“The Council would indeed, according to the Rapporteur, be obliged to determine the Power to which the sanctions or Article 16 would have to be applied, on the basis of the greater or less goodwill shown by that Power in accepting its previous decisions during the progress of the dispute followed by the Council in pursuance of Article 11 of the Covenant.”

The note continues by stating that this standard is not always correct.

I do not think that, in the view of the Rapporteur, the Council would be led to determine the aggressor according to this single standard alone. In the memorandum, on the contrary, it is clearly stated that in determining the aggressor no one single standard should be adopted to the exclusion of all others, and that there could be no question of putting on one side any particular fact — for example, good faith on the part of the parties in question.

In the observations of the French delegation, I thought that they were rather in favour of having a single standard and of setting aside a large number of facts, including the readiness of the parties to accept the recommendations of the Council. My memorandum tends in the opposite direction.

Dr. Riddell (Canada). — I do not wish to repeat what I stated at a previous meeting with regard to the aggressor. My Government is in complete accord with paragraph 211, with which we are dealing, and thinks that no hard-and-fast rule can be laid down with regard to the aggressor. In fact, we believe that the Council cannot decide the aggressor; the resolutions of 1921 make that clear, and it is the duty of each Member of the League to decide for itself whether a breach of the Covenant has been committed. While we agree with the representative of France and have no desire to weaken Article 16, on the other hand, we believe that certain other articles are more important. We consider that Article 11, rather than Article 16, is the keystone of the arch, and in any remarks that I have made here I have emphasised the importance of conciliation, arbitration and the prevention of disputes rather than sanctions.

36. Discussion of the Memorandum on Articles 10, 11 and 16 of the Covenant: Conclusions: Paragraphs 212, 213 and 214.

M. Sokal (Poland). — As it is difficult to begin the examination of paragraph 212 without mentioning also paragraphs 213 and 214, I beg leave to examine all three together. My friend and colleague, Dr. Riddell, said just now that we have no intention of weakening Article 16 in the least degree. I wish to say the same thing. Unless we can give a more precise meaning to this article, we do not wish that our conclusions should give the impression that we were weakening any article of the Covenant.
Dr. Riddell has said that, in his view, Article 11 is more important than Article 16. I will not discuss this point, for, in my view, all the articles of the Covenant are of great importance. Let us therefore beware of formulae which might appear to weaken Article 16.

I think I am right in deducing from the statement just made by the Chairman that we are perhaps more at our ease when dealing with the development of Article 11, and that the difficulties are greater when we come to Article 16. Both these articles, however, are important and we do not in the least desire to weaken the latter. On this point I entirely agree with the Chairman, whose opinion is probably shared by the Rapporteur.

In these circumstances, I think that if M. Rutgers sees no objection, we might delete paragraph 214, which states that it is desirable to put an end to the uncertainty resulting from the fact that several amendments to Article 16 have not yet obtained the necessary number of ratifications, either by their ratification in the near future or by the definite abandoning of these amendments. In view of the fact that some of these amendments have never been ratified, their legal value is nil. I think, therefore, there is no need to return to them.

M. Rutgers (Rapporteur). — The object of paragraph 214 was to strengthen Article 16. There is no strength in uncertainty. At the present moment the text of Article 16 is, so to speak, at the mercy of two or three States, for it will be modified if the amendments are ratified by two or three other States. Consequently, it cannot be maintained that these amendments do not exist. I think, therefore, that it would be preferable to put an end to the existing uncertainty with regard to the text of Article 16.

If the Committee does not attach great importance to this question and thinks that it would be preferable to allow the existing situation to remain and not to touch it, I do not object.

The fact that I have shown two opposite methods of putting an end to this uncertainty shows that I in no way desire to express for the time being a preference either for the amendments or for the text before us. If members are opposed to this conclusion, I do not press for its adoption.

General de Marinis (Italy). — I do not wish the Committee to go away under the impression that I have not followed this discussion with the greatest interest. The Italian Government also attaches the greatest importance to Article 16 of the Covenant. I have refrained from speaking up to the moment because the point of view of the Italian delegation with regard to these articles is well known. I will summarise this point of view by adhering completely to the text submitted by M. Rutgers.

I will also summarise the very definite views of the Italian delegation concerning aggression. It thinks that, in paragraph 211, the Rapporteur has gone as far as possible towards defining aggression. I entirely share the views of the representative of Canada, for I think that nothing can really be added to the text of paragraph 211 as drawn up by M. Rutgers if it is desired to remain within the accepted limits as far as the definition to be given to aggression is concerned.

I ask the Drafting Committee to take account of this statement.

37. Discussion of the Memorandum on Articles 10, 11 and 16 of the Covenant: Conclusions; Paragraphs 215, 216 and 217.

M. Rutgers (Rapporteur). — I desire to reply to the French delegation with reference to the eighth and ninth conclusions. I wish to do so because they affect the importance of the resolutions of 1921. M. Paul-Boncour reminded us a short time ago of the report of M. de Brouckère, of which the conclusions have served as a basis for the work of the Committee and the Council. I am reproached for still attaching importance to the resolutions of 1921. In the report of M. de Brouckère, however, which I have read more than once, I find that even non-ratified amendments, like the proposals of 1921 themselves, still constitute suggestions in which we should show great interest. Neither the amendments nor the proposals, however, impose any fresh obligations on a Member, any more than they can have the effect of deducing new obligations from those which they have contracted. It remains for me to show how the work of 1921 can to a great extent continue to serve as a guide when we try to find how the economic sanctions should be applied. M. de Brouckère therefore attached great importance to the resolution of 1921.

As far as I am concerned, I have expressed myself with great prudence on this point, and I pointed out that the resolutions of 1921, in so far as they are contrary to the text of Article 16, cannot be binding on Members, but they have not lost their value if they are not contrary to the text of this article. I have not tried to define this point, because it is a very delicate one.

As far as the main point of the celebrated resolutions of 1921 is concerned —“it is for the Members of the League to determine whether the Covenant has been broken” —here, too, I find in the report of M. de Brouckère which the French delegation has quoted the following reply to the question, “Whose duty shall it be to decide whether the sanction should be applied?”

To this question the Covenant allows of only one reply. It has been admirably summarised in the four lines of the resolution of 1921, and it is just those four lines which I have quoted. For my part, I thought that this was a view already shared by everyone, and that M. de Brouckère was voicing it when he said there is only one reply possible: the right of Members to decide whether or not the Covenant has been broken is derived from the Covenant itself.
In those circumstances, I must ask the French delegation to absolve me from the sin of having attached too great an importance to the resolutions of 1921, when I ought to have learnt from what M. de Brouckère had said that they were not of such importance.

M. Paul-Boncour (France). — It is not in my power to refuse or to give absolution to our colleague, M. Rutgers. We are not endowed with spiritual powers, but I never thought that he needed absolution and I never wished to reproach him in any way.

We are all definitely agreed on the impossibility of regarding the amendments of 1921 as a final interpretation of Article 16. In support of this impossibility, let me put forward a very simple list of facts. After 1921 came the year 1924, when, during the course of a discussion in which a very different point of view was taken, a text was drawn up which certainly had at least as much value as the amendments proposed and which itself has not been ratified. This marks the respective positions which we take up with regard to the substance of Article 16. Our Rapporteur has been induced to reply so definitely from motives of great courtesy—and I thank him for doing so—to the observations made, but these observations were not made in order to open an inopportune discussion, but merely to show a continuity of views which also exists among those who take the opposite view.

Paragraphs 216 and 217 did not give rise to any observations.

38. Discussion of the Memorandum on Articles 10, 11 and 16 of the Covenant: Conclusions: Paragraph 218: Appointment of a Joint Committee.

M. Rolin Jaqueyns (Belgium). — Permit me to present a few observations on financial assistance.

The final paragraph of the conclusions of the memorandum of M. Rutgers suggests that the examination of the financial assistance to be granted to a State victim of an aggression should be continued both from the technical and political point of view. Moreover, as the Rapporteur reminds us in paragraph 193 of his memorandum, our Committee has been formally authorised to consult the Financial Committee whenever it feels that it is necessary and to ask that Committee to continue, if necessary, its technical study of the question.

I consider that this question of financial assistance is of the highest importance, but, before taking the enquiry further from the political point of view, it is necessary to complete the technical examination of the subject. For this purpose our Committee can usefully ask the Financial Committee to continue its examination, in order to furnish the Preparatory Commission on Disarmament with all the necessary details as to the possible organisation of financial assistance and the undertakings to be accepted in this connection by the Powers which have adhered to the Covenant.

May I venture to remind you how the Financial Committee appears to view the machinery of the guarantee. According to the programme which it suggests, each State will undertake to deposit with a body to be instituted by the League of Nations provisional guarantee bonds, which would not bear interest, for an amount to be determined by each of the contracting parties. When a State which was attacked and which was a party to the Convention asked for the financial assistance provided, the Council of the League of Nations, on the opinion of the Financial Committee, would decide the extent and the method of the loan. The signatory States would then engage to guarantee the interest and sinking fund and they would then deposit, in exchange for their provisional bonds, specific guarantee bonds to the amount required, but not exceeding for each of them the amount of the guarantee which they had promised.

I do not think that the Belgian Government has any objections to formulate in regard to the machinery of this scheme. The scheme is modelled, it appears, on that of the guarantee which was given for the loan for the financial reconstruction of Austria, in which Belgium participated.

It remains, therefore, to fix a limit to the obligations of the guarantor States, and from this point of view the Committee has suggested that the total guarantee should be provisionally fixed at £50,000,000. The amount would be a point for discussion, as well as the question of the distribution of the guarantee among the guarantors. The Financial Committee has proposed that this distribution should be proportionate to the participation of the contracting parties in the expenses of the League of Nations.

I think I may say that this limitation, which applies only to the amount of the loan, is in any case inadequate. As a general rule, the guarantee would only come into force in favour of poor countries or countries which only enjoy a small credit. The conditions of the loan would be all the heavier as the borrowing country possessed less credit on its own account. The scheme leaves to the borrowing country full discretion to fix the conditions of the loan, namely, the rate of interest, the price of issue, the premium on repayment and the period of redemption. The guarantors have, in fact, no means of appreciating in advance the extent of the obligations which they are assuming or of examining whether these obligations are proportionate to their reserves, but, from the point of view of the conditions of the loan, the guarantee bonds constitute virtually blank cheques.

I feel bound to make in this connection the most explicit reservations. I think that the scheme of the Financial Committee should be completed on this specific point. It should provide certain limits for the conditions of the loan or reserve to the guarantors the power to intervene in the negotiation of the loan.
In order to strengthen the scheme for financial assistance, the plan further provides for the allocation of a supplementary guarantee which would have the effect of further guaranteeing the amount originally fixed. I would quote the following passage:

"The question as to which signatories shall participate in the super-guarantee is a matter for negotiation amongst the financially powerful States themselves, but the Committee suggests that at least the countries permanently represented on the Council of the League should be included."

This special point would only have to be examined if the principles and machinery of the simple guarantee were accepted. I think, however, that it would be necessary, in dealing with this last point, to show all the more prudence, as the acceptance of the supplementary guarantee involves the obligation to facilitate the public issue in the country of a block of the loans to be issued in conformity with the agreement.

I would therefore ask you whether you do not think it desirable to request the Financial Committee to furnish our Committee as soon as possible with explanations which seem necessary in dealing with questions which are fairly important in my view and to which I have felt it desirable to draw your attention in connection with this matter of financial assistance.

