FIRST MEETING

Held on Friday, May 2nd, 1930, at 4 p.m.

Chairman: M. Beneš (Czechoslovakia).

Present: All the members of the Committee.


The Chairman proposed that the Committee should first discuss the different articles and then return to the Preamble. Once general agreement had been obtained, it would be possible to entrust the final drafting of the texts to the Bureau and the Rapporteur.

The first question was that of the transposition of Articles 1 and 2.

The Chairman noted that the Committee agreed to this procedure.

Article 1 (formerly Article 2).

Baron Rolin Jaequeymyns (Rapporteur) said that he had prepared a text which was based on the model treaty and which took into account the amendments proposed at the plenary meeting. His draft was as follows:

"The High Contracting Parties undertake, in the event of a dispute arising between them and being brought before the Council of the League of Nations, to refrain from any measures which might aggravate or extend the dispute."

M. Massigli (France) urged the necessity of obviating any misunderstanding concerning the scope of the undertaking assumed by the contracting Powers. It should perhaps be specified that they undertook to refrain from any measures which they might think likely to aggravate the dispute. In any case, if the Committee agreed in thinking that the Power concerned was the sole judge, he would not press his point.

General De Marinis (Italy) observed that the Locarno Treaty laid down in this case that, once the Council had been seized, the contracting Power not merely obeyed, but also refrained from any measures which might prejudice the Council's recommendations.

Baron Rolin Jaequeymyns (Rapporteur) thought that in those circumstances the previous order of the articles might be followed and that the first might stipulate that the Council would take such-and-such measures and the second that the contracting Powers would for their part refrain from any measures which might aggravate the dispute.

Viscount Cecil of Chelwood (British Empire) thought it better to keep to the transposed order of the articles and to make a slight change in the wording of Article 2, so as to keep the fundamental idea at the beginning.

M. Sokal (Poland) said that, if the question was that of a moral obligation having a general character, there were obvious reasons for putting Article 2 first. If, however, it was the contrary idea that predominated, namely, that of a contractual and concrete obligation, the original order should be adhered to and Article 2 should be completed so as to specify in what sense it was desired that the High Contracting Parties should refrain from action. It was therefore essential to choose first between the two alternative conceptions.

M. Tumedei (Italy) observed that Article 2 began by saying: "In the case provided for in Article 1, the High Contracting Parties undertake . . .". Was it necessary for the Council to have prescribed provisional measures before Article 2 could come into operation? In order to decide this point, it would be necessary to revert to the origins of the provisions appearing in Article 19 of the Locarno Treaty. According to Article 19, the Governments concerned undertook to refrain from all measures likely to have a prejudicial effect on the execution of the decision proposed by the Conciliation Commission or by the Council. The obligation to refrain from any action likely to aggravate the dispute was in relationship with the provisional measures taken by the Council.

M. Massigli (France) wondered whether the question which formed the subject of Articles 1 and 2 was not settled for the Members of the League who might adhere to the General Act of Arbitration. He read paragraphs 1 and 3 of Article 33 of the General Act. Care should be taken to avoid saying the same thing twice over, and it was the League's policy to extend the General Act of Arbitration; Articles 1 and 2 were therefore perhaps useless.
Viscount Cecil of Chelwood (British Empire) thought that the suppression of these articles would perhaps be too easy a solution. Personally, he had thought of striking out Article 2 and converting it into the second sentence of Article 1, which would then have read: "The High Contracting Parties undertake... to refrain from any measures which the Council may consider likely to aggravate or extend the dispute". Article 33 of the General Act had not mentioned the Council, it merely prescribed the nomination of a Conciliation Commission. It would be a mistake to give up the League machinery.

M. Tumedei (Italy) reminded Lord Cecil that the first version of Article 33 had referred to the powers of the Council, but it had been held that these powers derived from Article 11 of the Covenant and that it would be wiser to make no mention of them, as the Council possessed them in any case under a fundamental Convention.

M. Ito (Japan) favoured the proposal to define Article 2 by converting it into the second paragraph of Article 1.

Baron Rolin Jaequemyns (Rapporteur) observed that the last two words of Article 2, as they stood, reproduced the terms of Article 33 of the General Act and of Article 19 of the Locarno Treaty.

M. Rutgers (Netherlands) thought that it would be wiser not to define Article 2 too closely. The Council had intentionally not been given full powers, for the reason that the exercise of control was impossible and that only the obligation laid down in the Locarno Treaty had been retained.

M. Tumedei (Italy) asked why it was proposed to keep in the draft text appearing in the revised synopsis table (document C.A.S.95 (1)) (Annex V to the Minutes of the Plenary Meetings) the following words at the end of Article 1, which read: "... relating to the substance of the dispute and designed to prevent any measures being taken by the parties which might have a prejudicial effect on the execution of an arrangement to be proposed by the Council". One party might exploit the position by refusing to apply one measure or another because it refused to agree that that measure related to the actual subject of the dispute. Article 19 of the Locarno Treaty, which was the origin of the present text, employed a different formula. It spoke of "suitable provisional measures". It then laid down the undertaking by the parties concerned not to commit other acts which might prejudice the Council's recommendations. Furthermore, the present text raised a difficulty in that, so long as the Council had taken no steps, it was impossible to say what measures would be likely to prejudice their execution. M. Tumedei therefore proposed to adopt the phrase "suitable provisional measures".

Viscount Cecil of Chelwood (British Empire) was averse from any proposal to confer new powers on the Council. If such new powers exceeded the limits of the Covenant, the result would probably be to create insuperable difficulties.

M. Massigli (France) pointed out that the Locarno Treaty formed part of a complete system, the violation of which brought into operation more particularly the sanctions contained in the Rhineland Pact. For his part, he did not wish to appear to be interpreting Article 19 of the Locarno Conventions; he preferred to keep within the precise limits laid down by Lord Cecil. The question had been raised at one of the plenary meetings whether civil or military measures were involved in Articles 1 and 2. It was a matter of some importance to do away with all ambiguity, for if there were any question of military measures, certain difficulties would arise in connection, for example, with control. He thought it should be specified that the only measures contemplated were conservatory and non-military in character.

Dr. Göppert (Germany) thought, like M. Massigli, that the text should be kept in its present form and that it should be specified that the measures in question were civil measures.

The Chairman considered that the Committee should now decide first whether the deletion proposed by M. Tumedei in consequence of the question of substance put by M. Rutgers should be adopted.

M. Rutgers (Netherlands) thought that the conferring of unlimited powers on the Council for the purpose of obviating all possible doubt was a somewhat summary course. Further, it must inevitably be specified that the question was that of recommendations made by the Council relating to the actual subject of the dispute. Lord Cecil's proposal conferred unlimited competence on the Council and raised the question of control.

Baron Rolin Jaequemyns (Belgium) thought that the British proposal for a new Article 2 (a) must be taken into consideration. The text arrived at would be the following:

"The High Contracting Parties undertake, in the event of a dispute arising between them and being brought before the Council of the League of Nations, to accept and apply such conservatory measures relating to the subject of the dispute as the Council acting in the exercise of its powers under the first paragraph of Article 11 of the Covenant may recommend with a view to preventing the aggravation of the dispute."
M. Massigli (France) feared that, with its general terms, this article covered both military and non-military measures. As there could be no question of control, he repeated that it should be clearly understood that the case was solely that of conservatory measures of a non-military character.

Baron Rolin Jaequemyns (Rapporteur) replied that this question was reserved, owing to the Swiss amendment which dealt with military measures. He would, moreover, be in favour of making the stipulations of Article 5 apply to Article 1 and of providing for supervision in accordance with the terms of the decision taken by the Council in 1927.

Viscount Cecil of Chelwood (British Empire) entirely agreed with M. Massigli in thinking that Article 1 related to non-military measures and that Articles 3 and 4 related to military measures. There was a clear distinction between a case in which there had been no rupture and a case in which the peace had been decisively disturbed. So long as no hostile acts had been committed, it was unnecessary to insist that the Council should intervene and take measures which might have vital importance.

M. Ito (Japan) thought that the text proposed by Baron Rolin Jaequemyns unduly restricted Article 1 owing to the reference to paragraph 1 of Article 11 of the Covenant. The Chairman added that Baron Rolin Jaequemyn's draft did not show what was to be done with Article 2.

Baron Rolin Jaequemyns (Rapporteur) replied that he proposed to strike out Article 2. As to M. Massigli's proposal, it would be very difficult to accept a wording specifying that the measures were civil measures. It was possible that the scope of the articles was somewhat restricted by referring only to conservatory measures, whereas the first paragraph of Article 11 of the Covenant said the League of Nations "shall take any action that may be deemed wise and effectual to safeguard the peace of the nations". The phrase "conservatory measures" was therefore preferable to the term "civil measures", which was too difficult to define.

Further, the British proposal for Article 2 (a) referred to "a threat of hostilities". Baron Rolin Jaequemyns had kept this term with the object of introducing it into Article 3, where it belonged. In the case contemplated by Article 1, the question was so far only one of a simple dispute.

M. Massigli (France) observed that the aim was to facilitate action by the Council in the case of a threat of war as contemplated in Article 11 of the Covenant. In preparing a general text, the Committee would inevitably be led to consider the intervention of supervisory bodies, and in this way provision would appear to be made for control, even when non-military measures were under consideration, which would further disquiet the Powers that were averse from control. It was to avoid that difficulty that M. Massigli proposed to reserve a special article for the non-military measures and to deal with the military measures in Article 3. In this way, the main obstacle to supervision would be eliminated, and it would be easier to obtain the consent of the parties concerned to relinquish their right of voting in the Council.

Baron Rolin Jaequemyns (Rapporteur) proposed to complete his text in order to make it clear that the measures were measures of a non-military kind and related to the subject of the dispute.

The Chairman read Baron Rolin Jaequemyn's proposal which ran as follows:

"The High Contracting Parties undertake, in the event of a dispute arising between them and being brought before the Council of the League of Nations, to accept and apply the conservatory measures of a non-military nature relating to the substance of the dispute which the Council, acting according to the powers conferred on it by the Covenant of the League of Nations, may recommend with a view to preventing the aggravation of the dispute."

M. Massigli (France) accepted this draft and withdrew the text which he had prepared.

The above text, to become the provisional text of Article 1, was adopted at the first reading.

Article 2.

The Chairman reminded the Committee that it had been proposed to suppress this article.

Dr. Göppert (Germany) wondered whether the article should be abandoned entirely. Would there not be some advantage in having under this article undertakings which went further than those contained in the preceding article? The contracting Powers would undertake to take no measure that might aggravate the dispute, even if that measure were not covered by the Council's recommendation.

General De Marinis (Italy) recalled that this had been an Italian proposal, but one which had been made prior to the new wording of Article 1, which was perfectly satisfactory.

Dr. Göppert (Germany) did not press his point.

It was agreed to delete Article 2.
The Chairman reminded the Committee that the Netherlands delegation had considered that it should be stipulated that in the case covered by Article 1 the Council's recommendations should have only a limited effect in time, for instance three months, and that a special decision of the Council for the renewal of the recommendation would be required if it were to be continued in force. Personally, he considered that it would be better not to fix any time-limit.

M. Rutgers (Netherlands) said that he would not press his proposal.

**Article 2 (formerly Article 3).**

The Chairman referred to the various proposals made at the plenary meeting. The French delegation had submitted a new draft wording for Articles A, B and C, which read as follows:

"Article A. — In the cases mentioned in Article 11, paragraph 1, of the Covenant of the League of Nations, and without prejudice to the application of Article 16 of the Covenant, the High Contracting Parties undertake to comply with the measures which the Council may prescribe with a view to:

"(a) The withdrawal of forces having penetrated into the territory of another State, or into a zone demilitarised in virtue of international treaties;

"(b) The withdrawal of naval forces beyond certain geographical limits which will be fixed by the Council for this purpose, the naval forces of the two parties, however, retaining full liberty of movement beyond these limits, which must allow of the necessary communications being maintained between the various territories under the authority of each party;

"(c) The prohibition of military or civil aircraft of the High Contracting Parties concerned to fly over frontiers on or near which the Council shall think fit to take such measures.

"If, on the frontier concerned, there is no zone demilitarised in virtue of international treaties, the High Contracting Parties further undertake to comply with any other measures which the Council may prescribe to prevent contact between the land or air forces, provided this does not involve the withdrawal of these forces further back than the exterior limits of the defence organisations of any kind existing on the frontiers of the High Contracting Parties concerned at the time when the Council of the League takes these measures.

"Article B (former Article 4). — The execution of the undertakings mentioned in Article A may be delayed until the arrival on the spot of Commissioners with instructions from the Council of the League of Nations to supervise the observance of the measures it has prescribed. The High Contracting Parties undertake to grant these Commissioners all facilities for the performance of their task, whether on land or on board their respective naval forces.

"The rules to be followed for the composition and working of Commissions of Control shall be embodied in executive regulations which shall be prepared by the competent organs of the League of Nations, so as to enter into force at the same time as the present Convention.

"Article C (new). — Any violation of the measures prescribed in Article A which is noted by the Commissioners mentioned in Article B, and continues in spite of the latter's injunctions, shall be treated by the High Contracting Parties as a flagrant act of aggression and shall involve the immediate application of Article 16 of the Covenant of the League of Nations."

M. Massigli (France) said that the French delegation had been guided by certain very simple ideas. The supervision of the military measures of order being, in its opinion, a fundamental principle, the delegation had considered it necessary to limit the measures to be taken to cases in which the question of supervision did not arouse any fundamental difficulties. He considered that they would have to examine two cases, that in which hostile acts had been committed and that in which, without any hostile act having been committed, it was nevertheless necessary to prevent contact between the ultimate opponents. In the first case, it was laid down that the troops which had penetrated into the territory of another country should be withdrawn, and, in the second case, that a zone in which all contact was impossible should be set up. As soon as the Council issued an injunction, the army forces would be withdrawn, the naval forces would be placed behind the geographical limits fixed by the Council, and the air forces would be forbidden to cross the frontiers. Where demilitarised zones existed, this sufficed to obviate any dangerous contact. Otherwise, it would be desirable for the Council to be able to enjoin the withdrawal of the opposing forces on both sides of the frontier. Certain further precautions were also indispensable in this case. It was impossible, for instance, to ask a State to accept a formula which carried with it the possible obligation to evacuate a system of fortifications belonging to that State. For this reason, the last paragraph of Article A stipulated that the High Contracting Parties would comply with any other measures which the Council might prescribe to prevent contact, provided that the result was not a withdrawal further back than the exterior limits of the defensive organisation of all kinds.