Lord Cushendun (British Empire). — When we were engaged in the general discussion, I intimated that the British Government were in favour of the scheme put before us by the Finnish Government for financial assistance, but, of course, at that moment I was dealing only with the general principle. I hope very much that the study recommended will be pursued, because it is a way of affording security which my Government regard as important. There are, of course, two, I will not say conditions, but they almost amount to conditions, which, of course, it would be necessary to observe. The first is that there should be by agreement an equitable distribution of the financial obligation as between those entering into the guarantee; and the second is that it would naturally accompany a satisfactory scheme of disarmament, which is the purpose of our security work altogether. Of course, the details of the scheme, before it can be finally accepted, will have to be very carefully scrutinised. It is a proposal which really depends upon its details. It has been to some extent already examined by my Government, or I could not have been authorised to give it my support, but I think the procedure by which the details of the scheme are to be discussed and decided upon requires very careful consideration. I understood you, Mr. Chairman, to intimate just now that there was a proposal for a Mixed Committee, to consist of three members of this Committee and three members of the Financial Committee. I do not for the moment want to commit myself absolutely as to whether that is entirely satisfactory or not, but for the moment I am quite prepared to accept it, subject to further consideration. I do not want to commit myself at this moment to the proposition that the scheme, when it has passed through that Mixed Committee, must necessarily be received in the form in which it issues from that Committee. I am sure it will be understood—and I think probably the representatives of other States will feel the same—that when the Mixed Committee and we ourselves have arrived at an ultimate text with regard to the scheme, it must then be submitted to each of the several Governments in order that we may have their final acceptance.

If that procedure, which is the procedure I would recommend, and which I understand you to accept, is adopted, I would again affirm the approval of my Government of this scheme of financial assistance.

The CHAIRMAN. — I would merely add that I think we all agree to adopt the procedure indicated by Lord Cushendun, that is to say, after having received the first report of the Committee, we shall forward the scheme to the Governments and we shall not be bound to accept the scheme as it stands. The Financial Committee, on the other hand, has already progressed with its technical studies and has reached a point where it wishes itself to draw attention to the political factor. For that reason we have proposed the formation of a Mixed Committee, in which we shall supply the political element. If you agree, we might adopt the suggestion.

M. Rolin Jaequemyns (Belgium). — I have only one word to say. I would like to ask you more especially, Mr. Chairman, whether you agree that the constitution at this moment of a Mixed Committee to deal with this question of financial assistance is really necessary. I believe there are certain parts of the work of the Financial Committee which are not yet entirely concluded, and I would particularly draw the attention of the Committee on Arbitration and Security to this point. If the Committee agrees with me, we might take advantage of the resolution of the Assembly of September 26th, 1927, in order to consult the Financial Committee and draw its attention to questions which I thought it my duty to raise. It might perhaps consequently complete its work very shortly. It is a purely technical question and I think that the members of the Committee on Arbitration and Security have not very much to do with the discussions which may take place on the subject.

The CHAIRMAN. — The question stands as follows: The suggestion of M. Rolin Jaequemyns would evidently be right if the Financial Committee had not adequately progressed with its technical work. The Financial Committee, however, has informed the Secretariat and Bureau that it probably will not be able to continue to examine the subject unaided and has expressed the desire for collaboration. It has sent a report in which I think that mention is made of that desire.

We thought, during our discussions at Prague, that the best thing to do would be to form a new Committee as I have proposed.
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M. ROLIN JEQUEMYNS (Belgium). — I will not insist, but I understand the question as follows: so far as the problem concerns purely technical matters, it is for the Financial Committee to complete its task. When the question becomes political, there should then be a collaboration between our Committee and the Financial Committee. If, however, the Financial Committee itself asks for our assistance, it would evidently be scarcely becoming on our part to refuse.

The CHAIRMAN. — If the Committee agrees, I think that we may take into account the views of M. Rolin Jaequemyns. The Financial Committee will be able to continue its work from the technical point of view so far as it will not need the assistance of our Committee. As soon, however, as the Financial Committee finds our assistance to be necessary, we shall be able to take steps to give it.

M. UNDÉN (Sweden). — If the Committee on Arbitration and Security decides to send representatives to sit on the Mixed Committee, I will propose the following members:

M. VEVERKA, delegate of Czechoslovakia; M. VALDES-MENDEVILLE, delegate of Chile; and M. RUTGERS, the Rapporteur.

I would also propose that the Committee should ask M. ERICH, delegate of Finland, to collaborate with the Mixed Committee.

The CHAIRMAN. — The Financial Committee, on its side, will delegate some of its members to form part of the Mixed Committee.

The proposal was adopted.

M. RUTGERS (Rapporteur). — I would like to thank my colleagues for the honour they have done me in appointing me Rapporteur and for the kind words which have been addressed to me.

39. Discussion of the Memorandum on Articles 10, 11 and 16 of the Covenant: Procedure.

M. POLITIS (Greece). — You told us, Mr. Chairman, at the beginning of this meeting that at the end we should examine the question whether the Drafting Committee would have to frame certain draft resolutions on the points which we have just discussed. I do not wish merely to raise the question and I feel bound to express my views. I would therefore urge that, in my opinion, the Drafting Committee already has sufficient work to do and that it should not be asked in addition to frame resolutions.

Another reason induces me to think that it is not necessary actually to draft such texts. That reason was given just now by M. Paul-Boncour. Our Committee is permanent and the work of each session is sufficient unto itself. We shall have done enough work this session if we have achieved something for arbitration and security. Let us keep the rest of the programme for another session.

The CHAIRMAN. — It is for the Committee to take a decision on this point. M. Sugimura has informed me that the Secretariat has already prepared some texts which are at the disposal of the Drafting Committee. I agree, however, with M. Politis in thinking that the Drafting Committee has already sufficient work to do.

Lord CUSHENDUN (British Empire). — I entirely agree with M. Politis.

M. MARKOVITCH (Kingdom of the Serbs, Croats and Slovenes). — I do not quite understand what is meant by the word “resolutions”. All the proposals and suggestions which have come up during our discussions have been sent to the Drafting Committee for examination. It seems to me natural to deal with the third memorandum as we dealt with the others. The Committee is bound to take into consideration all the views which have been expressed and it is for the Committee to decide which point of view should be adopted.

The CHAIRMAN. — If I understand M. Markovitch correctly, the Drafting Committee should be left to state whether, in view of the observations which have been made, it is possible to draft concrete proposals.

M. POLITIS (Greece). — I do not oppose the suggestion, but I would observe that this is a new procedure. The Committee, in dealing with the other two memoranda, instructed the Drafting Committee to prepare certain texts. The Drafting Committee is now to be asked to consider whether it is advisable to draft texts arising out of the third memorandum. This means that the Committee on Arbitration and Security declines to take a decision and refers the matter to the Drafting Committee. In my view, it is for us to say whether there is anything to be done and, personally, I think that for the moment there is nothing to be done.

M. VON SIMSON (Germany). — The proposal of M. Markovitch seems to me extremely practical. All the views expressed in this Committee should be examined by the Drafting Committee, and I do not understand why it should be necessary to say now that it is impossible to frame resolutions. I would ask that the question should remain open.

M. RUTGERS (Rapporteur). — I think, in the report we shall have to address sooner or later to the Preparatory Commission, it will be necessary to say something concerning the articles of the Covenant, since that subject comes under our instructions. I do not yet know what our reply may be, but I agree with M. Politis that the Drafting Committee is already
extremely busy. In these circumstances, might we not postpone the question to the next session? I presume that we shall have a second reading of the draft conventions and that these will not be finally determined this week. At the second reading, the Drafting Committee or some other committee which may be appointed for the purpose can prepare a text in view of the report which we are to address to the Preparatory Commission.

M. Markovitch (Kingdom of the Serbs, Croats and Slovenes). — I think there is a misunderstanding. The procedure which I propose is that which has been applied to the problems of arbitration and security. I have put forward suggestions and I do not imagine the Drafting Committee will not even examine them. Our Committee has not discussed them. The only reasonable procedure, in my opinion, is for the Drafting Committee, taking into account all that has been said during our discussions, to frame either a report or draft resolution or concrete proposals and submit the texts to us.

Dr. Riddell (Canada). — I agree with M. Politis. The Drafting Committee is overworked and it is preferable to leave the question open until our next session.

The Chairman. — It appears to be the general view that the question should remain open. It is understood, however, that the Drafting Committee will do its utmost to frame a concrete proposal on the subject.

The Committee agreed.

The meeting rose at 7.40 p.m.

ELEVENTH MEETING

Held on Wednesday, February 29th, 1928, at 6 p.m.

Chairman: M. Undén (Sweden).


M. von Simson (Germany). — I think I may be brief since, during the general discussion, I have already on two occasions spoken of the suggestions of my Government. For the moment, I will merely submit a few general ideas.

I would say, in reference to the discussion which took place yesterday afternoon, that I entirely share the views of the speakers who said that it was not desirable to group, so to speak, the various articles of the Covenant of the League of Nations according to their importance. We must not weaken the importance of any article of the Covenant in reference to any other article by laying emphasis on any one of them.

On the other hand, the steps which we propose, and which concern the convention, seem to me, particularly in present circumstances, of a quite special importance and utility. As I have said on several occasions, we think that security may be increased by strengthening mutual confidence, and particularly by strengthening such confidence by the measures mentioned in our suggestions, which can be rapidly applied. The German delegation does not claim that the steps which it proposes are to be regarded as a panacea for all ills, or as the only way of increasing security. With these considerations in mind, I have never at any moment refused to collaborate in the work on regional agreements, although, as I have stated several times, I have some doubts as to the value of such a system.

I will not go into our proposals in detail, since they are before you.

I think we may consider it as a particularly clear indication of the desire of a State to settle all its political disputes in a pacific manner if that State is prepared to take the course suggested in our proposals, and particularly in proposals II and III. Such an attitude on the part of a Government is calculated very quickly to restore mutual confidence. I would draw your special attention to proposal III, which provides a pacific solution even in cases where hostilities of some sort or other have already begun without the possibilities of a pacific arrangement having, in the opinion of the Council, been exhausted.

In order to avoid any misunderstanding, I would remind you that our suggestions are not submitted for insertion in bilateral or regional treaties. They have a wider basis. We are thinking of a protocol which would be open to signature by everyone. We do not, however, think it is necessary to wait for a large number of States to adhere to that protocol for it to be brought into force. Naturally, we very strongly desire to see as large a number of States as possible adhere to the protocol without, however, considering it necessary to subordinate its coming into force to a large number of adhesions.

I prefer for the moment not to indicate the procedure to be followed, as I desire first of all to hear the views of my colleagues. I am ready to reply to any questions which anyone may desire to ask. I hope it will be sufficient for me to express our deep conviction that this matter is not an unimportant question of detail, but that it has to do with fundamental ideas which must be very carefully considered. As M. Paul-Boncour emphasises in his first reply to my suggestions, these ideas have their origin in the very important work of the Committee of the Council. We are endeavouring to give effect to these ideas and to put them into practice, completing them, however, with the suggestion that decisions shall be compulsory for States which adhere to the protocol. Doubtless, as we proceed with the matter, difficulties will arise, but these difficulties are more or less technical and are not insurmountable.
Lord Cushendun (British Empire).—I confess, after examining these proposals, that I have a good deal of doubt whether they really, if we were to adopt them, would have the effect of adding to the security of nations and giving a better guarantee of peace. I think we must have had in mind the fact that the people of the Committee are members of a State and of a party, and that they have been instructed, by my Government in regard to them. I can only accept them, therefore, as I would suggest, also after words to the Permanent Advisory Commission to work out the details. In any case they appear to be opening the road to a very great deal of misunderstanding.

Let me in a very few words indicate what I mean. To begin with, it would be extremely difficult for anybody to say what is the "military status quo normally existing in time of peace". Personally, I have no military knowledge whatever, but I do, I think, one requires any definite military knowledge to know that a most important factor at the outbreak of any war must lie in the reserve and the way in which the troops on one side and the other as between belligerents, whether two or more. If you take the hypothesis of some State intending to become an aggressor, or, and intending to invade the rights of another State and to act the part of an aggressor, is it not quite simple for that State, allowing sufficient time to enable other people to become accustomed to the disposal of its troops, to dispose its troops in such a way along its frontier as to give it the advantage, and for that to become the normal military status quo existing in time of peace, whereas the normal military situation of the other State, which is designed to be the victim, may be to have its troops very much farther from the frontier and in positions very much less favourable for defence than are the aggressor's positions for aggression? Where is the justice and where is the good sense, if our object is to prevent aggression in accepting a time of peace, whereas the normal military situation of the other State, which is designed to be the advantage of the aggressor and for the disadvantage of the aggressor's victim. There appears to be a very grave doubt whether a general treaty—of which we have some experience and some models—can very well be entered into by a great many States without a much clearer view than they can have beforehand as to the exact obligations which they are undertaking, and certainly, if it should appear to this Committee desirable to enter into a close examination of these proposals, I could only give in any form consent to that procedure if it were understood that whatever conclusion we might arrive at would be submitted to the several Governments, and, I would suggest, also after words to the Permanent Advisory Commission to work out the details. In any case they appear to be opening the road to a very great deal of misunderstanding.

Then I pass to Clause II. I think the objections to Clause II may be even more serious. I will undertake that, with very little ingenuity, it is possible to invent a large number of different interpretations of those words. Surely it will be generally agreed that what we desire above all things to avoid in making definite contracts between one country and another is ambiguity, because ambiguity is the mother of misunderstanding. I feel certain that, if we were to accept any such proposition at present stands, we should be opening the road to a very great deal of misunderstanding.

I observe that the German delegation do not demand that the clause be too high: they only suggest that this Committee might examine the following possibilities. Naturally, I have no objection whatever to offer to our examining them as fully as possible, and I think they would require a very full examination. In the last clause of the written proposal, and also in the speech to which we have just listened, the German delegation offer these proposals as the basis of a general treaty for as wide acceptance as possible. In connection with other proposals, I have already expressed the great doubt that I entertain as to the desirability of general treaties regardless of the particular circumstances and conditions of individual States. I myself very much prefer regional treaties, bilateral treaties, in which the particular circumstances of each State can be carefully considered, and the exact obligations undertaken by each State that signs the treaty are known beforehand. There appears to be a very grave doubt whether a general treaty—of which we have some experience and some models—can very well be entered into by a great many States without a much clearer view than they can have beforehand as to the exact obligations which they are undertaking, and certainly, if it should appear to this Committee desirable to enter into a close examination of these proposals, I could only give in any form consent to that procedure if it were understood that whatever conclusion we might arrive at would be submitted to the several Governments, and, I would suggest, also after words to the Permanent Advisory Commission to work out the details. In any case they appear to be opening the road to a very great deal of misunderstanding.

That might be elaborated very much more fully, and any delegate who has personal knowledge of military affairs could elaborate it with much more ability than I can pretend to do. I want merely to indicate that I think we should have to consider most carefully a clause of that sort in the light of the best military advice obtainable before we accept it for the execution of the settlement to be proposed by the Council.

For the purpose of preventing any aggravation or extension of the dispute and impeding any measures to be taken by the parties which might exercise an unfavourable reaction on the execution of the settlement to be proposed by the Council.

Let me in a very few words indicate what I mean. To begin with, it would be extremely difficult for anybody to say what is the "military status quo normally existing in time of peace". Personally, I have no military knowledge whatever, but I do, I think, one requires any definite military knowledge to know that a most important factor at the outbreak of any war must lie in the reserve and the way in which the troops on one side and the other as between belligerents, whether two or more. If you take the hypothesis of some State intending to become an aggressor, or, and intending to invade the rights of another State and to act the part of an aggressor, is it not quite simple for that State, allowing sufficient time to enable other people to become accustomed to the disposition of its troops, to dispose its troops in such a way along its frontier as to give it the advantage, and for that to become the normal military status quo existing in time of peace, whereas the normal military situation of the other State, which is designed to be the victim, may be to have its troops very much farther from the frontier and in positions very much less favourable for defence than are the aggressor's positions for aggression? Where is the justice and where is the good sense, if our object is to prevent aggression, in accepting a stipulation under which the aggressor is confirmed in his favourable positions while the victim is prevented from making any disposition or move whatever in order to meet an attack which is obviously coming?

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advice I had at my disposal goes to show that at the moment of the outbreak of hostilities it is impracticable to seek to impose an armistice on the belligerents. We have to remember that the hypothesis underlying these proposals, which we must always bear in mind, is that one or the other of the supposed belligerents is an aggressor. We assume for the purposes of argument an aggressor and a victim. Is it likely that the aggressor State, having made up its mind to incur all the odium and all the danger of acting in a way which will inevitably bring down upon it the disapproval of the League of Nations, and the danger of incurring all the penalties of an aggressor under the Covenant—is it likely that any State, having made up its mind to do all that, will at the last moment withdraw its troops, which may have gone over a frontier, or stay its hand at the moment of aggression when it perhaps has an advantage over somebody else which it may never have at a later stage? I repeat, is it likely that any State will, in those circumstances, consent to have an armistice imposed upon it by some third authority? Surely the experience of history shows that an armistice can only be effected when it is entered into by the desire of both parties to the dispute. I believe that it is an impracticable thing from a military point of view, and also from a psychological point of view, for any authority outside to take upon itself or pretend to impose an armistice upon belligerent States. It may be very well for the Council, in certain circumstances, to use its good offices to propose to those who are about to become belligerents at the outset of hostilities that an armistice should be entered into freely and of good will on both sides in order that time may be given for a pacific arrangement of the dispute; but that appears to me to be a very different proposition from that which is contained in Clause III of the German proposals, because, although it is quite true that the clause is an undertaking in advance by States that they will themselves observe that stipulation, I must say I am very sceptical of its being of much value at a moment when any particular State has made up its mind to take the tremendous risks of becoming a belligerent.

Clause IV, I think, is also rather open to objection. We were discussing yesterday the question of a unanimous vote on the Council, or whether a majority might suffice in the matter—that is, as regards the various suggested obligations. I do not want to repeat what I said yesterday, except in quite general terms, that the unanimity of the Council was very deliberately adopted by the framers of the Covenant. It is regarded by many States, possibly by all, as itself a very great security under many conceivable circumstances, and I think, as I said yesterday, that every time we or any other organ of the League undertake to invoke that principle or to diminish that principle of unanimity on the Council, although it may serve the particular purpose we have in view at the moment, it will in the long run both weaken the League of Nations itself and undermine the confidence which many States, and probably all of us, feel in it at the present time.

We must be prepared for any eventuality of our discussion at all events, to appear in irreconcilable opposition at all to the German proposals. It may be, when they have undergone further consideration and when the details have been more carefully thought out, that a form of them might be arrived at which we could all accept as beneficial for the purpose in view, but as they are presented to us at this moment they appear to me to be open to very grave objections which I should certainly have to have removed from my mind before I could accept them.

I finish, as I began, by saying that, in any case, I could only accept them subject to their reference to my Government, and to their examination and approval by that Government.

M. PAUL-BONCOUR (France).—Our colleague, General de Marinis, invited us the other day to ensure that there should be continuity in our work. I venture to endorse this suggestion. We must recognise that the German delegation in its proposal gives us an excellent example.

The Committee of the Council, as I reminded you at the beginning of our work, when the German delegation announced the general lines of its proposal, went rather far in the direction of what may be called conservative measures, in a report which was successively adopted by the Assembly and by the Council. M. von Simson the other day drew what was, in my view, a very striking analogy between such measures and what in private law is similarly described, in other words, measures which are taken under the procedure of injunction. Though, however, the German delegation based its suggestion on the work of the Committee of the Council, as continuity prescribes, it carries this work further in its very interesting proposal for a protocol open to the signature of States under which they would undertake to submit to the procedure already fixed by the report of the Committee of the Council.

You will understand from what I have said how much I appreciate the German proposal, and that I support it in its general lines. When that proposal takes the form of a definite scheme, it will clearly be necessary to discuss its terms very carefully. I assume that the form given to its proposal by the German delegation is to be regarded as a body of suggestions which it would like the Committee on Arbitration and Security to consider. When we come to discuss texts, I should perhaps feel it necessary to make some observations, not on any particular one of the suggestions, which I gladly accept, but on some of the forms taken by those suggestions. If we keep in view the necessity of preserving continuity in our work, I must confess—and here I rather agree with the observations of Lord Cushendun—that the text of the report of the Committee of the Council, which is at the same time more concrete and less general, and which, in other words, is based rather on concrete examples, is perhaps preferable, since, in dealing with measures of this kind, the importance of which we thoroughly appreciate, we have to take into account the extreme diversity of conditions which cannot be classified in advance. Those conditions will depend on the circumstances of the dispute and on the convictions of the States which are about to enter into dispute. The report of the
Committee of the Council was not confined to general formulae, and still less were the formulae imperative. The report of the Committee of the Council was based on lists and these lists, in my view, were not to be regarded as limitative. I think that when we come to deal with a text it will be necessary to have regard to the elasticity and diversity which the Committee of the Council endeavoured to secure. Therefore, though I generally approve of the general proposal, it does not seem to me to be of any use to go into the articles in detail. I would merely add to what I have just said an entirely general observation, and I would venture to draw the special attention of the Committee, and in particular of the German delegation, to this point.

The report of the Committee of the Council, after giving three very precise and, in my opinion, felicitous concrete examples of conservatory measures which might be taken, deduced from these examples what appears to be a necessary consequence, and I would remind you that the report has been accepted by the Assembly and by the Council. The consequence to which I allude was that the Council of the League of Nations, in the event of a dispute or danger of war, can only prescribe and procure respect for decisions which can be supervised.

You will understand that if we look at the matter from the point of view of the suggestion of the German delegation, though we are not yet dealing with the hypothesis of war, we are very nearly dealing with that hypothesis, since the idea of conservatory measures presupposes that the States have taken or are about to take steps for mobilisation or other military measures. One article of the suggestions of the German delegation goes even further in the sequence of events, since it deals with the armistice, and therefore assumes that acts of war have already occurred. In these circumstances, you will easily understand that the States in question, troubled by the events which are occurring or which they foresee, or which they fear, will only accept decisions so grave and so necessary as those which we are proposing that the Council should take if they have the feeling that these measures will also be respected by the States with which they have fallen into dispute.

It would be a very grave psychological error if, while the possible lengthy procedures of conciliation and arbitration by which the Council of the League of Nations in dealing with the dispute is endeavouring to avoid war are progressing, we tried to prevent one of the parties from ensuring its superiority for the occasion when it may decide to disregard the decisions of the Council by hastening its preparations, and if we did not at the same time take account of the fact that the parties will respect these measures to the extent in which they are ensured that the opposite parties will also respect them.

Therefore, I would ask that in the text to be established, as in the text of the report of the Committee of the Council, provision should be made for the necessary corresponding measure of control by the League of Nations over the execution of the conservatory measures which it prescribes.

Subject to this reservation, I entirely accept the suggestions of the German delegation.

M. von Simson (Germany). — I would like to reply at once, briefly, to Lord Cushendun and M. Paul-Boncour, in the hope of shortening this discussion. I think I am able to furnish them with certain explanations.

Lord Cushendun has very courteously but very severely criticised our proposals. I will not take up your time by going into all the details. I feel bound, however, to point out at once that we are merely presenting suggestions and not proposals, and that we have for this reason made use of general formulæ which are necessarily somewhat vague. We agree that it is essential to define them and give them a concrete form. We are well aware that this will be necessary, and it is for that reason that we have submitted our ideas as suggestions and not as proposals.

I would emphasise, from the general point of view, that the criticism of Lord Cushendun applies equally to the recommendations of the Committee of the Council and to the Locarno Treaties. Our first suggestion is taken from the Locarno Treaties and has been accepted for general arbitration treaties in our previous discussions. I do not agree with Lord Cushendun that there is in this point any ambiguity which might be dangerous. I admit that the proposal will have to be further defined. At present it merely aims at granting the Council power to prescribe measures, and it will be for the Council to avoid ambiguity and to say what must necessarily be done. We must have sufficient confidence in the Council to entrust it with that task.