Viscount Cecil of Chelwood (British Empire) was unable to give his opinion without full consideration of the problems raised by the French proposals. According to the former wording of Article 3, when peace had been actually broken, the danger of war was so grave that provision
was made for the possibility of asking the parties concerned to consent to the orders of the Council. The text before the Committee would raise many difficulties. Suppose, for instance, that six great countries were concerned in threats of hostilities. They were represented on the Council, which would be empowered to decide, quite apart from them, whether or no hostile acts had been committed up to that time. There was here a conception, the consequences of which might be very alarming. On the other hand, if the Council's powers were determined in a hard and fast manner, there would be a danger of its being inferred implicitly that the contracting parties would be bound to accept any other orders which were not expressly mentioned in the text. Viscount Cecil wondered whether, in the endeavour to strengthen the powers of the Council, more harm might not be done than good by deciding on a dangerous expansion, which would arouse grave apprehensions, and whether the actual effect would not be to nuIlify the bearing of Article 11 of the Covenant. As to the reservation at the end of Article A, saying that the Council could not give orders which might jeopardise the country's defence, it should apply to the entire article and have a general bearing.

However that might be, the document contained new and bold ideas which would require lengthy reflection.

As to Articles B and C, Lord Cecil would wait until M. Massigli had explained them, but even now he saw still more serious difficulties in them than in Article A.

M. Massigli (France) understood that Lord Cecil was anxious not to diminish the powers of the Council; but there was no question of that. It was quite understood that, in the cases contemplated by Article 11, the Council reserved its full power to make recommendations, which, in point of fact, would, in the majority of cases, be of an imperative character. Article A, would make recommendations some of which would be of only secondary importance. The delay involved under so imperative a text.

If one of the parties did not submit to the secondary recommendations, would it be treated as an aggressor? It was extremely dangerous to define so strictly what constituted an act of aggression in the terms of Article 16, and there was the risk of entirely destroying the meaning of the article. The Council should always remain free to take a decision in the last resort, and for considering that its attitude justified the application of Article 16 of the Covenant. Otherwise, if a State could regard the Council's recommendations as null and void with impunity, by what right could the other party be required to refrain on his side from any measures that he might consider indispensable?

Viscount Cecil of Chelwood (British Empire) greatly feared the danger of so absolute a rule, the result of which would be that the parties concerned would refuse to take any measure whatever before the arrival of the Commissioners of the League of Nations. He realised that an endeavour would be made to facilitate their journey and to hasten to the greatest possible extent their arrival at the place where war threatened to break out, but, in any case, they could not arrive immediately. In the interval, the invasion might have progressed and warlike passions might have been excited to a point at which all efforts at pacification would be vain. That was why Viscount Cecil feared the terrible dangers that might be caused by the delay involved under so imperative a text.

He was still more affected by Article C. He imagined that the Council, on the basis of Article A, would make recommendations, some of which would be of only secondary importance. If one of the parties did not submit to the secondary recommendations, would it be treated as an aggressor? It was extremely dangerous to define so strictly what constituted an act of aggression in the terms of Article 16, and there was the risk of entirely destroying the meaning of the article. The Council should always remain free to take a decision in the last resort, and the circumstances would be so diverse and complex that the criterion proposed by M. Massigli presented the gravest danger.

That danger had been felt when the Treaty of Mutual Assistance had been drafted. Those who drew it up intentionally refrained from setting up a criterion which would enable the aggressor to be defined.

It might well happen that the party which, in accordance with so strict a text, appeared to be the aggressor, was in reality the victim, and it was against that party that the terrible force of the mechanism of the League of Nations would have been brought into action.

In conclusion, Viscount Cecil could accept the first part of Article A with the reservations he had formulated, but he was absolutely convinced that there would be the gravest danger in going further.

M. Massigli (France) recognised the force of some of the objections expressed by Viscount Cecil in regard to Article B. Viscount Cecil was preoccupied with the case of the State acting in bad faith; on his side, M. Massigli was preoccupied with the case of the State acting in good faith, and with the danger that State would run if it alone complied with the recommendations.
of the Council. In regard to Article C, M. Massigli did not ignore the gravity of the problem, but the text which he had proposed showed clearly that it was quite a different matter from an infraction of small importance. M. Massigli would think over the objections presented by Viscount Cecil, whom he would ask to be good enough, on his side, to consider the importance of the matter.

M. Rutgers (Netherlands) considered that the members of the Committee were justified in stating that their instructions were not sufficient to enable them to take a decision on certain parts of the French proposal. He was thinking especially of naval matters. That was why it would perhaps be better to limit Article A itself to paragraphs (a) and (c) which appeared to be acceptable. M. Rutgers, however, would hesitate at the moment before making any further extension in the scope of Article A.

In regard to Article B, the Netherlands Government had supported the Polish proposal. It considered that the prescriptions of the Council could only be effective if they were completed by a system of control, but the French proposal would lead to the inefficacy rather than the efficacy of the prescriptions. He asked whether it would not be possible to stipulate that the carrying out of engagements undertaken should cease to be obligatory if, within a reasonable period, the Commissioners of the League had not arrived on the spot. In that way, there would be an assurance that control would be put into force without the grave disadvantages indicated by Viscount Cecil.

He agreed with Lord Cecil as to Article C, and referred the Committee to the memorandum on the articles of the Covenant that he had presented to the Committee in 1928.

Baron Rolin Jaequemyns (Rapporteur) shared the misgivings which had been expressed concerning Articles A, B and C. Article 1, in particular, alluded to the powers of the Council and implicitly the reference was to the case of Article 11 of the Covenant. That case was also referred to in Article A. Would it not be better to revert to the original text which went a little further and also covered hostile acts? It was in this preliminary stage that the Council's opinion might have a tranquillisising effect.

Article B reproduced the former Article 4. It fortunately avoided using the word "control", but it was drafted in terms which were too rigid.

Baron Rolin Jaequemyns had himself drafted a text which kept closer to the old text and to the suggestions approved in 1927. It was, moreover, less rigid and would, he thought, obviate the disadvantages which Lord Cecil feared.

It was as follows:

"In the cases provided for in Article 2 (formerly Article 3) above, the Council of the League of Nations may, if it thinks fit, send representatives to the spot in order to assure it that the measures which it has prescribed are being observed, and the High Contracting Parties undertake to lend themselves to any action by the Council in this sense."

Finally, Article C gave rise to very grave objections. It was, moreover, entirely outside the terms of reference of the Committee, which had not been instructed to make rules for the case where war had actually broken out. It was, furthermore, superfluous in view of the existence of Article 16 of the Covenant unless the idea was to extend the scope of Article 16 and thus increase the chances of conflict.

M. Massigli (France) said that he had added the second part of Article A to cover cases of threats of hostilities, but it was quite possible to suppress it.

As to Article B, M. Rutgers' suggestion appeared to him very valuable.

Finally, Baron Rolin Jaequemyns had raised a very delicate question in regard to Article C. M. Massigli was of opinion that the Committee's terms of reference were very wide. He referred to the discussions which had taken place at the Third Committee of the last Assembly. He had then had occasion to state specifically that it would be possible to introduce new principles into the treaty. The countries were asked in the case of a threat to refrain from certain precautionary measures; they were really entitled to ask in exchange what would happen if their adversaries continued their acts of hostility. Some means must be found of saying that the violation of certain measures might be excusable and might in no way constitute an infraction of the Covenant and a resort to war before Article 16 came into force, and it would be no less inexpedient than dangerous to attempt to extend Article 16 still further.

M. Rutgers (Netherlands) stated that, in certain cases, it was perfectly possible to imagine that the violation of certain measures might be excusable and might in no way constitute an act of aggression. Suppose one of the parties found it absolutely impossible to obey the
Council's instructions to withdraw its troops from a natural line of defence. M. Rutgers thought that there was need for the greatest possible caution and that Article C should not do more than say that the violation of the measures enjoined by the Council would furnish an indication for determining the aggressor.

M. Massigli (France) replied that it was impossible for the Council to be ill-informed as to the situation. The operation of Article 16 should be contemplated (according to the proposed text) only after a breach had been noted and maintained in defiance of the Council's injunctions.

If an honest country undertook in advance to obey the Council's injunctions and if it were faced with a dishonest opponent, it would be nevertheless impossible to place it in the same situation as if the treaty did not exist, and in that case it would be better not to make a treaty at all.

The Chairman requested the members of the Committee to think over the grave problem raised by the wording of Article 3.

SECOND MEETING

Held on Saturday, May 3rd, 1930, at 10.30 a.m.

Chairman : M. Beneš (Czechoslovakia).

Present : All the members of the Committee, except Viscount Cecil of Chelwood (British Empire).


Dr. Göppert (Germany) said that he had studied very carefully the proposals formulated by the French delegation.

Article A in the text submitted to the Committee mentioned the first paragraph of Article 11 of the Covenant, but it should be pointed out that the provision thus mentioned in that article spoke not only of the threat of war, but also of war at the time when it had already broken out. The subject of the Convention under consideration, however, was the means of preventing war. It was not accordingly possible merely to mention Article 11 of the Covenant in the text. The de facto condition on which the Convention was based must be defined. M. Göppert could accept the proposal made by the Rapporteur subject to certain formal amendments.

He had no objection to the mention of Article 16 of the Covenant. Further, he was in agreement in principle with the military measures suggested. It was a good thing in a convention to know in advance the undertakings which were being assumed and, with reference to an observation made by M. Ito, M. Göppert, too, thought it necessary to provide for simple and elementary means of execution. Nevertheless, while in agreement on the principle, he was not altogether in agreement on the details of method.

Paragraph (a) of Article A of the French proposal stipulated the withdrawal of forces which had penetrated into the territory of another State or into a zone demilitarised in virtue of international treaties. It was obvious that, in circumstances of that kind, the normal measure might be a simple withdrawal. In point of fact, however, it was probable that, most often, withdrawal beyond the frontier would be inadequate. It would be necessary to make the troops withdraw over the frontier and beyond a line fixed by the Council. If, therefore, the Committee agreed on this point, it should be indicated explicitly, while the Council would be left entirely free to fix the said line at its own discretion.

In the last paragraph of Article A, the French delegation made provision for the case in which there were no demilitarised zones. They had not, however, thought it necessary to stipulate any special measures for cases where zones of that kind existed. The mere existence of such zones appeared to them an adequate guarantee. M. Göppert, however, thought that the case where one of the boundaries of the demilitarised zone coincided with the frontier of one of the countries should be covered. In this case, the withdrawal of the troops outside the demilitarised zone would not suffice, since the forces would remain in contact with the civil population of the other State and such contact might easily cause incidents. It must be remembered that, in a time of emergency, the mere presence of foreign troops in the neighbourhood caused keen apprehensions and a certain feeling of nervousness among the population. To M. Göppert's mind, it would be wise to take precautionary measures in order to obviate the incidents to which he had referred, and it should be stipulated that the troops should be withdrawn to a certain distance from the frontier.

In all cases, whether there was a demilitarised zone or not, it would be good to keep to the system of lines fixed by the Council of the League.
As to the aircraft of the High Contracting Parties, the French proposal also stipulated an order not to fly over the frontiers in conditions fixed by the Council. This case as well appeared to involve the determination of a neutral zone between the frontiers similar to that laid down for the land forces. In this case, however, M. Göppert thought that the form in which the German proposal had been submitted was to be preferred.

To conclude his remarks on Article A, M. Göppert thought that the phrase used in the last paragraph mentioning "withdrawal of these forces farther back than the exterior limits of the defence organisations of any kind" was not altogether clear. He asked M. Massigli to indicate whether the organisations in question were frontier works or fortification works.

The French proposal in Article B stipulated that the execution of the undertakings mentioned in Article A might be delayed until the arrival on the spot of Commissioners with instructions from the Council of the League to supervise the observance of the measures it had prescribed. Obviously, in drafting this provision, the French delegation had had in mind the situation of an honest country faced by a dishonest country. The interests of the former must, of course, be safeguarded. Nevertheless, it should be observed that the presence of Commissioners from the League was not the only method of communication available to the two parties to the dispute. There were also direct intermediaries. The two States would come into direct contact. They would agree on a plan by which the withdrawal of the forces could be carried out. Each would put this plan into force, step by step, at the same time as the other. If one of them failed to carry out a step which had been agreed upon, the whole movement would stop. Therefore, it would not be necessary to wait for the arrival of the Commissioners before taking the measures recommended by the Council; on the contrary, they would have to proceed with the least delay. The provision proposed by the French delegation did not consequently satisfy M. Göppert, and he suggested that it would be better either to keep to Article 4 or to the formula proposed by the Rapporteur.

Article C of the French proposal related to the question of sanctions. M. Göppert thought that sanctions should only be applied when the interested parties had actually resorted to war. It was only then that Article 16 of the Covenant came into operation. From the political point of view, there was certainly no justification for proceeding to apply sanctions and putting them into operation prematurely.

The Chairman pointed out that, in regard to Articles B and C of their proposal, the French delegation had drawn up new texts to replace the draft which had been discussed originally.

M. Massigli (France) said that the French delegation had altered their first proposal with the object of attempting to make allowance for the observations offered by various speakers on the previous day. Lord Cecil and M. Göppert had dwelt on the necessity for the rapid execution of the measures recommended by the Council. They had brought out the fact that the obligation of awaiting the arrival on the spot of the League's Commissioners involved a delay which was, perhaps, not without danger. In the new text submitted to the Committee, the French delegation provided for the immediate application of the measures determined by the Council, subject, however, to any delay which one of the High Contracting Parties might consider indispensable owing to special circumstances. But, in such a case, the contracting party concerned would have to inform the Council of the situation. The text of the new French proposal was as follows:

"As soon as they shall have been notified of the measures decided upon by the Council in application of Article A, the High Contracting Parties concerned shall take all steps to ensure their execution without delay.