Lord Cushendun, moreover, in dealing with Clause II, said that it would be very difficult to recognise the normal military status quo. I am not a military expert, and therefore I cannot formulate any certain opinion on that subject. Nevertheless, I hope that in the future, when disarmament has been carried out, the normal status quo of the different countries will be sufficiently easy to recognise. I do not think that the possibility described by the delegate of the British Empire will arise. I refer, of course, to the possibility that under Clause II the position of the aggressor may be improved. I am afraid that I do not altogether understand the point of view of Lord Cushendun in this matter. We have in this paragraph recognised that the recommendations of the Council should aim at maintaining or restoring the ordinary status quo. In the examples quoted by Lord Cushendun, the normal military status quo has already been modified before the decisions of the Council are taken. I would again repeat that it would be necessary to give concrete form to our suggestions, but it is certainly not our intention to improve the position of the aggressor. We decidedly wish that the normal military status quo should be maintained or restored.

To simplify the discussion, I will confine myself to these general remarks. Our suggestions embody fundamental ideas of great importance. They were not discussed in a preliminary way at Prague, and I think that it will be necessary to refer them to the various Governments.
The Drafting Committee might perhaps agree on a resolution taking into account the general welcome accorded to these suggestions. The Governments, before our next session, will be in a position to submit their observations.

I listened with great pleasure to the speech of M. Paul-Boncour, and I am happy to note that, generally speaking, he supports our observations.

Permit me, however, to make only one remark. M. Paul-Boncour said that, if the Council ordered measures, it should be in the position, as a necessary sequence, to ascertain whether those measures have or have not been carried into effect. I quite agree with that contention, and if we did not explicitly mention the matter it is because our suggestions are only general ideas and are not presented in detail. We consider, however, that verification by the Council is a natural consequence of the idea underlying our suggestions.

M. SOKAL (Poland). — During the general discussion I have already pointed out that I consider the proposals of the German Government to be of great interest, but I also suggested, after glancing through them, that they appeared to lack one indispensable addition, namely, a control.

After an examination of these suggestions I am in a position to state that the Polish delegation approves the spirit in which they have been put forward, for it is the same as that contained in Article X of the Covenant. What is aimed at is, indeed, prevention, and it is prevention for which provision is made in that article.

As far as the suggestions themselves are concerned, I do not propose to analyse them in detail for the moment. The representative of the British Empire has just shown how cautious we should be in proceeding with this analysis. M. Paul-Boncour also has emphasised that it is indispensable to have the essential element in such a proposal. The Committee of the Council discussed these questions at great length when it discussed the following interpretation of Article X: that the Council should only be given suggestions within such limits as shall permit it to control the possibility of executing any measure decreed by the Council.

I entirely agree with this point of view, and I think that, after having listened to the very complete analysis of the German proposals made by Lord Cushendun, we can summarise to-day’s discussion by deciding that these suggestions, completed by the observations made, shall be submitted to Governments with a view to a detailed examination.

The CHAIRMAN. — I think it would be possible to agree on the procedure to be followed. On the one hand, there is no necessity to proceed immediately to a final examination of these suggestions, but, on the other hand, they certainly deserve a detailed study. I would propose, therefore, that the Drafting Committee should be instructed to draw up a resolution in this sense, which should also be based on the opinion expressed by Lord Cushendun to the effect that these suggestions should be submitted to the respective Governments before any future discussion of them.

M. SATO (Japan). — The Chairman proposes that we should submit these suggestions to the examination of the Drafting Committee, together with the various observations which have been made to-day. The matter, however, is of primary importance and cannot be lightly passed over. The statements of Lord Cushendun and M. Paul-Boncour show how complicated and important is the question. If we decide to send these proposals to the Drafting Committee, I cannot clearly foresee the result. We are approaching the end of our session and I do not think it is possible even for the Drafting Committee to make a detailed examination of these suggestions. Personally, I would have preferred to have had an opportunity of discussing the German proposals after having very closely examined them. For this reason I propose, if the Committee sees no objection, that the question should be submitted to a sub-committee, whose membership shall be determined by the Chairman. This committee could meet at some future date, more or less distant. It would examine the German proposal with the full attention that it deserves.

When this examination is concluded, I would propose that the result should be submitted to the various Governments for their views.

The CHAIRMAN. — I would point out that a misunderstanding has certainly occurred. I never thought that the Drafting Committee should be instructed to draw up a final text dealing with the substance of the question, but that it should merely adopt a resolution concerning the procedure to be followed in the future. It may well happen that it may be necessary to establish later some kind of committee to continue the examination of this question, but it would perhaps be an advantage to have the views of the various Governments before us before continuing the discussion.

Herein lies the difference between the suggestion of M. Sato and the proposal which I have made. I proposed that we should first obtain the views of Governments in accordance with the suggestions of Lord Cushendun. M. Sato proposes that the German proposals should be examined before Governments are consulted.

M. SATO (Japan). — You must excuse me if I rise once more. Obviously, there is a difference in the procedure proposed and the Chairman has made that quite clear.

I personally attach much importance to the German proposal, but it can only be regarded as definite after having been very closely examined. There are perhaps certain articles which will be found unnecessary as the result of the various observations made during our discussion, or, on the contrary, it may be found necessary to make additions to the text of these proposals. I think—I perhaps I am wrong—that it is only then that we should submit a final proposal to Governments for their views. If we follow the opposite course, after
having received the observations of Governments, which will be difficult to obtain and occupy a great deal of time, the text will be changed in order to make it final and it will then have to be submitted all over again. I think that, in the first place, we should explain all the points and then submit the text thus achieved to the Governments for their observations. This seems to me to be much the wiser course to pursue.

The CHAIRMAN. — I submit the question to the members of the Committee. I do not desire to impose any particular form of procedure. I interpreted the attitude adopted by the German delegation itself to mean that, in my view, the German Government desired perhaps also to make its observations on the suggestions at a future date. I did not intend to propose that the Committee should take any responsibility at this moment for the substance of these suggestions. These suggestions, however, are submitted in the form of a proposal coming from the German delegation, which it is required to submit to the various Governments.

M. von Simson (Germany). — I wish merely to say, Mr. Chairman, that I fully agree with what you have so justly pointed out.

M. Sato (Japan). — If that is the view of the Committee, I shall naturally make no objection to the proposal that the German suggestions should be submitted to Governments. To be precise, I ask whether in that case various observations made in the Committee will be annexed to the German proposals. If the answer is in the affirmative, I shall reserve my right to make my observations at some future date.

Lord Cushendun (British Empire). — With regard to what has fallen from M. Sato, I do not wish to take any very strong opinion or line with regard to the procedure so long as it is thoroughly realised that, whenever these proposals are submitted to the various Governments, they must be in the final form. There will be no use whatever in sending to the various Governments a series of resolutions or clauses which are merely in the form of suggestions; they must be in the actual form to which assent is to be given or withheld, and so long as that is clearly understood I do not mind how that result is reached. I should have thought myself that there was a good deal to be said for M. Sato’s proposal, because, as I understand it, he suggests that, before these proposals go to the Governments, a sub-committee should endeavour at all events to put them into definite final form, as they could appear in an agreement, whether bilateral or general. The German proposals are for a general treaty. They will impose very distinct obligations on all the States that accept them; therefore it will be very necessary that every State, when considering what the proposals are, should have them in the most precise and definite form which we can give to them.

M. Rutgers (Netherlands). — If I am right, when we drew up the programme of work of our Committee, account was taken of the fact that Governments would have an opportunity of submitting their observations not on final proposals but on the programme. Governments have not been specially invited to do so, but, by the decision of the Committee and by the adjournment of its work, they have been given an opportunity of expressing their views. If we now follow the same procedure, we shall only be postponing the study of the German proposals to our next session. During the intervening period, the Governments will be able to submit any observations they think it useful to make with regard to our programme of work.

Lord Cushendun (British Empire). — In that case, I do not quite understand the proposal. I presume that, following the precedent of the observations which were invited from the Governments last December, they are now to be invited to send in any observations with regard to the German proposals. It is no use asking them to send observations so long as those proposals are not in the final form. As I have already said, the only observation the Governments would or could make would be to say: “We may accept them in principle; we must reserve our decision until we see them in a final and effective form”. Therefore it appears to me that to invite the Governments to send observations while they remain in an indefinite form would be wasteful of time and work.

The CHAIRMAN. — After the observations made, I would like to submit to you the following suggestions. I think everyone agrees in thinking that it is impossible to proceed immediately with a final examination of the German suggestions and that the examination ought to be adjourned to a future session. I think, further, that there is no objection to giving an opportunity to those Governments which desire to do so of presenting any observations on the suggestions made by the German delegation.

If the Committee decides to draw up a text of a treaty or to continue its work, it may still be possible for us to submit the question to Governments in the form of a final text. For the moment, however, I think that we could confine ourselves to determining the procedure to be adopted and decide to postpone the examination of the question to another session, while leaving Governments free to express their views at some future date on the proposals made.

M. Sato (Japan). — I willingly accept your proposal and, whatever the decision of the Committee, I will forward the German suggestions to my Government and ask it to give its views.

The proposal of the Chairman was adopted.
41. Drafting of the Committee’s Report.

The CHAIRMAN. — The next item on the agenda is the drafting of the Committee’s report.

The Bureau has the honour to submit the following suggestions.

The report of the Committee on Arbitration and Security will contain a statement regarding its work from the moment of its establishment until the end of its second session. To this statement will be annexed:

1. The positive results achieved during the present session.
2. The minutes of the plenary meetings, together with the notes of the delegations.
3. The memoranda of the Rapporteurs and the observations of Governments.

The Committee will communicate this report to the Preparatory Commission for examination and will ask it to submit it to the Council in June in order to ensure its transmission to Governments for their consideration so that the results obtained by the Committee may be definitely examined by the Assembly in September.

I propose, therefore, to instruct the Drafting Committee to draw up a draft report to this effect.

M. RUTGERS (Netherlands). — I did not think that our work was going to proceed so quickly. At this moment we are engaged in drafting conventions which no one has yet had an opportunity of seeing. If I have properly understood the Chairman, it is proposed to draw up a final version of these drafts as far as our Committee is concerned and then submit them to the Preparatory Commission, with a request that they should be forwarded to the Council. I wonder whether it would not be better to have a second reading of these treaties, which we hope to complete this week. M. Sato has asked for a detailed examination to be conducted in several stages of the German proposal. I wonder whether it would not be more advantageous not to finish your work this week and not to make a final report to the Preparatory Commission on this question.

I have no objections to the proposal to submit a progress report to the Preparatory Commission, but I do not think we should add a request that the draft convention should be immediately submitted to the Council and the Assembly.

The CHAIRMAN. — There is no urgency to decide what our report should contain. I propose to leave the question open.

The Committee rose at 8 p.m.

TWELFTH MEETING

Held on Monday, March 5th, 1928, at 5 p.m.

Chairman : M. BENES (Czechoslovakia).

42. Observations of the Chairman concerning the Work of the Committee.

The CHAIRMAN. — After several days’ interval, we are now taking up our work anew, and we shall devote our time to the examination of the proposals drawn up by the Drafting Committee.

After fresh examination of the whole question, the Drafting Committee established a Sub-Committee, known as the Committee of Three, which it instructed to draw up the text of the proposals and draft treaties resulting from the decisions taken during the general discussion.

The Committee of Three has drawn up various resolutions and various concrete drafts of arbitration, conciliation and security treaties. These were then examined by the Drafting Committee, which, after adopting them, has submitted them for your approval.

The work entrusted to the Drafting Committee has been considerable. You instructed it to prepare a declaration concerning the Introduction to the Prague memoranda, a draft resolution concerning the offer by the Council of its good offices, another concerning financial assistance and the work of the Mixed Committee, another regarding communication with the League of Nations in times of crisis, another dealing with the German suggestions, another concerning Article 36 of the Statute of the Permanent Court of International Justice, and another concerning the memorandum of M. Rutgers on Articles 10, 11 and 16 of the Covenant.

Finally, it was to draw up three texts of a Treaty of Arbitration and Conciliation.

The Committee of Three has done considerable work. A certain number of resolutions and draft treaties, after having been adopted by the Drafting Committee, are on the agenda of our meeting this afternoon. These texts, which are not yet all finished, can be completed by to-morrow morning for submission to us to-morrow afternoon. We shall then be able, I hope, to end our session to-morrow night.

The following is a list of proposals which we are to examine this afternoon:

1. Draft resolutions concerning the offer by the Council of its good offices.
2. Draft resolution concerning Article 36 of the Statute of the Permanent Court of International Justice.
3. Draft resolution concerning communication with the League in times of crisis.
4. Draft resolution concerning the German suggestions.
5. Draft General Convention (Convention B) on Judicial Settlement, Arbitration and Conciliation.
The CHAIRMAN.—Two draft resolutions concerning the offer by the Council of its good offices are before us, one dealing with arbitration and the other with arbitration and security.

The draft resolutions were adopted without observation.

43. Draft Resolutions concerning the Offer by the Council of its Good Offices: (1) Arbitration (Annex 7, III (d)); (2) Arbitration and Security (Annex 7, IV (d)).

Lord CUSHENDUN (British Empire).—I think the Committee will kindly have patience with me if I make one or two observations on this matter, because I think the Committee will perhaps realise that the position which my Government takes up requires a certain amount of explanation in order that there may be no misunderstanding.

The text which the Drafting Committee puts forward is based upon paragraph 41 of M. Holsti's memorandum. He there refers to the action of the Assembly at its last ordinary session. He says:

"The Assembly recognised the desirability of examining how it would be possible to encourage acceptance of the Optional Clause of the Protocol of Signature of the Statute of the Permanent Court of International Justice."

Then he goes on:

"The discussions on this point did not, however, lead to any practical proposal. It is difficult to see what could be done by the organs of the League in this matter beyond recognising, as they already do recognise, that the development of the Court's jurisdiction under the Optional Clause as between States which feel able to accept this clause constitutes an important application of the principle of arbitration."

It was in consequence of that paragraph in the memorandum that this Committee asked the Drafting Committee to prepare a document to give effect to it. I would like to express my thanks to the Drafting Committee—I am sure we all thank them—for the admirable work which they have done. I happen to know they have had a very onerous and laborious task.

I think we may conclude that this document which they have produced is the very best draft that could be produced upon this subject. I think it worth while drawing attention to this fact, for I think it is a fact. The Committee will remember that, from the beginning of our discussions, I have always ventured to take up the position that what we wanted were practical proposals. M. Holsti said that the discussions of the Assembly led to no practical proposal.

I think it is significant that this excellent examination by the Drafting Committee has also made no practical proposal. By accepting this draft—as, of course, we shall do—we are not making any practical proposal. What we are doing is to reiterate in strong terms the opinion that has been expressed before that as many States as possible should sign this clause if they find it in their power to do so, for they will to that extent be contributing towards the security of the world.

The reason why I think it is just possible that an explanation by me is necessary is because (as the Committee is well aware) I have said and other members of my Government have previously said that, owing to the particular conditions of our country, it is not possible for the British Government to accept the Optional Clause. That being so, I can well understand that some members of the Committee might think, unless they look below the surface, that there is some inconsistency in myself, for example, as a representative of the British Government and as responsible for this draft of the Drafting Committee (because my Government was represented upon it), in our urging other people to do what we frankly say it is not possible for us to do ourselves. I have on previous occasions explained—and I should like just to repeat it, in order to make sure, now that we are parting with this matter, of not being misunderstood—that I sincerely wish that the circumstances of my country were such as to enable us to sign this clause. I realise the value of the clause; I realise, as this draft puts it, that the more States that can sign it the better. I think that on a former occasion I pointed out that the more simple the interests of an individual State may be, the more easy it is for them to forecast matters of complication which may arise at any time to disturb their policy; the more simple their interests, the easier it is for them to accept a clause of this description; and the main reason why it is impossible for Great Britain to commit itself to a clause of this kind is because our interests are so complex, so scattered, and are so dependent upon not one Government but a number of equal Governments, all Governments of His Majesty the King of Great Britain, that it is much more difficult for us to form any clear view as to the possibilities of the future than it is for States with simpler interests.

In the document which was prepared by the British Government and submitted to the Bureau before our present session, this matter was discussed; and in order to avoid wearying the Committee with a restatement, I would venture respectfully to refer the Committee again to that portion of the document which deals with this particular Optional Clause of the Permanent Court. While we feel that it is impossible for us, in present circumstances, to sign the clause, we do want other people, who have not got the same difficulties, to sign it, and to encourage those who are in a similar position to sign it. I venture to submit to the Committee that, although our inability to sign it at first sight appears to be inconsistent with our urging, as we do here, other people to sign it, yet there is no real inconsistency if you look below the surface and see our reason for our action in both cases.
My chief object in rising on this occasion, when we are going to accept this draft, is merely to repeat our position, so that it may be quite clearly seen that we have not in any way abandoned the position that we took up or modified it at all in any way when we have made ourselves responsible for this draft of the Drafting Committee and are, moreover, willing that it should be accepted by this Committee and used as an encouragement and an incentive to as many States as possible accepting this contribution to the maintenance of peace.

The draft resolution regarding the Optional Clause of Article 36 of the Statute of the Permanent Court of International Justice was adopted.

45. Draft Resolution concerning the German Suggestions (Annex 7, VI, and Appendix).

The CHAIRMAN. — The Drafting Committee, after drafting the text of the draft resolution, proposed, on the suggestion of some delegations, that the Committee should choose M. Rolin Jaequemyns, representative of Belgium, to fulfil the duties of Rapporteur.

The draft resolution was adopted.

M. Rolin Jaequemyns was appointed Rapporteur.

46. Draft Resolution concerning Communication with the League of Nations in Times of Crisis (Annex 7, V (b)).

The draft resolution was adopted.

47. Draft General Convention on Judicial Settlement, Arbitration and Conciliation (Convention B) (Annex 7, III (b)).

The CHAIRMAN. — We now pass to the question of the draft model General Convention on Judicial Settlement, Arbitration and Conciliation.

As you are aware, the Drafting Committee was instructed to draw up three drafts, a draft General Convention on Arbitration to cover all disputes of a juridical and political nature, a draft Convention on Arbitration providing for the use of arbitration in disputes of a juridical nature only and providing for conciliation in respect of other classes of disputes (Convention B) and a draft Convention on Conciliation. At the moment we are dealing with Convention B, but we shall find once more in the draft Conventions on Security and Arbitration which we are going to discuss to-morrow a large number of questions raised in this document.

I will call on members to make any general observations they desire and then we will discuss the document page by page without reading it.

M. UNDEN (Sweden). — The draft collective treaty of arbitration and conciliation which we are now discussing is in its main essentials in conformity with the draft general treaty submitted by the Swedish Government and with the principles forming the basis of the bilateral Treaties of Locarno.

I should like to express my thanks to the Drafting Committee, which took the view that the Swedish draft could serve as a basis for a collective treaty, and I am pleased to note that the work of the Drafting Committee has successfully improved it.

During the general discussion, I had the honour to put forward certain observations regarding the connection between the Council on the one hand and arbitration tribunals and conciliation commissions on the other. This problem has been discussed at great length by the Drafting Committee and in certain respects there were divergences of view. The stipulation found in Article 31 of the draft now submitted to us by the Drafting Committee which corresponds to similar provisions in the model treaties which we shall examine to-morrow does not pretend to solve this problem. The provision in question is not intended to complete or change or interpret the Covenant. It is merely there in order to recall the fact that, according to the provisions of the Covenant, the Council can, in cases of exceptional gravity, intervene at any moment in international disputes with a view to the maintenance of peace and that it can take the necessary measures to this effect. The Council’s resolution dated March 13th, 1924, to which I drew your attention during the general discussion, and which interprets the Covenant in so far as the connection between the Council on the one hand and arbitration tribunals or conciliation commissions and arbitration tribunals on the other is concerned, would remain quite unaffected even if the present draft collective treaty of arbitration and conciliation were adopted and enforced.

We are to examine two other draft collective treaties, one of which provides for compulsory arbitration for all international disputes of whatever nature, and the other confined to laying down the procedure of conciliation.

I should like to say immediately that, in my view, the present model treaty best corresponds to the present international situation. The conclusion of such a treaty between a large number of States is not, I think, a Utopian project at the present time and cannot be considered as too rash or premature. The conclusion of a treaty of this nature would constitute a great step towards the object which we are pursuing. I hope, therefore, that the next Assembly, when choosing between the various model treaties submitted, will share my view and will recommend the model collective treaty now before us.

M. SATO (Japan). — When examining the programme of our work submitted to us by the Bureau, I found no mention of the drafting of special treaties of arbitration except a vague mention at the end of the programme and referring to the possible establishment of such model bilateral treaties.
During the seventh meeting of our Committee, however, held on Friday, February 24th, Lord Cushendun, representative of the British Empire, during the examination of the problem of model treaties of arbitration, pointed out that a large number of delegations considered general treaties to be at the moment useless and inopportune, and that this opinion was also to be inferred from the three memoranda submitted to us.

I also expressed the same view, as well as other members, and asked expressly that the Drafting Committee should be instructed to draw up a model bilateral agreement, though I stated that I had no objections to the proposal that the Drafting Committee should also draw up a model general treaty. Subject to these conditions and with these reservations, I assented to the preparation of a general arbitration treaty.

The Chairman himself said that he was deferring to the wish expressed by Lord Cushendun for the elaboration by the Drafting Committee of one or several special model treaties on arbitration and conciliation.

If we now examine the result of the work of the Drafting Committee, it seems that no model bilateral treaty has been framed. In order that no misunderstanding may remain in regard to the meaning of this absence of a model bilateral treaty, I would like to see inserted explicitly in the report of our Committee a reference explaining that we did not think it necessary to draft a model treaty of that kind simply because, as the Chairman has just said, the model would only differ slightly from a general treaty, but that it was not our intention merely to recommend a general treaty to the exclusion of special treaties.

In that sense, I shall be able to associate myself with the proposal that the various Governments should be recommended to examine the resolutions of our Committee on arbitration.

The CHAIRMAN. — M. Sato is certainly right, and we must meet his wishes. I think we may do more than he has asked us to do. The Drafting Committee, when this question was examined, decided that it would be well to explain in the report for what reasons a particular course had been adopted. The report would mention points which would have to be examined during our next session, and one of the questions for examination is precisely that to which the Japanese representative has drawn our attention. In this connection, we intended to point out that clearly there would only be very small differences, as M. Sato has said, between a general treaty and a bilateral treaty, but that we thought it necessary to draft a bilateral treaty, leaving this work over, however, for our next session. The reasons for such a postponement are lack of time and the desire to distribute the work and the publication of the documents.

The request of M. Sato is accordingly justified. We shall defer to his wishes not only in the report but on the question of substance. A model bilateral treaty will be drafted.

M. SATO (Japan). — I very cordially thank you, Mr. Chairman, for the explanations which you have just given, and which entirely meet my wishes.

M. MARKOVITCH (Kingdom of the Serbs, Croats and Slovenes). — I would venture to make two general observations. The first relates to the Convention which we are now discussing, and the second deals with the relationship of that Convention to security—in other words, to the essential task of our Committee.

As regards the draft Convention itself, I will at once fully associate myself with the congratulations addressed to the Drafting Committee by the Swedish delegate on the remarkable work that has been done. The Drafting Committee was placed in a very delicate situation. It had to create new machinery, while remaining within the limits of the Covenant, which might give the nations a greater feeling of security and introduce greater confidence in international relations. After studying the draft Convention submitted to us, I must confess that I regard it as a work of great importance. All is provided to meet the essential object of all the delegations, which is to achieve a normal and pacific settlement of international disputes. The Covenant already lays emphasis on the pacific settlement of disputes, but the system now offered increases the guarantees of security.

This system postulates the obligation for all States which are parties to the Convention to submit to arbitration or judicial settlement disputes of a legal character. For disputes of a legal and a political character a procedure of conciliation is provided by means of permanent or special commissions.

If the attempt at conciliation does not succeed, disputes of a legal character are submitted either to arbitration or to the Permanent Court at The Hague, and disputes of a political character are submitted to the Council under Article 15 of the Covenant.