"If, owing to special circumstances or to hostile acts by the other party, one of the High Contracting Parties thinks it necessary, it may inform the Council that it is postponing the total or partial execution of the prescribed measures until the arrival on the spot of the Commissioners instructed by the Council to supervise the execution of the said measures.

"The High Contracting Parties undertake to grant the Commissioners", etc. (rest as before)."

M. Massigli thought that this provision would meet the wishes of those of his colleagues who urged the need for the rapid application of the measures enjoined by the Council while safeguarding the legitimate interests of the countries in certain special circumstances which must be anticipated.

In regard to Article C, it had been said that it would be dangerous to hasten the application of sanctions. It was that idea that underlay the first paragraph of the new draft, which read as follows:

"If any violation of the measures defined in Article A is noted by the Commissioners mentioned in Article B and continues in spite of the Council's injunctions, the Council shall notify the measures to be taken to put an end to the said violation, and the High Contracting Parties undertake to comply with the recommendations it may make to them on this matter."

This provision dealt with the case where one of the countries was guilty of what might be called passive violation. In such circumstances, the Council deliberated and took any steps it thought appropriate.
There was another form of violation to be guarded against, that which was represented by acts of war. In this case, States would be faced by a definite intentional aggression, to which the next paragraph of Article C would apply. That paragraph said:

"Should one of the parties concerned be guilty of a deliberate and persistent violation of the prescribed measures and open or resume hostilities, without the Commissioners appointed by the Council finding the other party guilty of a similar violation of the Council's prescriptions, the High Contracting Parties shall consider the action so taken as a flagrant and unprovoked act of aggression and as a resort to war within the meaning of Article 16 of the Covenant. In such case, they agree for their part to comply with the provisions of the said article, as against the offending State."

In regard to Article A of its proposal, the French delegation had not thought it necessary to submit a new text. At the preceding meeting, Lord Cecil had urged the necessity of not impairing the general powers conferred on the Council by Article 11 of the Covenant. M. Massigli would agree to introduce a provision to this effect in the Convention.

In reply to M. Göppert, who had asked for an explanation of what the French delegation meant by the term "defensive organisations of any sort", M. Massigli said that these were defensive organisation which formed a whole and constituted a genuine defensive position. Obviously, it was impossible to ask a country to evacuate positions which it regarded as essential factors in the defence of its territory.

In conclusion, M. Massigli said that he had often spoken and at some length, that the French delegation had proposed certain texts, and that it had amended them in order to make allowance for the considerations of other delegates, but he wished to make it clear that the French delegation could not honestly make much change in the draft it had submitted without referring to its Government. It therefore wished to know what the other delegations, on their side, were prepared to propose or accept.

Mr. Cadogan (British Empire) said that he was replacing Lord Cecil, who was slightly indisposed and apologised for being unable to attend the meeting. Mr. Cadogan had had a long conversation with Lord Cecil and was only present as his mouthpiece.

He observed that M. Massigli, in the new text proposed to the Committee, had attempted to meet the observations made by the other delegates. Mr. Cadogan, however, was forced to point out that the new text made practically no change as regarded the question of principle. Lord Cecil feared that the three new articles suggested by the French delegation might make a profound change in the nature of the Convention. It must not be forgotten that the delegates had come to Geneva to discuss and work on a text, the range of which was well known and the fundamental object of which was to facilitate the application of Article 11 and to give the Council new means of preventing war. It appeared that the French proposals went much further and exceeded the original draft to a considerable extent. The idea which appeared to underlie these articles was to impose on the contracting parties certain precise obligations which would become an absolute criterion for the application of Article 11. That being so, Lord Cecil feared that he was unable to discuss proposals of that sort without referring to his Government and without having obtained fresh instructions in regard to Articles B and C of the French delegation's proposals.

In regard to Article A, Mr. Cadogan pointed out that it was, generally speaking, difficult and even dangerous to enumerate the measures which the Council could prescribe. Such an enumeration might, as had already been pointed out, always be regarded as limitative. It appeared wiser to leave the Council's hands free. There was, moreover, in this connection the report approved by the Council on March 15th, 1927, with regard to Article 11. That report provided an excellent guide.

The French text constituted a danger owing to its being too definite. It made provision for three measures. It must not, however, be forgotten that in a convention the States entered into definite undertakings, and consequently a country could always say that it had committed itself in regard to such-and-such a measure, but not in regard to any other measure which the Council might prescribe as being more suitable.

The British delegation fully realised the somewhat destructive character of the criticisms it had advanced. Lord Cecil was, however, most anxious to reach a result, and with this object he would be prepared to suppress the Article 2 (a) proposed by the British delegation, and to return to Article 3 in the original draft. He could also accept the form proposed by the Rapporteur for Article 3. In any case, the texts proposed and the record of the discussions would be communicated to the British Government, but, in the absence of fresh instructions, it would be impossible for Mr. Cadogan at the moment to contemplate accepting the text proposed by the French delegation.

The Chairman observed that there were two distinct arguments before the Committee. On the one hand, there was that represented by the French proposal, and, on the other hand, that represented by the criticisms which Mr. Cadogan had put forward on behalf of Lord Cecil. Certain other delegates, among them M. Göppert, had said that they were prepared to accept certain features in the French proposition, although they had criticisms or reservations to make on other points. It would be well now to see whether the members of the Committee could agree on a single text, and, if not, to consider what other solution might be adopted. In any case, it was essential to find out the views of each delegation.
In reply to an observation by M. Göppert, the Chairman added that the British compromise proposal should also be considered, that was to say, to return to the original text or the text proposed by the Rapporteur.

M. Rutgers (Netherlands) wished to revert to an observation made by Mr. Cadogan. The British delegate’s argument amounted to saying that if under Article 3 the countries accepted limited and definite obligations, the obligations resulting from Article 11 of the Covenant would be weakened. M. Rutgers thought, however, that there was a considerable difference between these two classes of obligations. It must not be forgotten that the present Convention dealt with instructions to be given to the parties without the latter having been able to express their opinion by a vote. Such instructions might even be imposed on them against their will. The application of Article 11, on the other hand, required the counting of the votes of the parties; consequently, if the obligations of the parties were defined in the proposed Convention, the general moral obligation incumbent on them under Article 11 would be in no way diminished, and, in M. Rutgers’ opinion, the chief objection that had been made was due to a misunderstanding. It was essential in the present case to define and limit the measures to be taken.

Furthermore, if the application of Article 3 were limited, it would be cease to be necessary to attach too much importance to the cases in which it applied. The obligation to withdraw behind certain lines on the injunction of the Council might be stipulated even in the case of a threat of war. That was no very heavy obligation. It amounted to saying that a country undertook not to invade the territory of another country without the Council’s assent.

The Chairman noted that the Committee was in agreement concerning the necessity of not touching the powers possessed by the Council under Article 11, and pointed out that M. Massigli had consented to the provisions of Article 7 being made clear in this sense.

Mr. Cadogan (British Empire) agreed that M. Rutgers was right and that it was essential not to touch the powers conferred on the Council by Article 11 of the Covenant, but in the Convention it was laid down that, in certain circumstances, the signatories were to waive their right of voting. The Council was none the less free to prescribe any measures which it might think necessary, and Mr. Cadogan did not see any necessity for having an enumeration.

M. Undén (Sweden) had studied the French proposals very closely. In his opinion, the proposed Article A entailed a certain restriction as compared with the original text, since the words “in particular” had been deleted. This omission appeared to him important. He preferred the original text which stipulated that the Council might, in addition to the measures indicated, take any other measures which would be equally binding.

M. Undén also had on objection to make concerning the sentence in the last paragraph of Article A referring to defensive organisations and the withdrawal of the troops farther back than the exterior limits of such organisations. It must not be forgotten that, in addition to artificial defensive organisations, there were cases where the natural frontiers were of very considerable strategic value. It would obviously not be legitimate to ask a country to withdraw its troops behind, for instance, a chain of mountains which constituted a natural line of defence. Special circumstances must, therefore, be taken into account. He thought that it would be better to rely on the wisdom of the Council, to refrain from specifying anything and to adopt a general formula.

As to Article B, M. Undén preferred the wording of the Rapporteur. The text might, however, be strengthened by saying: “shall be if possible”.

With regard to Article C, M. Undén agreed that the violation of an order by the Council constituted a hostile act or an aggression, or rather an act that might be assimilated to an act of aggression. He approved the idea at the basis of the French proposition. Its significance, however, was so general that it did not add much. It appeared to him difficult to lay down concrete rules for the application of sanctions, and therefore M. Undén associated himself with the opinion of the Rapporteur and Lord Cecil and he proposed that Article C should be struck out.

M. Sokal (Poland) pointed out that the discussion was becoming entirely technical and military, just as if the Committee on Arbitration and Security had consisted of experts. The task of the Committee was, he thought, completely different. Furthermore, the Drafting Committee, contrary to the ordinary work of drafting committees, was not required to carry out instructions and prepare a text, but to seek for principles. Several arguments had been put before the Committee, for M. Sokal regarded the French proposal not as a text submitted to the Committee for examination but as the exposition of an argument.

In regard to the first question which arose, namely, the introduction of a new terminology with regard to hostilities, etc., a happy solution had been found in the form of a reference to the definitions contained in the Covenant.

The main point of the Committee’s task was to seek for the means of preventing war. There were two fundamental arguments. One side maintained that the Council of the League must be given the widest possible possibilities, even if those possibilities were indefinite. For this purpose, it was essential for the contracting parties to enter into an undertaking in advance to carry out the recommendations made by the Council with a view to preventing war. It had been pointed out that to define the Council’s means of action would be to limit its powers. M. Rutgers had very rightly replied that a distinction must be made between the general...
cases where the parties to the dispute were entitled to vote and the special cases where the parties concerned did not vote. Those in favour of the other argument asserted that it was necessary to be precise in this case, seeing that the question of the security of the States was involved. M. Sokal asked whether the Committee was prepared to enter on this road.

The situation was somewhat peculiar. On the one side, were those who wished to define the obligations of the parties in a very rigid manner. On the other side, were those who wished to keep everything vague; but, in regard to the control to be exercised in circumstances of this kind, those in favour of the first argument demanded a precise and effective form of control, whereas the others wished to rely on the wisdom of the Council. There was, therefore, a striking lack of balance. Obviously, according to Lord Cecil's argument, the parties would be asked to assume, by binding themselves in advance, very considerable obligations, whereas they would be offered in exchange only guarantees which would be left quite vague.

It must be determined exactly just how far the Committee could go. There was no question that cases of war had been taken into consideration. When, however, war had broken out, preventive measures could no longer be taken. The only thing to be done was to define the aggressor and take sanctions.

The Committee must comply with its terms of reference and remain within the field of threats of war. If it agreed to do so, it could find means of preventing war. Otherwise, it would come to a deadlock. The solution, perhaps, might be found in seeking for some sort of balance between the obligations of the parties and the guarantees to be given by the Council.

M. Sokal would refrain from making any concrete proposal, but he suggested that the delegates should give their opinions on these principles. It was obviously necessary to ascertain whether they were in agreement. Indeed, if they were not in agreement on the principles, it was futile to draw up a text, since it would never receive ratification and the work done would be illusory.

The Chairman thanked M. Sokal and M. Undén for their explanations. M. Sokal had defined the situation very well. Some favoured very great precision and concrete cases, and then, by a logical extension, demanded a precise control and even wished to go as far as exactly defined sanctions. Others, on the contrary, wished to keep to a more general conception, for the reasons which Mr. Cadogan had expounded on behalf of the British delegation, and by an equally logical extension they left the question of control and sanctions out of account.

There could be no question but that the Committee must pronounce on these two arguments. Once these points had been elucidated, it could pass to the work of drafting in the strict sense of the term and adopt a single text, or several texts, as the case might be.

M. Ito (Japan) pointed out that the French delegation's proposal brought up a general principle on which he could not for the moment give his opinion. The French delegation had created a new situation, for it had established a connection between Article 11 and Article 16 of the Covenant. M. Ito did not think it possible for him to follow this path. He asked for time for reflection in view of the novel character of the proposal and must reserve his opinion.

General de Marinis (Italy) observed that he had clearly expounded his attitude at a plenary meeting. The Italian delegation had said that the Convention must clearly define the undertakings by which the adherents were to be bound. The French delegation had endeavoured to define these undertakings. General de Marinis did not hesitate to say that, regarded technically, the French proposal was genuinely logical and coherent; but, as M. Ito had mentioned, it raised very serious questions.

The British delegation, on the other hand, had pointed out that that proposal limited the Council's powers. Mr. Cadogan had observed that if, in a particular case, the Council found it necessary to recommend measures which were not expressly mentioned in the text of the Convention, the Powers might, in virtue of the definite undertakings which they had assumed, refuse to apply such measures. The enumeration could obviously not be complete.

General de Marinis inferred that in a general convention it was impossible to cover all possibilities, but that nevertheless a country could not agree to assume undertakings which were at the same time solemn and indefinite. He was convinced that the Convention could not be really effective unless it was limited to a small number of countries, and unless the attempt were given up to establish a plurilateral instrument.

M. Massigli (France) pointed out that Mr. Cadogan had proposed, as a compromise, to relinquish Article 2(a) of the British proposals and to revert to the text of Article 3 in the draft. M. Massigli asked whether this proposal was intended to restrict the application of the measures laid down to land and air forces and to exclude naval questions.

Mr. Cadogan (British Empire) replied that he did not think that the transactional proposal which he had made should be interpreted in this sense. It was true that the terms of Article 3 referred first and foremost to the case of land forces, but in that connection he would refer to the use of the words "in particular", which appeared to him very important, since they made it possible to obviate undue precision.