I entirely approve the principle of the General Convention, because I consider that by this means we remain within the limits of the Covenant. The Drafting Committee, however, has very rightly deferred to the wishes of certain delegations and retained the possibility of framing bilateral treaties. On behalf of the Serb-Croat-Slovene delegation, I accept the draft Convention submitted to us.

I come now to my second observation. I think that an arbitration Convention should result in the creation of an atmosphere of mutual confidence more favourable to peace than that which at present exists. I express the hope that this Convention will be embodied in the practical policy of States, and that the Assembly of the League of Nations in September next will warmly recommend its adoption.

In expressing this desire, I would emphasise that the application of this Convention represents a small step forward towards those guarantees of peace which people are expecting from the League of Nations. It must, however, be noted that the integral application of this Convention leaves the present gap in Article 15 of the Covenant, and leaves intact the
question of the practical application of arbitral awards. I also recall the fact that all the scruples expressed in the memorandum of the British Government on arbitration, and the conclusions of that memorandum advising the nations to proceed gradually by stages, allowing time to do its work, retain their full value even after the adoption of the proposed Convention.

I express the hope, in conclusion, that the nations will make at least this step in advance, in other words, that they will adhere to the Convention submitted to us, and I accept that Convention on behalf of my Government.

Lord CUSHENDUN (British Empire). — Mr. Chairman,—I should like to associate myself with what was said just now by the Japanese delegate, and I agree that the answer which you were given is satisfactory so far as concerns the points raised by M. Sato. But there is another point in the same connection which I should like to mention: I have a note of the discussion which took place on February 24th, to which M. Sato referred, and I remember that the opinion which he expressed, if not hostile to, at all events had less regard for, general treaties than for treaties of a more limited character. It was shared, as he has told us, by a good many delegates. I think I remember that the Italian delegate was one, and I certainly felt very strongly on that point. I remember that it was then understood that, while we were all quite ready to produce a draft general treaty which might be of use for those who required it, our doing so would not mean that the Committee expressed any preference for a general treaty over a bilateral or regional pact, and I would like that understanding to be emphasised and to appear in the final report of our Committee. The Committee expressed no preference, as I say, for a general treaty. I myself, like M. Sato, expressed a preference for the other way, and I should like to repeat why I prefer a treaty of a more limited character. It is not that I or the Government that I represent have any objection in principle to a general treaty; on the contrary, I believe a general treaty in certain circumstances might be of the utmost value, but what we feel is that we have already got— we have all got—the best possible general treaty which can be produced in present circumstances in the Covenant of the League of Nations, and you, sir, emphasised that in the valuable Introduction which you contributed to the drafts. Now, I think it is very desirable that the Committee, approaching the end of its labours, should again emphasise what we began with—that, after all, the Covenant of the League of Nations is a general treaty which gives a very large measure of security. It is because we feel that no other general treaty of the same character, attempting to cover the same ground and possibly to fill in what may be found to be gaps, or imagined to be gaps, in the Covenant, can do so that we do not believe that sort of treaty will materially contribute to the security which we want as a foundation for disarmament.

I am frankly sceptical as to the additional security that would be given by a general treaty of this sort. Of course, I acknowledge that I may be quite wrong in that opinion. There are certain of our colleagues here who hold strongly the other view, that a general treaty has some special value in contributing to security. The Committee may smile when I once more mention the words “practical proposals”; I am afraid I am always expressing my preference for practical proposals, but I should like in this connection to make a practical proposal which would serve as a very good test, as between these two views, whether a general treaty gives security or not. My proposal would be this.

I like speaking quite frankly in this Committee. All our endeavours to produce security are directed to one thing and one thing alone—to enable us at a later date to proceed with disarmament, and to give us time to do anything that we can do may be tested by its effect in regard to disarmament. Now, I would like to give an invitation (or let me call it a friendly challenge) to those of our colleagues who feel strongly that a general treaty would give a great deal of security to tell us precisely, supposing that we all signed the draft treaty tomorrow, what disarmament that would produce in their own countries. I would like to go beyond general expressions; I would like each of you to give absolute figures indicating what your country would be prepared to do in the way of disarmament if we all signed this draft treaty. I think my friend M. Markovitch might be the leader. He has just made a powerful speech in favour of general treaties; he has told us that he thinks they will contribute largely to the security of the world. Well, I want to know what the great country which he represents here would be prepared to do in regard to men, guns, or whatever it may be, giving actual figures, in practical disarmament if we all signed this draft treaty.

I throw that out as a friendly challenge, and I will say beforehand that, if M. Markovitch, heading this movement, can get a large number of States to show with guarantees that the signature of this treaty will produce a large measure of disarmament, then I and the British Government are open to conversion. We keep an open mind on the subject, and I will come forward at the proper time with my tribute to M. Markovitch and will show that he has really been the one of all of us who has given a real contribution to the work of securing the peace of the world.

M. RUTGERS (Netherlands). — I do not think that this is the moment to go into the articles of the Convention in detail. We shall have an opportunity of doing so at a second reading, and we shall have time to examine it again.

I would nevertheless observe that, with M. Undén, I prefer a treaty of the kind submitted to us. It is not that I wish to say anything in depreciation of bilateral treaties. I am well aware that the history and records not only of the British Empire but of many States provide us with model bilateral treaties which have marked a very considerable progress along the path of arbitration. Nevertheless, I will venture to repeat, because I feel obliged to do so, an argument which has been already put forward more than once.
I attach a great importance to collective treaties, and I have asked permission to speak owing to the intervention of Lord Cushendun, who has asked for figures. Lord Cushendun has made a practical proposal. He has said that he has a preference for bilateral treaties, and he has asked us to show by figures what collective agreements have done for disarmament. I do not know whether the reply which I am about to make will satisfy Lord Cushendun, but I will give him the following figures: if a collective treaty is signed by two Powers only, it will do as much for disarmament as a bilateral treaty. If it is signed by five Powers it will be equivalent to ten bilateral treaties. If it is signed by twenty Powers, it will do for disarmament as much as one hundred and ninety bilateral treaties. If, according to the hypothesis of Lord Cushendun, this collective Convention is signed by forty-four Powers, it will do as much for disarmament as nine hundred and forty-six bilateral treaties.

I think I have gone as far as possible to meet the request of Lord Cushendun, and it seems to me that my figures are very much to the point.

M. Markovitch (Kingdom of the Serbs, Croats and Slovenes). — I thank the delegate of the British Empire for having considered my arguments, but I think that in this case he is under a misunderstanding, since, in the opinion of the Serb-Croat-Slovene delegation, it is not the question of a general treaty or a special treaty which is the most important.

I have spoken on behalf of general treaties because such treaties are more in conformity with the Covenant and in harmony with the principles of the League of Nations—in other words, the principles of co-operation between all nations for the maintenance of peace.

I entirely agree with the British delegation as regards the practical effect of arbitration. I consider that it is essential for a particular country to arrange for arbitration with another particular country, and especially with a country with which it will most likely find itself in dispute. If, however, a particular country concludes some twenty arbitration treaties and leaves out the country which is most closely associated with it, I do not think that it can regard itself as being in a state of security as a consequence of the treaties which it has signed.

As to the effect of arbitration on the question of security, I ventured in my previous speech to quote the memorandum of the British Government, because I feel any statement of the British Government must receive the most careful attention of our Committee. The memorandum contains arguments which are serious and well considered. Moreover, its considerations are of a practical character, a fact which for me is essential, and a fact to which Lord Cushendun himself referred.

While, therefore, I thank the British delegate for his observation, I feel bound to say that I do not think that it should be addressed to me.

M. Undén (Sweden). — As a supporter of general treaties, I would also venture to reply to Lord Cushendun, not by quoting the exact figures for which he asked but by a general observation.

I do not think it is possible exactly to measure the influence of a general arbitration treaty on security. I do not think that Lord Cushendun can indicate the exact influence on security of a bilateral arbitration treaty, which he recommends us to adopt. I think it would be rather difficult to indicate by precise figures the influence which the Locarno Treaties may have had on reduction of armaments of the contracting countries. I should, however, be happy to realise that I am mistaken, and I would venture very respectfully to ask Lord Cushendun to inform us, if it is possible to do so, to what precise extent the Locarno Treaties, of which he is a very decided supporter, may have reduced or might reduce the armaments of the contracting countries.

In my opinion, any attempt to strengthen the League of Nations by developing the system of arbitration is of considerable general importance for the maintenance of peace, even though it may not be exactly measured.

The Chairman. — I think we can close this very interesting discussion and pass to more definite questions, that is to say, the discussion of the articles.

In conclusion, I would point out that we can satisfy Lord Cushendun by expressing no preference in the report for any particular form of treaty. We have been asked to draw up models of bilateral treaties and general treaties. We have fulfilled our task and we have begun by drawing up a model general treaty. The Drafting Committee was not asked to express its preferences. Any preference in this respect must be unanimously expressed. In view of the fact that there are divergences of view, no preference can be expressed either one way or the other.

As far as the second question is concerned, we are not yet ready to deal with it in a concrete manner. We can only prepare the ground. When we have to discuss, from a political point of view in an international conference, questions of figures, we shall be able to take into account treaties of arbitration and security, the general position and the relations existing between the various countries. It would be premature to open such a discussion now.

M. Politis (Greece). — I desire to say a few words to confirm what you have just said and to reassure all our colleagues by stating clearly that neither the Drafting Committee nor its Sub-Committee lost sight of the desire of the Committee to receive several types of arbitration treaties, both special and collective. The reason why the Drafting Sub-Committee began by dealing with collective treaties was because it thought that that task was the more difficult and that it was necessary to use the short time at our disposal in tackling the hardest work. Once a draft collective convention has been drawn up, nothing is easier than to draw up special treaties based on the general draft. When you have examined the three draft Conventions, A, B and C, you will be convinced that, in order to transform them into special treaties, it is only necessary to change the word “collective” into the word “special” and
to put two persons where several are mentioned and to change their protocols. This is a very easy task. We regret—and I express this regret on my own behalf and on behalf of my colleagues on the Committee—that we have not had the necessary time to do this work which I can describe as easy, and we regret that we have not been able to submit to you a model special treaty simultaneously with the model collective conventions. You must excuse us, but I hope that you will take account of the enormous burden of work given to the Drafting Committee and not blame it too severely for having been unable entirely to finish its task.

To-morrow you will have an opportunity of examining a draft resolution already drawn up dealing with the presentation and recommendation of the various model Conventions now drafted. You will note in this draft resolution that we have not forgotten special treaties. We have even gone further than you could desire, because we have met the possibility of a country which did not desire by its signature to contract an obligation towards all countries contracting parties to a collective convention, accepting the provisions of this collective convention in respect of one or more named countries by means of a very simple procedure indicated in the draft resolution.

M. CHUAN CHAO (China). — On behalf of the Chinese Government, I wish to congratulate the members of the Drafting Committee for the efficient manner in which they have carried out the work we have entrusted to them. As I did not take part in the preliminary debate of this Committee, perhaps you will allow me to extend the congratulations I have just given to the Drafting Committee also to our most able Chairman, M. Benes, to the Vice-Chairman, M. Undén, and to the three Rapporteurs, for the services they have rendered to us.

I did not take part in the preliminary discussion because all the views which the Chinese Government desired to see laid before this Committee had then been expressed in one way or another by the different speakers. I therefore abstained in order not to prolong the discussion unnecessarily. But at this moment, when we are entering into the second stage of our discussion and when we have to face concrete proposals, I would like to ask for your indulgence in permitting me to propose a change in the second paragraph of the Preamble in the text of the Model Convention B (Annex 7, III, (b)). The text as drafted reads as follows:

"Noting that respect for rights established by treaty or resulting from international law is obligatory upon international tribunals . . . ."

The words in which I wish to call your attention and to see deleted are "established by treaty or". In other words, the principle of respect for rights established by treaty is so generally accepted that it does not appear necessary for us to repeat it in this model Convention. Moreover, it has been expressly provided for in the Covenant of the League of Nations, which says, in the Preamble, "and a scrupulous respect for all treaty obligations in the dealings of organised peoples with one another". The point has been very fully covered there, and I really could not see any necessity for us to repeat it here in a different form.

There is yet another reason why an inclusion in the text of this model Convention of the words in question would be objectionable, that is, those words may come into conflict with Article 19 of the Covenant. In the said article, it has been clearly provided that:

"The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world."

Suppose we, in insisting on retaining in the text of the model Convention the words "respect for rights established by treaty . . . . is obligatory upon international tribunals", should happen to force any international tribunal to respect an inapplicable treaty or to maintain conditions whose continuance might endanger the peace of the world, I am very much afraid that we should not be fulfilling our duties as delegates to the Committee on Arbitration and Security, whose sole aim is to maintain the peace of the world by settling all international disputes through peaceful means.

In view of these considerations, I hope sincerely that my colleagues on this Committee will agree with me in not insisting on retaining in the text the words "established by treaty or " and in having them deleted. Being all warm partisans of the principle of the maintenance of world peace by settling all international disputes through judicial settlement, arbitration and conciliation, we certainly will not insist on the inclusion in the text of the model Convention the provision in question, which may eventually compromise the very aims of such Convention and preclude many countries from availing themselves of the service which this model Convention may be able to give.

The CHAIRMAN. — The observations of the representative of China are important. I fear, however, that we shall be unable to give him satisfaction, for the following reason.

This principle has been adopted in practice in all the draft treaties of arbitration and conciliation which we have drawn up. For reasons which I think it useless to repeat, the preambles of treaties of this kind contain a certain number of general principles which are necessary and which indicate the broad general spirit of the treaty. These general principles are similar to those expressed in the Preamble to the Covenant. They recall that it is necessary, once a convention exists, to apply it, for if it is not applied there is no reason for its existence.

As far as the reason put forward by the Chinese representative is concerned and its connection with Article 19 of the Covenant, I think there is a misunderstanding. There is no question of guaranteeing the existence of treaties for good and all. Treaties can be amended. At the moment, a particular treaty is applied. To-morrow another treaty may be applied, but the principle of treaties is always applied. Consequently, the reasons given by M. Chuan Chao do not seem to me to be well founded.
On the contrary, the reason which I have just given seems sufficient to maintain the text as at present drafted. All the more also as we have taken the Locarno Agreements, which contain the same principle, as our example when drawing up our model treaties. I think, therefore, that it would be somewhat difficult to change our point of view and suppress so essential a principle.

The representative of China may perhaps feel satisfied if his observations are inserted in the Minutes. The Minutes of our session will be annexed to our proposals, which means that his point of view will be on public record. It will be difficult, however, for us to go further, more especially as this question was discussed at great length in the Drafting Committee.

M. CHUAN CHAO (China). — I thank the Chairman for the explanations he has been kind enough to give.

M. VALDÉS-MENDEVILLE (Chile). — I do not wish to prolong the discussion, but I wish to associate myself with the observations made by the Chairman. The point of view which he has expressed is precisely that which I upheld the first time I spoke during the general discussion. The sentence in question is of great importance and I emphasised that myself.

The draft Convention as a whole was adopted without amendment, page by page.

The Committee rose at 7.25 p.m.

THIRTEENTH MEETING.

Held on Tuesday, March 6th, 1928, at 6 p.m.

Chairman: M. BENES (Czechoslovakia).

48. Procedure.

The CHAIRMAN. — Our programme consists to-day in the discussion and adoption of three model Conventions:

1. A General Convention for the Pacific Settlement of all International Disputes (Convention A).

We have also to examine a draft resolution submitting the model Conventions on Arbitration and Conciliation.

The first two models are practically the same as Convention B, which we adopted yesterday. We shall therefore be able to discuss them fairly quickly.

I suggest we proceed in the following manner.

I will indicate the passages which have already been adopted, so that we shall not have to return to them. The general observations made yesterday apply to a very great extent to these two Conventions. In these circumstances, I think it useless to reopen the general discussion.

49. Draft General Convention for the Peaceful Settlement of all International Disputes (Convention A) (Annex 7, III (b)).

The CHAIRMAN. — The Preamble has already been adopted.

There is a slight difference in the second part of Article 1. In Convention B, it is merely a question of the settlement of juridical disputes by arbitration, while the Convention now before the Committee deals with the peaceful settlement of all disputes, both juridical and political. Article 1 has therefore been amended. Article 9 is a new article. Article 25 is new, because account has had to be taken of the differences between Convention A and Convention B. This article is only an adaptation. The following articles deal with the special procedure. It has been necessary to put them in this form because the Convention deals with the submission of all disputes to judicial settlement. Article 34 has been amended to a certain extent in order to adapt it to Convention A.

The draft Convention was adopted without observation.

50. Draft General Convention on Conciliation (Convention C) (Annex 7, III (b)).

The CHAIRMAN. — We have now to examine the draft General Convention on Conciliation.

In the two previous Conventions we have adopted a text covering the procedure on conciliation. Since we were instructed, however, to draw up a special model Convention on Conciliation, we have prepared a draft which contains certain chapters which are identical with those in other Conventions concerning conciliation. The wording of the remaining articles is such that they cover the procedure on conciliation only.

The first part of the Preamble applies to conciliation only. It is a new text. The second part is the same as that which we have already adopted in the case of the two other Conventions. The first three articles also concern conciliation alone and, though somewhat alike, differ in
certain respects from those in the other Conventions. Articles 4 to 19 are the same as those in
the previous Conventions. Articles 20 and 21 have a certain likeness to those in the other
Conventions, but they deal only with conciliation. Article 20 corresponds to Article 27 in
Convention B and Article 21 to Article 22 in Convention B. Articles 22 and the following are
the same as those in the previous Conventions.

The draft Convention was adopted without observation.

51. Resolution submitting and recommending the Model General Conventions on Conciliation,
Arbitration and Judicial Settlement (Annex 7, III (c)).

The CHAIRMAN. — The Drafting Committee has deemed it necessary to draft a resolution
to serve as an introduction to the three Conventions, A, B and C, which we have just adopted.

M. RUTGERS (Netherlands). — I do not wish to take up the Committee's time with
details. We shall have an opportunity of doing so when the second reading takes place. I
desire to make an observation of a general kind.

In reading this resolution, I note that these model General Conventions are recommended
to all States, Members or not of the League of Nations, for examination. I would have preferred,
however, that these drafts should be brought to the attention of the general Assembly
with a view to their adoption.

I can, however, agree to this resolution, for I have discovered certain traces of my own
views included in it. The draft mentions General Conventions in two places. If these Conven-
tions are examined, it is to be noted that, as far as Convention A is concerned, the date of
the Convention will be the day of its adoption by the Assembly. In another passage mention
is made of a date fixed at one year after the adoption of the Convention by the Assembly.

It appears, therefore, that, although the Committee confines itself to asking the Assembly
to recommend these draft Conventions to the examination of States whether Members or not
of the League, these Conventions will in actual fact have to be adopted by the Assembly itself
in order to become General Conventions in the real sense of the word, concluded under the
auspices of the League.

For these reasons, I can support the proposal submitted to us, although it contains
expressions which I should prefer not to have been used.

M. UNDEN (Sweden). — I would prefer a resolution only stipulating that the various
model treaties which we have drafted should be presented to the Assembly and leaving the
Assembly itself to decide what measures ought to be taken in the future, and also to state
which model treaty it prefers. Nevertheless, I do not desire to make any proposal.

The CHAIRMAN. — I would add that we can adopt the resolution as it stands. It is
quite understood, however, that the Assembly is sovereign in the matter, and that it can
adopt the text or change it. Its Third Committee will deal with the matter. Any amendments
or objections can certainly be made when the resolution is discussed by the Assembly.

The resolution was adopted.

52. Draft Collective Security Treaty (Treaty D) (Annex 7, IV (b)).

The CHAIRMAN. — By voting these three model Conventions and the resolution, as well
as the resolution covering the Optional Clause of the Statute of the Permanent Court of Inter-
national Justice, the Committee has finished all its work in regard to arbitration and conciliation.

We pass, therefore, to the discussion of the questions concerning security. The Treaty
before us concerns the important question of security. We are now discussing something
new, and we will proceed in the same manner as yesterday, when we discussed the first
Convention on Arbitration and Conciliation (Convention B).

Nevertheless, in the Treaty of Security which we are now to discuss, there are articles
concerning the peaceful settlement of disputes, the questions of arbitration and of conciliation.
These articles are very similar to, or even identical with, those which we have adopted in the
Convention on Arbitration and Conciliation, which means that the discussion of these articles
will not be necessary. We will only discuss those articles which concern security.

Articles 5 to 35 deal with the peaceful settlement of disputes, and have already been
adopted in the Convention on Arbitration and Conciliation. It will therefore be unnecessary
for us to examine them again.

Article 36 deals with the duration of the Treaty. Certain observations were added
to this article. They refer to the three systems which can be adopted in regard to the length
of the Treaty.

The draft Treaty was adopted without observation.

53. Title of Draft Treaty D.

DR. RIDDELL (Canada). — I do not know whether I am in order in raising this question now,
or whether it should come up during the discussion of the resolution relating to draft Treaty D.
The question I wish to raise may not seem of very great importance; it deals with the title
of this Treaty. This is called a "Treaty of Security". We have passed a resolution with
regard to Treaties of Conciliation, Arbitration and Judicial Settlement. In the opinion of
the Canadian Government, these are as much treaties of security as is a treaty of mutual
assistance, and I therefore suggest that the Treaty we have just been considering should be
called a "Treaty of Mutual Assistance" or a "Treaty of Non-Aggression". As I see it,
these four types of treaty all go to make up security, and it is unfair and gives a wrong picture
of our deliberations here to say that we put arbitration, conciliation and judicial settlement
on one side and apply to the treaty that embodies sanctions the word "security". In the opinion of the Canadian delegation and the Canadian Government, all these things are factors in security, and I think we should either give them all the title of "Treaties of Security" or give them all separate names and follow, in the fourth case, the same procedure as in the others, and call this Treaty a "Treaty of Non-Aggression and Mutual Assistance".

Lord CUSHENDUN (British Empire). — I should like in a very few words to express my complete agreement with what has been said by the Canadian delegate. I think the word "security" is of general application and applies equally to a Treaty of Arbitration, of Conciliation, or of Mutual Assistance. I think, in the interests of clarity, it would be well to keep that word of general application, and have a more particular designation for each of these separate Treaties. I entirely agree, therefore, with what my friend from Canada has said.

The CHAIRMAN. — The observations of the representatives of Canada and the British Empire are perfectly correct. We can perhaps call the Treaty which we have just examined a "Treaty of Mutual Assistance", or else return to the title which we have already used in certain documents and say a "Treaty of Non-Aggression and Mutual Assistance". But I think it would be sufficient to say "Treaty of Mutual Assistance".

M. VON SIMSON (Germany). — I desire to draw attention to a difficulty which will certainly arise. We have prepared three models, of which the first is now under discussion. I would point out that we have a model Treaty of Security, in which there is no mention of mutual assistance. If, therefore, we change the title of "Security Treaties" and replace it by the title "Treaties of Mutual Assistance", we shall have a treaty of mutual assistance without mutual assistance. For this reason, I think it is better to use "Treaties of Non-Aggression".

The CHAIRMAN. — I think we can find a compromise. We have drafted a model Treaty providing for mutual assistance, and another which does not provide for it. The collective Treaty which we have adopted to-day comprises mutual assistance, peaceful settlement and non-aggression. To-morrow we are to examine a Treaty of Non-Aggression combined with the Peaceful Settlement of Disputes. In the draft which we have adopted to-day, we have emphasised the idea of mutual assistance. In the draft to be submitted to us to-morrow, the idea on non-aggression is emphasised. Could we not call the Treaty we are now adopting a "Treaty of Mutual Assistance" and the Treaty to be adopted to-morrow "Treaty of Non-Aggression"?

This proposal was adopted.

54. Resolution concerning the Submission and Recommendation of the Models of Treaties of Security (Annex 7, IV (c)).

The CHAIRMAN. — This resolution is similar to the one which we have just adopted regarding arbitration and conciliation.