Baron Rolin Jaqueymyns (Rapporteur) agreed that the Committee was confronted with two opposing arguments which it would be difficult to reconcile. The French argument had been the subject of a formal proposal which was very well drafted. In his capacity as Rapporteur, he had himself attempted to find a formula which would involve something a little less precise than the French proposal. Furthermore, he would remind the Committee that, according to M. Sokal, the difficulty was due to the tendency to go beyond the limits of
the field of threats of war, so that the Committee was inevitably obliged to deal with the application of Article 16. In view of the difference between the proposals before the Committee, Baron Rolin Jaequemyns proposed to draw up a synoptic table of the different texts which the Committee was required to discuss.

(The meeting was suspended for twenty minutes to permit delegates to confer.)

On the resumption of the meeting, the Chairman proposed that the Committee should instruct the Bureau to prepare for the next meeting a synoptic table of the different arguments before it and of the various possibilities contemplated. He pointed out that that was a work which must necessarily be carried out before the Committee could adopt either a single text or different texts with variants according to circumstances.

Agreed.

Article 5 of the Model Treaty re-drafted.

The Chairman read the text of Article 5 proposed by the Rapporteur:

"In the cases referred to in Articles 2, 3 and 4, the High Contracting Parties undertake to act in accordance with the recommendations of the Council, provided that they are concurred in by all the members other than the representatives of the parties to the dispute."

The Chairman pointed out that Article 5 should mention the new Article 1. He thought that, in these circumstances, the article might be adopted.

Mr. Cadogan (British Empire) saw no objection to the provisions of Article 5 being extended to the new Article 1. He pointed out, however, that the article 5 mentioned Articles 3 and 4. As the latter articles had not yet been adopted, it was not known what their exact content would be, and, consequently, he would have to reserve his opinion in regard to any reference to these articles.

M. Tumedei (Italy) observed that the provision in the Covenant which stipulated that the vote of the representatives of the parties did not count in calculating unanimity in the case of a vote in the Council appeared in the sixth paragraph of Article 15, which said:

"If a report by the Council is unanimously agreed to by the Members thereof, other than the representatives of one or more of the parties to the dispute, the Members of the League agree that they will not go to war with any party to the dispute which complies with the recommendations of the report."

Hitherto, it had been generally held that, in the case of the application of Article 11, the parties to the dispute could take part in the voting. M. Tumedei was aware that in consequence of the work for bringing the Covenant into line with the Pact of Paris it had been proposed that Article 15 should be amended. Here, however, it was proposed to substitute a clause of Article 15 for Article 11. It was, he thought, odd to propose the adoption of this rule for Article 11, since that would be contrary to the present provisions of the Covenant.

The Chairman thought that M. Tumedei was right in emphasising this question of principle. He would, however, point out that the clause in question was the fundamental object of the Convention. There would be genuine progress if agreement were achieved on the point that the votes of the parties concerned in the dispute would not be counted in reckoning unanimity. The real object of the present work was to see whether this principle could be accepted even for the case of a threat of war.

M. Tumedei (Italy) had understood that the chief object was to convert certain moral obligations into legal obligations. Here, however, the question was that of the way of voting and he insisted on this point.

Baron Rolin Jaequemyns (Rapporteur) said that the question was indeed that of the innovation mentioned by the Chairman, but that innovation would be mentioned in the report, so as to satisfy M. Tumedei.

M. Undén (Sweden) remarked that there was no question of an innovation in the full sense of the term, for certain precedents existed. Certain treaties contained, in regard to voting, rules other than those of the Covenant. He might cite in particular the Convention on the Aland Isles. Regarded constitutionally, therefore, the proposed modification appeared to him feasible.

M. Tumedei (Italy) observed that the result was an anomaly. In the case of preparatory decisions or provisional measures, the parties would be prevented by the Convention from taking part in the voting, whereas in the Council's final decision touching the substance of the matter they would be entitled to vote under Article 11 of the Covenant. He would confine himself to drawing attention to this peculiar situation and observed that it might be adduced as a reason by the different States for not ratifying the Convention.
The CHAIRMAN proposed that the Committee should first discuss the proposal of M. Cornejo to suppress the words "on the basis of reciprocity", so that the article would read:

"The provisions of the present Treaty shall only apply in respect of disputes between the High Contracting Parties."

Baron Rolin Jaequemyns (Belgium) thought that there was no objection to deleting the words mentioned.

M. Massigli (France) agreed to the proposal, provided that it was not possible to make, at the time of signing or ratifying the Convention, reservations on points of substance and that reservations could only be made to the number of signatory States or to the condition of ratification by specified States. In his opinion, it would probably be enough to specify in Article 9 that the countries might, at the time of the deposit of their ratification, make the coming into force of the Convention contingent on the ratification of one State or another. An express statement of that kind would exclude the possibility of any other reservation.

The Committee decided to adopt M. Cornejo's amendment and to delete the words "on the basis of reciprocity".

The CHAIRMAN observed that Article 6 formed the subject of an amendment by the Danish Government for the substitution of the words "States which have undertaken to accept the obligations of the present Treaty either by ratification in accordance with Article 8 or by special declaration made at the invitation of the Council of the League of Nations voted for by a majority of that body" for the words "the High Contracting Parties".

M. Massigli (France) had certain doubts with regard to the Danish amendment, which mentioned an invitation from the Council of the League voted by a majority. He wondered whether the Council could by a majority invite other countries to accept obligations which did not appear in the Covenant.

M. Undén (Sweden) proposed to strike out the words "at the invitation of the Council of the League of Nations voted for by a majority of that body". It would then be possible for a country to adhere by a special declaration and the suppression of the Council's invitation would obviate placing the non-signatory countries in an awkward situation. This formula would, moreover, facilitate the rapid accession of a country to the Convention in the event of ratification by the constitutional method entailing undue delay.

Baron Rolin Jaequemyns (Rapporteur) thought it difficult to accept M. Undén's proposal. It was, he thought, essential to have the assent of the other party concerned, that was to say, the Council. The article might, he thought say "either by ratification in accordance with Article 8 or by special declaration approved by a majority of the Council of the League of Nations".

M. Massigli (France) said that the Danish amendment, and likewise the corrections suggested by M. Undén and Baron Rolin Jaequemyns, appeared to him not only dangerous but, in a certain sense, immoral. The introduction of a clause of that nature would enable a country to claim the benefits of the Convention in certain cases without assuming its obligations. When a country accepted the obligations, it should accept them for all cases.

The CHAIRMAN thought that it would be better to have a general clause of adhesion without emphasising by a special clause the possibility of special cases, for it was obvious that in actual fact a provision worded on these lines might be used by a country to refrain from signing the Convention and to wait until it needed to claim its advantages.

After an exchange of views, the amendment proposed by the Danish Government was rejected.

Article 6 was adopted as it stood, with the amendment proposed by M. Cornejo and already approved.

Article 7.

The CHAIRMAN pointed out that Article 7 formed the subject of an amendment by the British delegation proposing the addition at the end of the article of the words "nor as imposing any obligation on the High Contracting Parties to cease or refrain from action taken in accordance with the recommendations of the Council".

M. Massigli (France) said that the British delegation's amendment was not quite clear and, further, the French version did not correspond very closely to the English text.

Baron Rolin Jaequemyns (Rapporteur) observed that at a plenary meeting he had asked Lord Cecil for explanations on the meaning of this amendment and that Lord Cecil had said that he would give the necessary explanations in the Drafting Committee.
Mr. Cadogan (British Empire) regretted that he had not taken Lord Cecil's opinion on this particular point. He wished, however, to say that the British Government's intention was to guarantee the measures that a State might be obliged to take in execution of the Covenant. In Mr. Cadogan's view, this provision might be regarded as superfluous, but it could not be a source of embarrassment. In any case, he would ask Lord Cecil for further explanations on the bearing of this amendment.

M. Rutgers (Netherlands) proposed to substitute for the words "in accordance with the recommendations of the Council" the words "in accordance with the obligations as they result from the Covenant".

After an exchange of views, it was decided to postpone the discussion of the British amendment to Article 7.

THIRD MEETING

Held on Tuesday, May 6th, 1930, at 10 a.m.

Chairman: M. Beneš (Czechoslovakia).

Present: All the members of the Drafting Committee, M. Westman replacing M. Undén (Sweden).


The Chairman recalled that some of the points to be considered were of a technical character and others of a political character. He proposed that the former, very few of which raised questions of principle, should be referred to a small sub-committee composed of the representatives of the Financial Committee, the Chairman, the Rapporteur and the Secretary. This sub-committee would present the Drafting Committee with a text.

This proposal was adopted.

The political points were contained in the following articles:

Article 1 and 1bis, which contained the principles of the Convention. These articles were essential and dominated the whole question.

Article 14 (Utilisation of the Loan).

Article 22 (Participation of States not Members of the League of Nations).

Articles 21 and 25 (Disputes as to Interpretation or Application of the Convention).

Article 26 (Vote).

Finally, the Additional Article, which would connect the Convention on Financial Assistance to that on Disarmament.

Article 1.

The Chairman recalled that the Committee, authorised by the plenary Committee, had decided to deal separately with the case of war and the case of threat of war. He opened the discussion on the case of war.

It was necessary to decide whether the application of financial assistance should be optional or obligatory; in other words, whether it was the Council's duty to grant it or whether it could decide according to circumstances. There were several opposing arguments. Finnish and French on the one hand, and German and Italian on the other. Finally, the British delegation had observed that it was desirable not to attach excessive importance to the word "may" or "shall". The Chairman accepted the compromise constituted by the British formula. In case of war, the Council should be compelled to grant financial assistance, but the text should be formulated in such a manner that the discretionary powers of the Council would always be safeguarded.

Viscount Cecil of Chelwood (British Empire) considered that it would be preferable to take as a basis the text proposed by the Finnish Government (Document C.A.S.102 Annex XI to the Minutes of the plenary Meetings).

This text was adopted provisionally in the following form:

"If a State, in violation of its international obligations, resorts to war against a High Contracting Party, the latter shall receive financial assistance under the present Convention, unless the Council decides otherwise.

"The State to which financial assistance is accorded undertakes, for its part, to submit the dispute to mediation by the Council or to judicial and arbitral settlement."
The CHAIRMAN brought forward the case of threat of war. The divergent opinions were separated by shades of meaning of very little importance. The British delegation proposed to say that the Council could accord financial assistance to the other party. The French delegation proposed to say that the Council could state that it would grant that assistance. On the other side, a formula of the German delegation opposed the granting of the authorisation for the loan before the resort to war had actually taken place. The German delegation, moreover, had been prepared to examine any other suggestion compatible with the principle which it supported, and the Italian delegation was also prepared to seek for a compromise. The Chairman proposed to take as a basis of discussion the Finnish text which was as follows:

"In the event of an imminent danger of rupture, the Council may accord financial assistance to a State which has applied to the Council for this purpose, if the circumstances show that the applicant State is obviously threatened by another State, and on condition that the applicant State undertakes to accept the Council's mediation or the judicial or arbitral settlement of the dispute.

"If the Council, in pursuit of its duty under the Covenant and acting within the limits of the rights it derives either from the Covenant or from general or special conventions applicable to the case, shall, in any international dispute likely to lead to a rupture, have taken action to prevent the aggravation of the situation and to safeguard peace, and if either of the parties obstructs the Council's measures, the Council may declare that it will accord the financial assistance to the other contracting party to the present Convention. The financial assistance, however, may be made subject to the condition that the State to which it is accorded shall give a previous undertaking to accept the peaceful settlement of the dispute or the putting into execution of any provisional recommendations which the Council may make with a view to safeguarding peace."

Sir Henry STRAKOSCH stated, in reply to Viscount Cecil, that the Financial Committee saw no difference between the British and French formulae from the financial point of view.

M. DE CHALENDAR recalled that it was desirable to maintain the statement that the party concerned would receive financial assistance "if it requested it".

M. TUMEDEI (Italy) pointed out that the German and Italian proposals contained a very useful warning. The Council stated that it had decided to grant financial assistance to the party against which the other party resorted to war. In that way, without pronouncing on the very dangerous question of guilt, the Council gave a most useful warning. As the formula of Article 1 reserved the discretionary powers of the Council, there could only be advantage in allowing that warning to subsist.

M. MASSIGLI (France) observed that the formula contained in the Finnish proposal was sufficiently elastic and covered all possible cases, since it laid down that the Council might intervene in the execution of the duties involved under the terms of the Covenant and within the limit of its rights arising either from the Covenant or from general conventions, or from particular conventions applicable to special cases.

M. TUMEDEI (Italy) agreed. It none the less remained true that the first hypothesis contained in the preceding paragraph concerned an imminent danger of rupture when the Council had taken no action.

Viscount CECIL OF CHELWOOD (British Empire) asked whether M. Tumedei would be satisfied if the second paragraph of the Finnish proposal, which contained no essential element were omitted.

M. ERICH (Finland) realised that the passage was not absolutely essential, but as Viscount Cecil himself had recognised in his great speech at the plenary meeting, it might be of advantage to take into consideration the various hypotheses which were likely to arise. In that speech, Viscount Cecil had drawn an ingenious distinction between the various possible cases. Thus, he had pointed out that the entry into force of the Pact of Paris might have the result of causing a State to commit hostile acts without a declaration of war, and he had also indicated numerous cases in which an intermediate situation between war and peace would exist. There might be acts threatening to peace, but which did not actually constitute resort to war. The Finnish formula, however, took those various hypotheses into account.

Viscount CECIL OF CHELWOOD (British Empire) replied that nothing was gained by the insertion of the passage. A country declared that it was threatened by war with another country. The Council took measures to safeguard peace on the basis of Article 11 of the Covenant, and at that moment the last paragraph of the Finnish proposal was put into operation. The texts of international conventions should be simplified to the greatest possible extent, and Viscount Cecil hoped that the Finnish delegation would accept the omission which he had proposed.

M. TUMEDEI (Italy) considered that the expressions "imminent danger" and "the applicant State is obviously threatened" were such as to lead to inextricable difficulties. In international law the expression "an evident injustice" was being continually used, and the
adjective had been the subject of discussions lasting for years. The same difficulty arose in determining whether such a threat was obvious, and M. Tumedei wished to point out the danger of adopting so vaguely worded texts. The British proposal, supported in particular by the Finnish delegation, contained the following passage: "If either of the parties to the dispute shall refuse or neglect to comply with directions given by the Council". That formula was perfectly clear, but the Finnish proposal at present under discussion contained, on the contrary, a very vague formula — "if either of the parties obstructs the Council's measures". In that there was a dangerous ambiguity.

The **Chairman** noted that the majority of the Drafting Committee was in favour of the omission of the second paragraph of the Finnish proposal. He suggested the adoption of the third paragraph, which would be re-drafted from the point of view of form by a small committee.

**These proposals were adopted.**

M. Erich (Finland) stated that in that case it would be desirable to say in paragraph 3: "The latter (the Council) shall accord financial assistance".

The expression "obstructs the Council's measures" had been deliberately adopted, for the Council could not give instructions to a State non-Member of the League of Nations, which was in any case not obliged to comply.

After a short adjournment of the meeting, the **Chairman** announced that unanimity had not been reached. It had been noted that between the Italian and German points of view on the one hand, and the points of view of the other delegations on the other, a question of principle arose. Consequently, only the second paragraph of the Finnish proposal would be omitted. The third paragraph would be re-drafted from the point of view of form, and in an introductory note would explain the points of view of the German and Italian delegations, the final text being reserved.

M. Ito (Japan) added that the attitude of Japan was very nearly the same as that of the other delegations. He asked that the same reserve be made on his account.

Agreed.

The **Chairman** called on the Committee to discuss the following text presented by the British, Danish and Swedish delegations as an addition to the previous paragraph: "However, before granting financial assistance, the Council shall endeavour to make use of any measure which may be appropriate to put an end to the conflict by mediation or other means."

M. Massigli (France) considered that the question would be settled by the last lines of the text just adopted, which stated that the granting of financial assistance would be subject to the condition that the State which profited from it gave a previous undertaking to accept the peaceful settlement of the dispute or the putting into execution of any provisional recommendations which the Council might make.

M. Tumedei (Italy) did not feel that that was correct. It was also necessary to ask the parties to submit to a peaceful settlement or to provide that the Council should itself make every effort to settle the dispute.

M. Cobian (Rapporteur) added that the Council would in all cases do everything in its power to prevent the dispute. That was why the expression, "the Council shall endeavour to make use of any measure which may be appropriate ", was not very satisfactory.

M. Tumedei (Italy) considered that it would be useless to add that phrase, for it was obvious that the Council should immediately try to resort to mediation or any other means in its power to stop the conflict.

Viscount Cecil of Chelwood (British Empire) proposed to overcome the difficulty by completing the last sentence of the Finnish text, which had already been adopted, in the following way: "The granting of financial assistance, however, shall be subject to the condition that the State to which it is accorded shall give a previous undertaking to accept the peaceful settlement of the conflict or the putting into execution of any provisional recommendations which the Council may make with a view to safeguarding peace, including the employment of any appropriate measures for ending the dispute by conciliation or any other means."

In addition, it would be stated that financial assistance would only be accorded if the country concerned asked for it.

**This proposal was adopted.**
The CHAIRMAN called on the Committee to discuss the additional article to the first article which the plenary Conference had agreed to insert and which was as follows:

"Without prejudice to the obligations arising from Article 16 of the Covenant, the High Contracting Parties undertake to give no help, direct or indirect, to any Powers that may be involved in hostilities against a High Contracting Party to which the financial assistance provided for by the present Convention has been accorded."

M. DE CHALENDAR said that the Financial Committee attached the greatest importance to this text.

Viscount CECIL OF CHELWOOD (British Empire) suggested that the text might be made more precise by the following alterations:

"Without prejudice to the obligations arising from Article 16 of the Covenant, the High Contracting Parties undertake, for the duration of the conflict, to give no help, direct or indirect, to any Powers that may be involved in hostilities, or menaced by hostilities . . ."

The rest would be unchanged.

M. COBIAN (Rapporteur) thought that these alterations brought the text outside the scope of Article 16.

Viscount CECIL OF CHELWOOD (British Empire) did not insist upon this second amendment.

M. RUTGERS (Netherlands) asked what was the exact meaning of the exception that preface the additional article:

"Without prejudice to the obligations arising from Article 16 of the Covenant."

M. MASSIGLI (France) replied that the Committee had taken as a basis the idea that Article 16 provided for positive assistance, but, on the other hand, they wished to prevent any measure that might contribute to destroy the effect of financial assistance. That would be the case, for example, if one of the States offered a loan to a Power against which the financial assistance of the League had been granted.

He thought that the term "hostilities" might create difficulties and that the term "conflict" would be preferable.

M. ITO (Japan) thought that it ought to be made clear that the expression "the High Contracting Parties undertake to give no help, direct or indirect", referred to the case of financial assistance.

The CHAIRMAN considered that this restriction would be dangerous, because to give or to promise financial assistance was an act morally binding on the other Members of the League of Nations.

M. ITO (Japan) replied that Article 16 laid down a rigid principle. It was useless to repeat its provisions unless its obligations were going to be limited to one particular point.

M. DE CHALENDAR said that the Financial Committee was extremely interested in this text. Once financial aid was granted, it was certain that all States would be financially interested in the case of the beneficiary State. It would be a disaster if financial help should be granted meanwhile by one of the States to the aggressor State against which the machinery set up in accordance with Article 16 had been set in motion.

Baron ROLIN JAEQUEMYSN (Belgium) thought that the text should be drawn up so that its provisions might be effective in every case of hostility. Consequently, he considered that it would be better in this case to speak of Powers who might find themselves in a state of conflict.

Viscount CECIL OF CHELWOOD (British Empire) warned the Committee not to expand the text under discussion to such an extent that they might make financial assistance so important that it would be tantamount to an actual blockade. He proposed to add the following passage to the text: "Without prejudice to the provisions of Article 16."

M. WESTMAN (Sweden) feared a misunderstanding and thought that, rather than that, it would be better to suppress this article.

The CHAIRMAN replied that, if it was not inserted in this place, it would have to be inserted in another part of the Convention. It was quite indispensable that one article should contain this reservation.

Dr. GÖPPERT (Germany) pointed out that, if they confined themselves to granting financial assistance in the case of actual war, this provision was useless, for in such a case Article 16 would come into play.
M. COBIÁN (Rapporteur) did not agree. The danger was to believe that financial assistance was the only form of assistance that would come into play. It was important to guarantee the integral existence of Article 16, and also to take care that a State should not be able to help another State against which financial assistance had been granted.

The CHAIRMAN proposed that the text should be adopted provisionally, and that the Committee should leave the German and Swedish delegates time to reflect before the complete text of Article 1 was presented at the next meeting.

He then opened the discussion on the suggestion made by M. Cornejo, who thought that the article should open with the case of threat of war, since a definition of the aggressor could be arrived at from the terms of the provisions for the application of financial assistance in case of threat of war. In his opinion, this proposal would upset all the machinery that was being set up, and he suggested that it could be put on one side if the Drafting Committee agreed.

This suggestion was adopted.

**Article 4.**

It was decided that the Financial Committee should deal with Article 4.

**Article 6 (Date of Scale of Allocation).**

M. WESTMAN (Sweden) was willing to accept the text of the Financial Committee, but asked if it would be possible to leave the Assembly to fix the date of scale of allocation as well as the maximum annual liability which should fall on any one Government.

The CHAIRMAN emphasised the fact that in principle they ought to choose as near a date as possible to put the Convention into force. The date might be left blank.

M. DE CHALENDAR said that, from the psychological point of view, it would be interesting for the liabilities of the guarantors to be known by every State at the time of signing the Convention.

The CHAIRMAN proposed that they should adopt the opinion of the Financial Committee for the text of this article.

This proposal was adopted.

**Article 13 (Authorisation of Loans).**

M. MASSIGLI (France) drew attention to the following expression: “The Governments of those High Contracting Parties whom the Council declares to be involved in war, or threat of war, shall be excluded from being guarantors”. That expression would have to be revised in order to bring it into line with the decisions taken, and about to be taken, on Articles 1 and 26.

This proposal was adopted.

**Article 14 (Control of Loan Service).**

The CHAIRMAN said that the Third Committee of the Assembly of 1929 had proposed to insert certain regulations in the Convention in order to assure an international control. In the opinion of certain delegates, paragraph 1 had been drawn up in such a way that the provisions concerning the employment of an authorised loan could not be included in the Protocol. That was a political as well as a technical question.

M. DE CHALENDAR said that the Financial Committee had carefully studied the discussion that had taken place in the Third Committee. It had decided that there was no reason to modify the text of the first amendment, and that it would be preferable to leave the Council the right to insist or not on the necessity of international control as the cases should arise.

The Financial Committee thought that the scruples aroused by the second amendment proposed by the Third Committee could be dispersed by the insertion of a new paragraph to read as follows:

“ The Council may make conditions as to the employment of the proceeds of the loan and supervision of such employment. These conditions shall be embodied in the Protocol mentioned in paragraph 1.”

The CHAIRMAN thought that these explanations were sufficient to allow the Committee to decide to accept the text of the Financial Committee.

This suggestion was approved.

**Article 22 (Guarantee of States not Members of the League of Nations).**

The CHAIRMAN reminded the Committee of the important problem in connection with this article, raised by the declaration of the Turkish delegation at a previous plenary meeting.
M. de Chalendar said that on that occasion Sir Henry Strakosch had explained the attitude adopted by the Financial Committee. He in his turn would do no more than to point out that the Financial Committee had taken the standpoint that only States Members of the League of Nations should be allowed to take part in this Convention. It was certainly not inconceivable that its benefits might be extended to States non-Members, but no provision had been made for such an eventuality. Moreover, the opinion had been expressed that it was impossible to extend the Convention in this manner. Besides many objections of a technical character, there was also the objection of a constitutional character, that the Convention depended on the Covenant and that it was difficult for a State to be party to this Convention on Financial Assistance without accepting at the same time all the rights and duties imposed by the Covenant.

M. Ito (Japan) said that his Government was in favour of the idea of extending the scope of this Convention by admitting to it States non-Members of the League of Nations; but he would not insist upon this point since the technical difficulties in the way were so great. He would re-examine the situation.

M. Massigli (France) thought that, if the Committee took this step, it would be absolutely necessary to explain to States non-Members of the League that, if they wished to become parties to this Convention, they would have to bind themselves definitely, at the same time, to accept Article 17 of the Covenant, that was to say, to recognise the Council's power of mediation. It might be a matter of political interest to induce certain States non-Members of the League to accede to the Convention, but he emphasised again that it would be impossible for them to be allowed to enjoy exclusive advantages from their accession without being bound on their side by the least engagement in return. That was why the acceptance of Article 17 of the Covenant ought to be made a preliminary sine qua non condition to their accession to the Convention.

In the Chairman's opinion, the explanations of M. de Chalendar and M. Massigli were completely convincing. He proposed that the Drafting Committee should authorise him to give a brief explanation at a plenary meeting of the reasons why it had been considered to be difficult to admit the request of the Turkish delegation.

M. Sokal (Poland) reminded the Committee that it had discussed the possibility of the accession of non-Member States, provided that they accepted Article 17 of the Covenant.

M. de Chalendar replied that, in such a case, it would be necessary to re-draft completely eight articles of the draft Convention.

M. Sokal (Poland) asked what would be done with Article 22 in those circumstances.

M. de Chalendar replied that it only concerned the possibility of the participation of States non-Members of the League in the guarantee of the annual service of a particular loan.

The Chairman's proposal was adopted.

Article 25 (Reference of Disputes to the Permanent Court of International Justice).

M. Rutgers (Netherlands) agreed with the Third Committee in thinking that recourse to the jurisdiction of the Permanent Court of International Justice would not necessarily be a cause of delay owing to the existence of a summary procedure.

Viscount Cecil of Chelwood (British Empire) thought that the Committee ought to allow itself to be guided by the financial experts and to set up as simple and rapid a machinery as possible. The Council was always free to ask for the advice of the Permanent Court should it find it necessary.

M. de Chalendar said that the Financial Committee had had to keep to its original decision and make use of the experience it had collected in the course of its previous financial interventions when the Council had always been taken as arbiter.

M. Rutgers (Netherlands) did not press the matter.

Article 26 (Decisions of the Council).

Viscount Cecil of Chelwood (British Empire) thought that the text ought certainly to be based on the terms of the Covenant, as had been proposed by the Third Committee.

M. Ito (Japan) pointed out that it was proposed that all the decisions of the Council, except those entailed by Article 1, should be taken by a simple majority vote. Would it not be just in Articles 13 and 14, for example, that the representatives of those States which had undertaken special guarantees should also be allowed to vote? The present provisions seemed to him to be too strict.

M. Cobian (Rapporteur) did not agree with M. Ito, since in practice all States would be able to claim such a right.
Viscount Cecil of Chelwood (British Empire) suggested that the difficulty might be solved by the general provisions of the Covenant, which allowed a Member of the League of Nations to be called to the Council each time that that Member was especially interested in the discussion of a particular matter. Perhaps an expression drawn up in general terms could be introduced to meet this difficulty.

M. Ito (Japan) did not insist on his proposal.

Article 29 (Interval between Ratification and Participation).

M. Tumedei (Italy) recalled the fact that, under the first draft, no State could be allowed to participate in the advantages and obligations of the Convention except one year after its signature and ratification. That was certainly an encouragement to speedy accession to the Convention. It was not the same in the actual text before the Committee, where a State could ignore the Convention, and then, at the approach of danger, hasten to deposit its adhesion.

The Chairman proposed to keep the observations of M. Tumedei in mind, so that the Bureau and the Rapporteur could re-examine the provisions of this article in collaboration with the members of the Financial Committee.

This proposal was adopted.

Additional Article (Relation with the Disarmament Convention).