Dr. RIDDELL (Canada). — In view of the decision we have just taken, it will be necessary to alter the phrase: "Having noted with satisfaction the model Security Treaties" to read: "Having noted with satisfaction the model Treaties of Non-Aggression and Mutual Assistance".

The draft resolution was adopted with this amendment.

Lord CUSHENDUN (British Empire). — I should like to make a suggestion, though I do not wish to press it in the least if anybody objects. I think it is desirable that we should make our report as little voluminous as possible, and that we should have as little matter in it as we can. We have passed three or four resolutions in very similar terms covering the various forms of draft Treaty which we are forwarding to the Assembly; would it not be better to combine these resolutions without mutual assistance, and call this Treaty a "Treaty of Non-Aggression" and the Treaty to be adopted to-morrow "Treaty of Non-Aggression"?

This proposal was adopted.

Note by the Secretariat. — Account was taken of this decision in the present document.

The Committee rose at 7.20 p.m.
FOURTEENTH MEETING

Held on Wednesday, March 7th, 1928, at 2.30 p.m.

Chairman: M. Benes (Czechoslovakia).


The Chairman. The first question on our agenda concerns the Introduction to the Prague memoranda. The original draft resolution was put forward by the British delegation. It has been several times amended and its final form was adopted by the Drafting Committee and is now before you.

This resolution was adopted without observation.

56. Introduction to the General Conventions on Arbitration and Conciliation (Annex 7, III (a)).

The Chairman. This Introduction states the principle followed by the Committee of Three and the Drafting Committee in drawing up Conventions A, B and C. It states the various questions which arose, the difficulties which had to be overcome and the rules which were followed in drawing up the final draft of these three Conventions.

The Introductory Note was adopted without observation.

57. Draft Collective Treaty of Non-Aggression (Draft E) (Annex 7, IV (b)).

The Chairman. Yesterday we adopted Convention D dealing with mutual assistance, the pacific settlement of disputes and non-aggression. To-day we are to examine the draft Collective Treaty of Non-Aggression and for the Peaceful Settlement of Disputes. In its essential principles the text of this Treaty is more or less the same as that which we adopted yesterday. The articles concerning mutual assistance are obviously not included in it and account has been taken in drafting Treaty E of the fact that anything dealing with mutual assistance had to be eliminated.

I would draw your attention to Article 35 concerning the duration of the Treaty and the date of its coming into force. The observations made yesterday regarding the draft Collective Treaty of Mutual Assistance also apply to Treaty E.

Article 36 contains the clause concerning adhesion to the Treaty. There was no similar clause inserted in Treaty D, which we adopted yesterday. In a treaty of mutual assistance it is indispensable for the signatories to possess absolute mutual confidence and such a treaty cannot be open to the signature of States. This does not apply in the case of a treaty of non-aggression and for the peaceful settlement of disputes. Such a convention, by its very nature, must be open to the adhesion of States.

The Committee of Three and the Drafting Committee have therefore thought it necessary to insert a special clause in Treaty E.

Lord Cushendun (British Empire). For reasons which I can very well understand, owing to the high pressure with which the work has been done, I have not up to the present received the English translation of this document, and therefore I hope that it will not be thought unreasonable if I make this reservation—that my assent to it must be conditional on the satisfactory English text being produced later.

Draft Treaty E was adopted without observation.

58. Draft Bilateral Treaty of Non-Aggression Treaty F (Annex 7, IV (b)).

The Chairman. This Treaty is a bilateral Treaty of Non-Aggression, identical with the Collective Treaty which we have just adopted after account has been taken of the necessary modifications or deletions required by the character of a bilateral treaty. For example, Article 29 of Treaty E, which covers the case of disputes between more than two parties, has been deleted. The clause regarding adhesion has also been deleted because Treaty F is a model bilateral Treaty and adhesion to it is consequently not possible.

These are the only differences in text, which is otherwise the same. I think that, in these circumstances, it is not necessary to proceed to the adoption of this Treaty page by page or chapter by chapter. I submit it to you in its entirety.

The draft Treaty was adopted without observation.

59. Introduction to the Model Collective Treaties of Mutual Assistance and of Collective and Bilateral Treaties of Non-Aggression (Annex 7, IV (a)).

The Chairman. I desire to draw your attention to this note, which is of a certain importance. It contains the same principles as the note concerning the Treaties of Arbitration and Conciliation. The reasons which guided the efforts of the Drafting Committee are stated in it. An account has been given of the principles and ideas expressed either in the plenary.
meeting of the Committee or at the meetings of the Drafting Committee. The reasons why certain questions have been inserted and others omitted are explained.

The spirit in which the Preamble and various articles have been drawn up is explained, together with the manner in which the Committee regarded the question of preventive and provisional measures; the re-establishment of peace after an act of aggression; the establishment of demilitarised zones; the question of the adhesion of third States; the question of aggression on the part of third States; the duration of treaties of mutual assistance; the connection between these treaties and disarmament; and, finally, the difference between the various Treaties of Mutual Assistance and of Non-Aggression.

The Introduction was adopted without observation.

60. Resolution concerning M. Rutgers' Memorandum on Articles 10, 11 and 16 of the Covenant (Annex 7, V (a)).

This resolution was adopted without observation.

61. Draft Resolution regarding Financial Assistance (Annex 7, V (c)).

The resolution was adopted without observation.


Lord Cushendun (British Empire). - I do not know whether it is essential that the Chairman should be instructed to convene the third session not later than the end of June 1928. I should be inclined to suggest that we should insert at the end of that clause the words "unless requested in writing, by two-thirds of the members of the Committee, to convene it at a later date". That would give more elasticity. I can imagine it may be found, as we approach the end of June, that it may be more convenient to meet at a later date, and I think it would be convenient, at any rate, to give discretion to the Chairman to postpone the meeting, if requested by a number of members to do so.

In addition to that, I understand that this report, at some stage, will have to be submitted to the Governments and I think, therefore, it will be desirable that we should know at what date the report will be ready in order that there may be sufficient time for the Governments to consider it before it comes back to this Committee.

The CHAIRMAN. - I will reply in the first place to the second question. The documents examined by us will be collected in a single text and the report will be ready at the beginning of next week. The Committee will then send these documents to all its members and then to Governments.

It is understood that the work which we have accomplished should not be considered final. We shall have a second reading. Consequently, Governments will be able to discuss these documents not only when the Assembly meets but when they are read a second time.

I see no objection to adopting the proposal of Lord Cushendun concerning the sentence to be added to the first paragraph. Whether it is possible to fix the third session of the Committee at a more or less distant date depends on the work which may be done by Governments.

M. Politis (Greece). - I have no objection to the view just expressed. I desire merely to draw attention to the fact that, in any case, it is necessary that the second reading should take place soon enough for the Council to be able in its turn to take the necessary steps in order that the work of this Committee may result in the final preparation of the work for the next Assembly.

In view of the fact that the Council is accustomed, unless I am wrong, to draw up the Assembly's agenda in June, it would be necessary, if a third session takes place in June or later, to make the necessary arrangements with the Council to protect ourselves from the danger of discovering that our work will not be discussed by the Assembly. I draw the attention of the Bureau to this point.

The CHAIRMAN. - It is obvious that we must prepare our work in such a manner as to make it possible for the next Assembly to take it into consideration. The date of the next Assembly is in this respect final, and must guide us, for if we are not ready for that Assembly there will be a year's delay.

I think, however, that, even if the second reading takes place after the Council session in June, we shall still be able to submit our work to the Assembly. According to the Rules of Procedure, supplementary questions can be placed on the agenda a month only before the date of the Assembly.

Lord Cushendun (British Empire). - I have not the slightest desire to create any difficulties. I am not myself very familiar with the procedure of the various organs of the League, but from what M. Politis has said it seems probable that my suggestion, if it were acted upon, might cause additional difficulties, and in these circumstances I would ask leave to withdraw my proposal.

The CHAIRMAN. - The last sentence of this resolution reads as follows:

"The Committee on Arbitration and Security further expresses the hope that the results of its second and third sessions will be communicated . . ."

I propose to omit the reference to the third session.
I must also submit another amendment concerning Point 5, which reads:

"To continue the study of Articles 10, 11 and 16 of the Covenant."

I propose that this should be replaced by:

"Point 5. To continue the study of the articles of the Covenant in accordance with the resolution of the Assembly of 1927."

The resolution of the Assembly refers to Articles 10, 11 and 16, but does not exclude the future examination of other articles.

These amendments were agreed to and the resolution thus amended was adopted.

63. Account of the Committee's Work from its Creation up to the end of its Second Session (Annex 7, I).

The CHAIRMAN. — It is now for us to examine the account of the Committee's work from its creation up to the end of its second session.

Certain amendments must be made, in view of the amendments in the resolution we have just adopted.

The account of the Committee's work was adopted.

64. Close of the Session.

The CHAIRMAN. — We have now reached the end of our work. As the Drafting Committee thought it useful for a verbal statement to be made at the end of our discussion by one of the Committee of Three who has taken part in the work of the Drafting Committee, it asked M. Politis to make this statement on the procedure followed in connection with our work.

If any member of the Committee desires to give expression to his point of view, to give any verbal explanations or to give his views on the various draft Treaties or on the work of the Committee as a whole, this exchange of views can take place now.

M. POLITIS (Greece). — Mr. Chairman and Gentlemen,—For lack of time, the Drafting Committee has not been able to prepare, in accordance with the practice of the League, a written report on the details and spirit of its work. It has confined itself, as you are aware, to drafting two explanatory notes, which you have already approved, and it has done me the honour to instruct me to complete this by a very short verbal statement.

The short duration of our session has also not made it possible for the Drafting Committee to accomplish everything which you included in the programme of its work. I can say, however, that the essential task is ended. Six model Treaties have been drafted and completed by a series of draft resolutions. You adopted these texts the day before yesterday, yesterday and to-day, when you read them for the first time. It is understood that they are to be read a second time. This, indeed, is essential for more than one reason—first, because in a second reading the wording can be verified and completed, for in places it bears the mark of haste. It is also necessary to read them again in order to ensure that indispensable concordance between the two texts which we have drawn up. A second reading is also necessary to enable the Committee to decide whether, in the two categories of agreements which we have drawn up, any preference should be shown for one or other category. This is a point which has already been referred to, and it was understood, at the request of a certain number of our colleagues, that the model Treaties now drafted should be considered of equal value whether they belonged to one or other category.

Finally, a second reading will be necessary in order to ascertain the final form of these model Treaties which we shall propose that the Assembly shall adopt. We shall have to decide whether they will be models offered to the free choice of States, or whether they will be Conventions made in the name of the League and immediately open for the signature of those States which desire to adopt them, by means of a protocol attached as an annex. I have now explained the various reasons why a second reading is necessary. I think also that it will be of great use.

It is now my duty to comment in detail on the texts which you have adopted and read for the first time. The two explanatory notes which you have approved refer to what is essential in their contents. My task is to confine myself to emphasising their general structure.

As far as peaceful procedure is concerned, we have drawn up three model General Conventions, A, B and C.

Model A applies arbitration to all disputes without distinction, and proposes to submit disputes of a legal kind to the judgment of the Permanent Court of International Justice, and disputes of a non-legal kind to the judgment of an arbitral tribunal.

Model B confines arbitration to disputes of a legal kind, and submits other disputes to a procedure of conciliation and eventually to the Council for examination, in conformity with Article 15 of the Covenant.

Model C contains attempts to codify the rules generally accepted by all special treaties now in force, and displays the single practical advantage of making it possible for States to adopt by mere signature and adherence a procedure of conciliation in respect of a large number of countries instead of concluding a special convention with each of them.

We have tried to make these three Conventions on Arbitration, Judicial Settlement and Conciliation as supple as possible in order that they should be as widely adopted as possible. With this object, we have had to give a somewhat large place to a system of reservations. This system, and I think it is right for me to say this, has been accepted without enthusiasm by many of us. We have resigned ourselves to accepting an evil which may be considered