The Chairman reminded the Committee that, at the last Assembly, the majority of the delegations had been of the opinion that the Convention on Financial Assistance should be linked up with the Disarmament Convention. At the previous meeting, however, several delegations had thought that it would be better to put the Convention on Financial Assistance into force independently of other conventions. On the other hand, some delegations had insisted on the necessity of establishing such a relation.

Furthermore, the Finnish delegation had raised a question of drafting. It had pointed out that a provision which stated that the Convention would cease to be in force if the General Disarmament Convention ceased to operate might give rise to difficulties. In certain cases, doubts might arise as to the maintenance in force of the Disarmament Convention.

On the other hand, under Article 8 of the Covenant, once the plans for the reduction of armaments were accepted, they would remain permanently in force, with the reservation of possible modifications.

Baron Rolin Jaequemyns (Belgium) asked if those delegations that were in favour of a suspensory clause insisted on the insertion of this provision in the text, and if it would not be possible, instead of having an additional article, to draw up a draft resolution, which would be communicated to the Assembly at the same time as the Convention itself.

Viscount Cecil of Chelwood (British Empire) said that this was a point on which the opinion of his Government was quite formal, and on which he personally had received very precise instructions. It would be a serious mistake if such a formula were not inserted in the Convention. The acceptance of a Disarmament Convention would be such a step forward that, once its principle was accepted, the British Government would regard the Convention on Financial Assistance in quite a different and much more favourable light. He asked that such a relation between the two Conventions, which was of the greatest utility, should not be done away with or disguised.

M. Massigli (France) pointed out that the question could be viewed in a slightly different way, according to whether the Convention included cases of threat of war or not. If the application of the Convention was limited to cases of war, he wondered whether Viscount Cecil would not revise his opinion.

In any case, the present draft of the article was incorrect. If the same Powers which were parties to the present Convention on Financial Assistance were also parties to a disarmament convention, he would agree to the draft; but it was important that the link established between the two Conventions should not result in preventing the Convention on Financial Assistance from coming into force; the veto of any non-signatory Power of this Convention would be sufficient to do that. Should not the coming into force of the Convention on Financial Assistance be linked to the existence of a disarmament convention, the parties to which would be the signatory Powers of the first Convention?

Viscount Cecil of Chelwood (British Empire) wished to have time to reflect on M. Massigli’s proposal, to which at the moment he saw no objections.

But, in any case, he did not agree with the first opinion expressed by M. Massigli. It was quite true that the Convention would not be so efficient if it only applied to cases of war, but, nevertheless, it should not be forgotten that the principal aim of the Convention was to maintain the principle that certain Governments which had accepted new obligations would make an attempt to bring about a general disarmament convention.
The CHAIRMAN said that there were two diametrically opposite opinions. As the Third Committee had decided by a majority in favour of relating the two Conventions, he thought that in any case an article might be drawn up which would express this idea, and he proposed that the draft of it should be entrusted to the Bureau in collaboration with Viscount Cecil and M. Massigli. Thus, States that were opposed to this relation could make reservations to the text, and the Rapporteur would explain the position of those States before the plenary Committee.

This proposal was adopted.

M. Tumedei (Italy) also reserved his opinion on the second part of M. Massigli's observations.

FOURTH MEETING

Held on Wednesday, May 7th, 1930, at 10 a.m.

Chairman: M. Beneš (Czechoslovakia).

Present: All the members of the Drafting Committee.


The CHAIRMAN recalled that the members of the Bureau and the representatives of the Financial Committee had been requested to adjust the various texts and amendments which had been put forward and which appeared in the synoptic table (see document C.P.D.190, C.A.S.88) (Annex XII to the Minutes of the Plenary Meetings). He proposed to leave the political articles on one side and to pass rapidly in review the technical articles of the draft submitted by the Bureau (Annex VI).

This proposal was adopted.

Articles 2 to 5.

The original text was adopted.

Article 6.

The text of the Bureau was adopted.

An explanatory note would state that the sum of 100 million francs only appeared as an example and that it would be for the Governments to fix definitively the maximum annual liability. The same was the case in regard to the date of January 1st, 1930. The actual date would also be fixed by the Governments.

Articles 7 and 8.

The original text was adopted.

Article 9.

The text of the Financial Committee was adopted.

Articles 10, 11 and 12.

The original text was adopted.

Article 13.

M. Westman (Sweden) recalled that in certain countries it was not the Government which was qualified to issue a loan. The Swedish delegation had therefore proposed to say: “The Government or the competent authority to issue a loan”. The Financial Committee, however, had considered that it would suffice for the Swedish delegation to make a declaration to that effect at the time of signature.

This article, amended by M. Massigli, was adopted in the following form:

“In the event of the application of Articles 1A or 1B, the Council of the League of Nations shall authorise the Government of the High Contracting Party to issue a loan enjoying the ordinary guarantees and the special guarantees resulting from the present Convention. The Council may exclude the ordinary guarantee or special guarantee of any Government if, in its opinion, it would not be desirable in the interest of the success of the loan that such ordinary guarantee or special guarantee should attach to the loan.”

For paragraphs 2 and 3, the original text was adopted.
Articles 14 and 15.

The text of the Financial Committee was adopted.

Article 16.

The original text was adopted.

Article 17.

The text of the Financial Committee was adopted.

Articles 18, 19, 20, 21 and 22.

The original text was adopted.

Article 22A.

The text of the Financial Committee was adopted.

Articles 23, 24 and 25.

The original text was adopted.

Article 26.

Adopted in the following form:

"1. Decisions of the Council under Articles 1A or 1B shall be taken by the unanimous vote of the Members represented at the meeting, the votes of representatives of the parties to the dispute not being counted in determining such unanimity.

2. All other decisions taken by the Council in virtue of the present Convention shall be taken by a simple majority vote of the Members represented at the meeting, the votes of the representatives of the parties to the dispute not being counted.

3. A Member of the League which is not a Member of the Council shall not claim to sit on the Council when the latter discusses questions arising under the present Convention, in virtue of the fact that it is an ordinary guarantor or special guarantor under the present Convention."

Articles 27 and 28.

The original text was adopted.

Articles 29 and 30.

The Bureau proposed to substitute these articles by a new text (Articles A, B, C).

M. ERICH (Finland) considered that the text of the Bureau was incompatible with the provisions of Article 8 of the Covenant, which provided for the revision every ten years of the plans for the reduction of armaments. Moreover, it created a very regrettable uncertainty, for it could not be known which States signatories were, and would remain, bound by the Disarmament Convention. The Finnish delegation was not in favour of the additional text and wished to replace it by the following text:

"The present Convention shall enter into force only on condition of the previous entry into force of a general convention on disarmament, in accordance with Article 8 of the Covenant of the League of Nations. The present Convention may form the subject of a re-consideration and, if necessary, of a revision under the conditions applicable to the general convention on disarmament."

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The original text was adopted.

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That text created enough connection without emphasising too much that assistance would depend on the condition that the applicant State had carried out all the liabilities of disarmament.

M. MASSIGLI (France) considered that the text proposed by the Bureau was open to criticism in so far as it laid down that the link to be established between the present Convention and the entry into force of the disarmament plan should be defined by the Conference which adopted the plan. It would be somewhat surprising if the fate of the Convention depended on the decisions of a Conference which included representatives of Powers that had not signed it (Annex VII).

The CHAIRMAN considered that there was a danger that the connection laid down by the Bureau would be too strait.

Viscount CECIL OF CHELWOOD (British Empire) stated that this article was one of those to which his Government attached the greatest importance. It was impossible for him to give his opinion at first sight, but provisionally he could see that he would prefer the first paragraph of the text submitted by the Bureau and the second paragraph of the text of the Finnish delegation. A text drawn up in that manner would give satisfaction to the ideas which he had been instructed to put forward in the most formal manner. In any case, a text of that kind was a sine qua non for the acceptance of the British Government.
M. ERICH (Finland) stated that the Finnish proposal assumed the strict and rigorous application of Article 8 of the Covenant. It was well understood that the Disarmament Convention could not be allowed to be put more or less on one side. In that case, the observations of M. Massigli retained all their importance. If the French proposal regarding the Additional Article was limited to the first paragraph, it should be such as to give satisfaction.

M. RUTGERS (Netherlands) had, at first sight, objections to the second paragraph of the text proposed by the Bureau. Was it intended to indicate that the Conference which would adopt the disarmament plan would be qualified to alter the Convention on Financial Assistance?

The CHAIRMAN replied that the Committee appeared to be in agreement that the second paragraph should be omitted.

M. RUTGERS (Netherlands) wished also to know what was the meaning of the expression “may refuse” which appeared in the second paragraph of the French proposal. Did it refer to a unanimous decision?

Baron Rolin Jaequemyns (Belgium) would not emphasise his regret at seeing a convention made dependent on the putting into operation of another convention. Would it not, however, aggravate the situation still more to include the Additional Article in the body of the text, and would it not be preferable to draw up a convention which was complete in itself by adding at the end, in an additional article, the suspensive condition?

M. Massigli (France) said that the observations which had already been made in regard to paragraph 2 of the text of the French delegation made him decide to accept its omission. He had already stated that he was in agreement with the feeling just expressed by Baron Rolin Jaequemyns, but, since the British delegation made the insertion of the article a sine qua non, he would bow to that desire and would accept a text uniting paragraph 1 of the text prepared by the Bureau and paragraph 2 of the French draft. That article in that form would be the last article of the Convention.

M. Sokal (Poland) supported the point of view of the Belgian representative. He drew attention to certain drafting difficulties. It was to be said that the entry into operation of the Convention was dependant on the putting into force of the disarmament plan stipulated for in Article 8 of the Covenant, but the final result of the Preparatory Commission on Disarmament was still unknown, and the experience of the past years did not permit of any absolute certainty in regard to the possibility of realising a plan. How, then, was it possible to bind oneself to-day when the present Convention might have to be completely re-drafted in the event of the direction of the work on disarmament being altered? Could not entire satisfaction be given to the British argument by abstaining from taking a decision beforehand in regard to the putting into force or the absence of the putting into force of a disarmament plan?

M. Tume DEI (Italy) considered that, if the Committee contented itself with stipulating that the entry into force of the Convention would be dependent on the general provisions for disarmament, doubts would still subsist. Indeed, if a State which signed the Convention on Financial Assistance did not give its adhesion to the disarmament plan, was it possible that that situation would hinder the operation of the Convention on Financial Assistance? It would be extremely difficult to establish such a connection. At the same time, he felt some doubt in regard to the French proposal, according to which a contracting party might be unable to benefit from financial assistance if, within a period of one year, it had not carried out the plan for the limitation and reduction of armaments. Indeed, if the disarmament plan had to be applied immediately, a period of one year would be too long. If, on the contrary, it was necessary to wait longer, that provision might constitute an obstacle.

In conclusion, it was impossible to state the exact action which it would be desirable to establish before it was known exactly what the disarmament plan would be. Might it not, therefore, be said at the very least in an introductory note that a general formula was employed because the disarmament plan had not yet been drawn up?

The CHAIRMAN summarised the situation: in the first place, the Committee was unanimously agreed that the article should be put at the end of the Convention. In the second place, it was agreed to take the first paragraph of Article A prepared by the Bureau and the first paragraph of the French text. In the third place, the second paragraph of the French text would be omitted, as well as the second paragraph of Article A.

Finally, it appeared that there was no objection to stating in an introductory note that the connection between the Convention and a general disarmament convention could not be definitively established, but the Chairman would be tempted to agree with M. Massigli that it was dangerous to make it dependent on another convention.

M. Sokal (Poland) asked whether it would not be wiser to avoid the expression “entry into force of a general plan for the reduction of armaments”. Would it not be preferable to use the expression: “entry into force of the arrangements made for obtaining a reduction in armaments”?

Viscount Cecil of Chelwood (British Empire) accepted the omission of the term “general”, provided that reference to Article 8 of the Covenant was maintained.
M. MASSIGLI (France) reminded the Committee that it ought not to lose sight of the very definite task that had been entrusted to it, to draw up a Convention to be signed at latest by the next Assembly. The Committee had connected the Convention with that on disarmament; but, on the other hand, it had recognised that the objections to paragraph 2 of the text prepared by the Bureau, which made the existence of the Convention dependent on a Conference in which Powers which were not parties to the Convention on Financial Assistance took part, had been noted. Let the existence of this connection be admitted and let it be defined, but at the same time a practicable and self-sufficient text should be drawn up.

Baron Rolin Jaequemyns (Belgium) recalled that reference had been made expressly to the text of Article 8 of the Covenant. It would therefore be preferable not to alter the terms, but to employ the following expression: "the putting into force and the maintenance of a plan for the reduction of armaments".

M. Sokal (Poland) pointed out that the following formula should be put at the beginning of the article: "subject to the eventual application of Article 16 of the Covenant", in order to emphasise that, if the Convention did not enter into force and Article 16 had to be applied, the Council had every right to do so.

Viscount Cecil of Chelwood (British Empire) had no objections of principle, but it would be still more preferable not to mention Article 16, in order that no one should raise doubts as to its existence.

M. Sokal (Poland) was entirely satisfied with that statement.

M. Rutgers (Netherlands) asked how the end of the period laid down in the article would be determined. The best procedure would perhaps be to request the Council to decide the matter, but Article 25 itself would not enter into force before the remainder of the Convention. That was a vicious circle from which it would be difficult to escape.

M. Sokal (Poland) replied that in practice the difficulty would not exist. When a party ratified financial assistance, the Council would see whether it was desirable to grant it.

Viscount Cecil of Chelwood (British Empire) added that recourse could also be had to the Optional Clause.

The Chairman observed that there were certain legal questions which were automatically settled via facti. That was at present the case. With the entry into force of the disarmament plan, the Convention on Financial Assistance would immediately enter into force.

The first paragraph of Article A of the Bureau, completed by the first paragraph of the French proposal, was adopted as the last article of the Convention.

The Chairman opened the discussion on Article B, which was adopted in the following form:

"It shall also be a condition of the entry into force of the present Convention that the ratifications or accessions which it has received shall have resulted in causing a sum of not less than 50 million gold francs, for the annual service of loans, to be covered by ordinary guarantees and also by the special guarantees of not less than three Governments."

The Chairman recalled that the sum of 50 million francs appeared only as an explanation.

Article C was adopted in the following form:

"Article C.

1. The present Convention shall enter into force ninety days after the date on which the conditions set out in Articles A and B are satisfied. The Secretary-General shall make the calculations necessary for the purpose of Article B. He shall notify the entry into force of the Convention to all the Members of the League.

2. The total maximum amount covered by ordinary guarantees in accordance with Article 6 on the date of entry into force of the Convention, and any subsequent increase in that amount resulting from a new ratification or accession, shall be notified to all the Members of the League by the Secretary-General."

The Chairman opened the discussion on Article D.

Baron Rolin Jaequemyns (Belgium) drew attention to paragraph 1:

"The present Convention shall be concluded for a period of ten years, dating from its entry into force."

He considered that there would be more likelihood of accession if it were known for how long Governments would be bound.
M. de Chalendar considered that, as there was a financial undertaking, it was necessary to know for how long that undertaking would be valid. Was not the period of ten years, however, too short? Should it not be raised to 15 years or a limit fixed such as, for instance, the year 1945?

M. Massigli (France) added that, since there was no authority qualified to say that on a certain date the Convention would enter into force, it was necessary to know at what moment the guarantees and engagements accepted would enter into action.

Paragraph 1 was adopted.

M. Rutgers (Netherlands) pointed out that paragraph 2 stipulated that the Convention should remain in force for two further successive periods of five years, but it had not yet entered into force. It was necessary to distinguish between the entry into force of Articles A, B, C and D, which would take place immediately after signature, and, on the other hand, the material content of Article C, which would only apply after certain conditions had been fulfilled.

Baron Rolin Jaequemyns (Belgium) proposed the following text:

"The present Convention, concluded for a period of 15 years from this date, shall enter into force on the ninetieth day."

If there was too long a delay in obtaining the necessary guarantees, the Convention would be in force until the expiration of the period still to run.

M. Tumedei (Italy) could accept this text, but asked whether it was possible to provide for so long a period. Would it not be preferable to display the confidence shown in the disarmament conference and to keep to a period of ten years?

The Chairman noted that the Committee had reached a certain amount of agreement on principle and proposed to leave to the Bureau and the Rapporteur the task of co-ordinating the different texts proposed.

Paragraphs 1, 2, 3, 4 and 5 were provisionally adopted.

Viscount Cecil of Chelwood (British Empire) considered that a provision should be inserted giving the assurance that the Convention should not fail without an effort to revive it and proposed some such sentence as:

"Even in this case a conference of all the signatories shall be held in order to consider what can be done to save the Convention."

Paragraphs 6 and 7 were adopted.

Article 31.

M. Rutgers (Netherlands) said that this text was contrary to Article 18 of the Covenant, which laid down that other treaties entered into hereafter should be forthwith registered.

Baron Rolin Jaequemyns (Belgium) replied that it nevertheless appeared reasonable to interpret the Covenant by stipulating that only existing Conventions should be registered.

Dr. Göppert (Germany) noted that it was left to the Secretary-General to decide whether the conditions laid down in the Additional Article had been fulfilled. Could he not be relieved of that responsibility by providing for a Council decision on the matter?

The Chairman replied that it would in fact be possible to stipulate that registration should only take place after a decision of the Council.

Viscount Cecil of Chelwood (British Empire) formally opposed this proposal. The registration of a treaty was an act simply intended to notify the world that a document was in existence and that it had the force of international law. There could be no question of considering for a single moment the imposition of any preliminary condition whatsoever. To do so would create a most dangerous precedent.

Article 31 was adopted.

Article 1A.

The Chairman proposed to return to Article 1A.

Viscount Cecil of Chelwood (British Empire) pointed out an omission. Once financial assistance was granted, the Council had taken a decision and thus its powers as an organ of conciliation were considerably diminished. Would it not be possible to avoid that objection by stating that if, in spite of all the efforts of the Council of the League of Nations for the maintenance or re-establishment of pacific relations, a State . . . resolved to war against a High Contracting Party, the latter would receive financial assistance?
M. MASSIGLI (France) had no objection, but no ambiguity should be allowed to subsist which would compel the Council to make further efforts, even if it knew in advance that it was impossible to reach a conclusion. Some such formula as the following would therefore be necessary: "In spite of all the efforts which the Council shall have made".

Viscount CECIL OF CHELWOOD (British Empire) agreed.

M. WESTMAN (Sweden) recalled the Danish proposal, which was supported by the Swedish delegation. It compelled the parties, even in time of war, to submit to the provisional recommendations of the Council. He asked the Rapporteur to be good enough to explain in his report the reasons why the Drafting Committee had been unable to accept that proposal.

M. COBIÁN (Rapporteur) replied that the proposal related to the original text. The present situation was different.

Article 1A was provisionally adopted.

Article 1B.

M. ERICH (Finland) drew attention to the following passage: "if the Council . . . shall . . . have taken action . . . and if either of the parties shall refuse or neglect to conform to such measures . . .". He willingly accepted the expression "measures" in place of the term "directions", which would have been likely to delay the accession of several Powers. He hoped that in order to avoid any misunderstanding, the Bureau would be good enough to explain that the provisions in question should apply equally to a dispute between States Members of the League of Nations and States non-signatories of the Covenant. Without that statement, the practical value of the text would be very weak.

The CHAIRMAN replied that it had never been intended to restrict in any way whatever the obligations of the Covenant. The text was such as to give satisfaction to the preoccupations of M. Erich.

Dr. GöPPERT (Germany) renewed his declaration of the previous day.

Article 1B was provisionally adopted.

Article 1C (Undertaking to give no Help to the Opponents of the High Contracting Party which benefits from Financial Assistance).

M. WESTMAN (Sweden) was obliged once again to point out that he had doubts in regard to the expediency of this article. He took the case of States non-Members of the Council who might not always be entirely satisfied with the decision taken apart from themselves. Nevertheless, he was prepared to accept the risk. It would, however, be going too far to add the obligation to give no help, direct or indirect. M. Westman was unable to accept such an extension of the Convention.

Viscount CECIL OF CHELWOOD (British Empire) stated that his doubts in that connection had only increased: indeed, the article brought into action the greater part of Article 16 by means of a decision taken not by the parties individually, but by the Council. That signified that it would be necessary to break off all relations with the belligerent parties; that was to say, to put into operation the economic provisions of Article 16 of the Covenant. It was true that the phrase "without prejudice to the obligations arising from Article 16 of the Covenant" had been added, but Viscount Cecil did not see that that added anything to the meaning. It appeared to reserve the freedom of other countries, but the rest of the text withheld that freedom. "Would it not be expedient to be content with the undertaking to give no help, without adding "direct or indirect"?"

M. RUTGERS (Netherlands) noted that the undertaking to give no help was extremely ambiguous. Did it indicate that all commercial relations should be broken off, or that States should refrain from any complicity? In the second place, did the text leave entirely to the States the right to decide whether the case of Article 16 arose? The decision which had been taken not to submit disputes to the Permanent Court of International Justice was also valuable in regard to that article. Thus, it was comprehensible that States non-Members of the Council would hesitate to accept an obligation whose extent was not clearly delimited. "Would there be any objection to omitting the article?"

M. ITO (Japan) added that in its new form the bearing of the article, whose uncertainty had already been feared in its original form, would be increased. The provisions of Article 16 were to be extended to cases of conflict. There were great difficulties in that certain Governments would apply the provisions of Article 16 to cases other than the case of war, and M. Ito must make an express reservation on this article.

M. POSPISIL explained the point of view of the Financial Committee. It was a question of explaining that if financial assistance were accorded, it was logically inconceivable that help would intentionally be given to the opponents of the State who received that assistance. In any case, it would be necessary to indicate most clearly in the introductory note that the article should be the object of a restrictive interpretation.
Viscount Cecil of Chelwood (British Empire) proposed the following text:

"The High Contracting Parties undertake . . . not to obstruct or nullify the action of the Council in granting this assistance."

M. Massigli (France) was of the same opinion as M. Ito. In regard to Article 1A, he considered that the Committee should keep the text with the omission of the expression "direct or indirect". Article 1B raised a more delicate question because of the existence of Article 23. If a State at the same time as it opened its financial market to another State opened its market also to the opponent of that other State, it would be using a very simple means of preventing the Convention from operating.

The Chairman noted that there was unanimity in regard to the text of Article 1A and that, on the other hand, well-founded criticisms had been expressed in regard to Article 1B. He proposed that the Bureau and the members of the Financial Committee should prepare a new text for the next meeting.

M. Tumeidei (Italy) considered that the observations of Viscount Cecil had a much wider bearing.

Viscount Cecil of Chelwood (British Empire) observed that, in fact, an endeavour was being made to provide against a quite inconceivable danger. It was unbelievable that a State which accorded a loan should take measures which would result in nullifying the guarantees of that loan.

M. de Chalendar replied that, nevertheless, it was necessary not to be too confident. A State might very well accord financial assistance to one State and at the same time consider it a very profitable operation to grant help to the opponent of that State.

The Chairman considered that the most simple solution would be to omit the expression "direct" or "indirect" and to give explanations in the introductory note. The reservation of the Swedish delegation would none the less subsist.

Viscount Cecil of Chelwood (British Empire) considered that it was doubtful whether the present text gave guarantees against the avidity of financiers, the more in that it only bound the contracting parties and not their nationals.

M. Massigli (France) recognised the difficulty, but the obligations of Article 16 of the Covenant would none the less retain all their force and would enable States to take measures against their nationals. Apart from that, in the case of threat of war, the Governments were not without means of action in regard to their financial markets, they could prevent the issue of a loan or, at least, make the conditions of that loan much more onerous.

Viscount Cecil of Chelwood (British Empire) considered when war was declared Article 16, whose provisions were a great deal more severe than those of Article 1C, would enter into operation. All the necessary guarantees of Article 1A would thus have been taken, and, in short, there would rather be an advantage in omitting Article 1C.

The Chairman noted that the Committee had before it a suggestion to add at the end of Article 23 a provision which would state more clearly the obligations assumed in the event of the threat of war, and showing that in case of conflict not only should no positive help be accorded but that no negative help should be given to the opponent.

M. de Chalendar was compelled to state that, from the financial point of view, the complete absence of such a provision would be extremely regrettable.

M. Pospisil added that it was necessary to state in the text that nothing should prejudice the provisions of Article 16 of the Covenant.

The Chairman proposed to reserve Article 1C, which would be submitted at the same time as the introductory note.

Viscount Cecil of Chelwood (British Empire) left the matter to the decision of the Bureau. Agreed.

Article 4.

M. Tumeidei (Italy) had made certain proposals which the Bureau had not approved. He did not insist on them, but he recalled that in regard to Article 4 he had proposed that amortisation should be divided over the whole period of the loan. He asked whether it would not be possible to examine this proposal once again.

M. Pospisil replied that the Financial Committee would examine it.
Sir Henry Strakosch felt compelled to state that the Financial Committee considered that the proposal would raise great technical difficulties. In the first place, such provisions might raise difficulties from the point of view of placing the loan on the market. In the second place, objections would certainly be raised from the point of view of the borrower who, being engaged in a war, would obviously be unable immediately to make supplementary payments outside the service of interest on the loan. Finally, it was customary to provide in regard to loans that a stable annuity or interest on amortisation should be equal in quantity from the beginning, so that at the end of the period the proportion of amortisation was much greater.

M. Tumedei (Italy) considered, on the contrary, that the market would be much better disposed if rapid amortisation were provided for.

In the second place, if the interests of the borrower had to be taken into account, it was also necessary to take into account the interests of the creditors and the guarantors. The special guarantors in particular would desire that amortisation should start from the beginning.

In the third place, was it absolutely necessary to provide for a fixed annuity?
M. Tumedei asked the Committee to reflect on that question, for in his opinion it was of the highest importance that each State should know exactly what was the total burden of the obligations which it assumed.

The Chairman proposed that the Bureau, the Rapporteur, and the representatives of the Financial Committee should consider the question.

Agreed.

Preamble.

M. Ito (Japan) stated that his reservation referred also to the Preamble.

M. de Castro (Uruguay) had been instructed to ask the Committee to consider whether it saw any possibility of stating the nature, the extent and the meaning of the supplementary obligations which the contracting parties would have to assume. The Preamble had an interpretative value in dissipating any doubts which might exist. In its text, the new obligations and the existing guarantees could be pointed out clearly, and in particular those offered by the Covenant.

M. Cobián (Rapporteur) considered that this request was well founded, for the present text was too vague. He felt that it should be explained that it was a matter of "financial assistance by means of the guarantee of loans". Thus, it would be stated in a summary of the usual character of what financial assistance consisted.

M. de Castro (Uruguay) was satisfied.

The Preamble was adopted.

The text as a whole was adopted with the exception of Articles 2, 3 and 1C, which would be submitted again at the same time as the introductory note.

FIFTH MEETING

Held on Wednesday, May 7th, 1930, at 4 p.m.

Chairman : M. Beneš (Czechoslovakia).

Present : All the members of the Drafting Committee.


The Chairman wished, before beginning the discussion on the general draft Convention with a view to strengthening the means of preventing war, to consult the Committee on a special point arising out of the Convention concerning Financial Assistance. The small Drafting Committee which had dealt with that matter had been authorised to replace Article 1C which referred to Article 16 of the Covenant by another article in which a negative formula would be inserted. The Chairman submitted the text proposed by the Financial Committee for Article 23, which was to the following effect:

"Governments participating in the ordinary guarantee or in the special guarantee undertake to facilitate as completely as possible the issue of loans authorised in conformity with the present Convention both by opening their financial markets for these loans and by abstaining from any measure which might compromise the effective nature of the financial assistance which is the object of the present Convention."
This text met the ideas expressed at the previous meeting of the Committee and consequently might be expected to raise no objections. Nevertheless, difficulties might be encountered in regard to the second part which referred to Article 16 of the Covenant. It had been proposed to insert this provision in the form of a second paragraph to Article 23 in the following terms:

“This or any other provision of the present Convention cannot be interpreted as affecting the rights and obligations incurred by the High Contracting Parties as the result of the stipulations of Article 16 of the Covenant.”

The Chairman proposed, in order to prevent a long discussion, that the Bureau should deal with the matter and should be authorised to consult the various delegations concerned, submitting the result of its work to the Committee in plenary session.

Viscount Cecil of Chelwood (British Empire) thought that, in view of the general terms in which the provision had been drafted, it would be preferable to insert it in a place in the Convention where it would have a general meaning, for if it came immediately after Article 23 it would appear to be connected only with that article.

The Chairman agreed with this view, which was also that of the French delegation. The proposals of the Chairman were adopted.


The Chairman recalled that the members of the Committee had received a synoptic table (Annex I) showing the different suggestions proposed for the various provisions of the Convention. He proposed to open the discussion immediately on Article 3. The table submitted to the Committee comprised four columns: the French proposal, the former text amended according to the British proposals, the draft proposed by Baron Rolin Jaequemyns and the draft suggested by M. Unden. In addition, there was a new British proposal (Annex III).

Baron Rolin Jaequemyns (Rapporteur) wished to explain that he submitted his text as Rapporteur and not as representative of Belgium. In agreement with the German delegation, he had shortened the original text submitted by it and he thought that the new text was appreciably nearer to the other texts except in respect of demilitarised zones of which it made no mention. This reference did not appear to him to be necessary, since those zones were provided for by existing conventions.

Should his draft, however, be accepted, Baron Rolin Jaequemyns thought that, in order to achieve the final adoption of this text, it would be better to complete it by the following provision:

“The above provisions in no way affect the rights and obligations incumbent upon the High Contracting Parties as a result of the treaties and conventions which they have previously concluded.”

Viscount Cecil of Chelwood (British Empire) wished to make a number of observations regarding the new British proposal, which he thought furnished a means of solving the difficulties before the Committee. The object of any discussion undertaken by the Committee on Arbitration and Security at its present session was to strengthen the moral obligations imposed by Article 11 of the Covenant and to transform them into legal obligations. In the accomplishment of this task the Committee had encountered many difficulties, of which the most serious was possibly the following. Many countries were somewhat reluctant to undertake in advance to apply the recommendations put forward by the Council, for, in view of the state of tension which would certainly exist during a time of crisis, the recommendations of the Council might be even involuntarily of a nature gravely to compromise the safety of the State concerned. Several Governments, and among them the British Government, felt this. It was therefore a question of ascertaining how Article 11 could be strengthened without imposing on the various States greater obligations than those which they were in a position to accept in the present state of international development. Several solutions had been proposed. The first solution was to say: “Why should not reliance be placed entirely on the wisdom of the Council?” This solution was obviously satisfactory. At the time when the Council would be called upon to examine the matter, the parties concerned would be present and would have the right to vote. In those circumstances, there was very little likelihood that the Council would decide to recommend measures which one of the parties concerned would think dangerous for its national security. From the opinion expressed, however, by the various delegations it seemed that this solution, however satisfactory it might appear in theory, would have very little chance of acceptance in practice.

It had also been suggested that Article 11 should be left in its present state as far as the vote of the parties was concerned, which would mean that they would be allowed the right to veto the decisions contemplated by the Council in cases where such decisions did not appear acceptable. To adopt this solution, however, would be to abandon any idea of making progress. It must, however, be clearly recognised that, even if the obligations to be assumed were defined as clearly as possible, in cases in which the Council recommended measures causing
real danger to the national security of one party, it was extremely doubtful whether that country would carry out even its contractual obligations in a case of this kind, and in that case the situation would become really dangerous.

Another solution had been suggested by the French delegation. It had proposed that one or two measures which the Council might be authorised to take should be defined, and, in regard to those measures, the parties should be required to assume the definite obligation to apply them. This suggestion, which seemed practical, had raised considerable objections, because the French delegation had logically completed it by proposing a number of provisions also of a compulsory nature concerning control and sanctions. The Governments of a number of countries, especially the British Government, would find it extremely difficult to accept these provisions. Lord Cecil also felt somewhat reluctant to stipulate that the Council could be allowed to adopt any particular measure which States might undertake to apply. The Council might, for example, lay down lines of demarcation and order the withdrawal of troops to a position beyond those lines, but these were the only provisions it could recommend which should be binding on States. This solution would, he thought, considerably reduce the powers conferred upon the Council by Article 11. The Committee should not, however, forget that, up to the moment, Article 11 had always proved entirely satisfactory. It was after a careful study of these various solutions that Viscount Cecil had reached the conclusion that perhaps a simpler solution was possible. It would be sufficient, in his view, to state the actual facts in the Convention.

When the recommendations put forward by the Council, with the object of reducing a threat of war or of putting an end to war, constituted a real danger to the security of one of the countries concerned, it was obvious that that country could not accept them. The Council could therefore be left quite free to exercise its powers, provided that it was laid down that, if the Council exercised its powers in a form which would obviously be dangerous for one of the parties concerned, that party could refuse to apply the measures recommended. In any case, this, in Viscount Cecil's view, was the surest method of procedure, for even if the solution proposed by the French delegation were adopted, was it quite certain that in every circumstance it would be possible to accept the recommendations of the Council, and that in certain special cases some of the measures adopted would not put the party applying them in a dangerous position?

Lord Cecil was referring at this moment to the question of neutralised zones. Some years ago, it had been precisely this question which had given rise to strong objections on the part of military experts.

It was quite obvious that, if the troops of the two countries concerned were to be withdrawn behind lines of demarcation established at the same distance on both sides from the frontier, the consequences of this withdrawal might quite easily not be the same for both. It was quite possible that in such a case one of the two parties would be compelled to evacuate a very strong strategical position, while the other would abandon positions of no particular importance.

General Réquin and General de Marinis would certainly remember the discussions on this question which had taken place in the Advisory Committee.

These difficulties, which were already considerable in so far as the land forces of States were concerned, were still greater in the case of their naval and air forces.

On sea, it was almost impossible to establish lines of demarcation. The Committee must also realise that, for the moment, in so far as naval warfare was concerned, the object was not to provoke a combat between two fleets but to establish a blockade. In such a case, however, how would it be possible to establish lines of demarcation? Similar difficulties would be met with in the case of the air forces of the countries.

It seemed, therefore, very doubtful whether the French suggestion really constituted a satisfactory solution in practice. It should also be borne in mind that it imposed too great a restriction on the powers of the Council.

For that reason, the British delegation proposed to leave untouched the powers which the Council possessed in virtue of Article 11 and, in order to forestall the objections that the countries which feared for their national security might make, the British delegation suggested the following text to form the second paragraph of Article 3:

"Provided always that nothing in this article shall compel any High Contracting Party to comply with any such recommendation of the Council which the High Contracting Party shall deem to be inconsistent with its national safety; but, in that case, it shall forthwith furnish to the Council its reasons for refusing to comply with the Council's recommendation."

It might immediately be objected that all the parties concerned would certainly urge that the measures laid down were incompatible with their national security. Lord Cecil did not think so. He could quote several examples drawn from recent events. In the great majority of cases, the recommendations made by the Council would obviously not be incompatible with national security and only the country which had definitely made up its mind to be the aggressor would tender a refusal. What country in the world would run such a risk?

In any case, Lord Cecil considered that, allowing for every kind of criticism, the article proposed by the British delegation was unobjectionable, for it left the powers conferred by Article 11 untouched and did not weaken them.

Before concluding, Viscount Cecil wished to reply in advance to the objections which the French delegation might make. If that delegation were to emphasise the fact that many things were lacking in the British proposal, more especially provisions covering control, Lord Cecil desired to point out that these measures of control were, if not expressly, at any rate
implicitly, included in the British text. If the Council ordered the withdrawal of troops beyond a line of demarcation, and if one of the States in question were to maintain that that measure was incompatible with its national security were the other country not to carry out the prescribed withdrawal, it was obvious that the Council would be asked to control the execution of the measures recommended, which meant that control would be assured.

Obviously, the British proposal made no mention of the sanctions contemplated in the French proposal. Lord Cecil, however, did not think that an extension of the already very considerable powers arising out of Article 16 of the Covenant would be opportune at the moment. This extension would not be agreed to by many countries and particularly by Great Britain. Nevertheless, though Article C in the form in which the French delegation had drafted it was not to be found in the British proposal, it was none the less true that the substance of this article was, at any rate most of it, implicitly contained in that proposal. If the Council were to make recommendations which were obviously reasonable and capable of acceptance by the two parties, and if one of them did not execute them, there was very little chance of that party avoiding the sanctions provided for in Article 16 should war break out. The British formula therefore made possible an indirect return to the question of sanctions.

In a spirit of conciliation, Lord Cecil said in conclusion that, if in the view of the majority of the Committee such a procedure were necessary, it might be possible as an example — and Lord Cecil would emphasise this point — to outline certain measures. Personally, Lord Cecil, without being opposed in principle to this solution, thought it preferable to preserve the general form of the British proposal.

General de Marinis (Italy) observed that he had not taken a very active part in the drawing up of the articles of the Convention under consideration, and that he had wished to defer until the final reading of the texts submitted the definitive expression of his opinion. At the same time, he could not refrain from stating that in any case the proposal submitted by Viscount Cecil would have the sympathy of the Italian delegation, for it covered a great part of the preoccupations of the various countries on the occasion of the signature of a Convention whose exact bearing was not known. Moreover, the formula adopted in that proposal departed as little as possible from the text of the Covenant, which was certainly an advantage.

In regard to the French proposal, General de Marinis had recognised several days ago that technically it was perfectly logical, but that it raised grave objections in practice, and that was why the British proposal appeared to him to be preferable. Nevertheless, he maintained all the preoccupations expressed by Italy with regard to a general treaty and he reserved his view in regard to the final conclusions.

M. Massigli (France) had listened with great interest to the very friendly statement of Viscount Cecil. Nevertheless, to his very great regret, he could not support the text proposed by the British delegation. He said "to his very great regret" because he considered that the check which the Committee would encounter was greatly to be regretted. He had believed that, in spite of the difficulties, it would be possible to do constructive work, at least in the field of the prevention of war, but he was compelled to note that the proposal of the British delegation did not constitute real advance. In particular, it defined the conditions for the application of Article 11 of the Covenant and nothing more. M. Massigli felt that it was always undesirable to confine oneself to repeating provisions which already existed. The result was only to weaken them. Viscount Cecil had accused the French delegation of reducing, by its proposal, the scope of Article 11 and of restricting the powers of the Council under that article. M. Massigli wished to observe that the definite measures indicated in the French proposal were not at all exclusive of the other measures which the Council might prescribe, and that was said expressly in an other article of the Convention. In sum, Article 3 proposed by the French delegation was complementary to Article 11.

Moreover, it appeared to him to be somewhat disquieting, from the point of view of public opinion, that the work of the Committee should end in a text of which Viscount Cecil could say that in any case it could do no harm.

M. Massigli was not convinced that the French proposals would be inoperative. They were aimed, in so far as land forces were concerned, at preventing the contact of hostile forces in time of crisis, and that measure appeared to him to be extremely important. He believed that similar measures could also be taken in the naval and air spheres. In the latter case, he recalled that the prohibitions of flying over certain zones was included in the ordinary way in Conventions already existing; for instance, in the International Convention on Aerial Navigation. There was no reason, therefore, why the system should not be extended to the case of a crisis.

In regard to control and supervision, he believed that the provisions drawn up were very easy of application and would not clash with sovereignty.

In regard to the sanctions, the first text proposed by the French delegation had given rise to objections, which had been taken into account, but if the second paragraph of new Article C appeared to go too far, it might be asked in what case the Covenant would be applied.

M. Massigli concluded that he could not support the proposal submitted by Viscount Cecil. If that proposal found real unanimity in the Committee, he would send it to the French Government and draw its special attention to it.

Dr. Göppert (Germany) also regretted to have to say that he hesitated to accept Viscount Cecil's proposal. He recalled that the object of the German proposal, which was the basis of the draft, was to transform into legal obligations the moral obligations which arose from Article 11 of the Covenant. The British proposal did not seem to add much to that article,
and in any case not enough in the opinion of the German delegation. Dr. Goppert remained of opinion that agreement could be reached in advance in regard to certain definite measures. Obviously, care should be taken not to decrease the powers of the Council, but he believed, with Dr. Massigli, that it was possible to obviate that danger.

The German delegation would be prepared to accept the text suggested by Baron Rolin Jaqueynyns, which on the whole accorded well with its ideas. It would also be prepared to accept the addition proposed by Baron Rolin Jaqueynyns at the end of the text in regard to the treaties and conventions already concluded by the High Contracting Parties, if that addition would increase the number of acceptances of the suggested formula. At the same time, Dr. Goppert would suggest giving greater flexibility to the text by the introduction of the words "in particular."

The text would then read as follows:

"In particular, in fixing on the territory of each of the parties concerned...."

A further modification could also be introduced in order to admit of agreement with the British delegation. Dr. Goppert agreed that it was difficult to apply the solution of lines of demarcation in the naval spheres, but it should be recognised that the incidents to be feared on land which often resulted from the excess of zeal on the part of local commanders were a great deal less frequent in the naval spheres. Naval units were generally in the charge of officers of high rank, who are fully aware of their responsibilities, and their orders sufficed to prevent any hostile acts. In those conditions, Dr. Goppert believed that each of the High Contracting Parties could be left the duty and the responsibility of taking all the necessary practical measures for giving effect to the recommendations of the Council. In the text, the formula:

"Any provisional measures which the Council may consider necessary to ensure..."

could be replaced by:

"Any provisional measures which each Contracting Party may consider necessary to ensure..."

Thus it would be for each contracting party to guarantee that the orders given by it would be sufficient to give effect to the recommendation of the Council.

M. Rutgers (Netherlands) wished to put forward some observations in regard to the British proposal. He took as a point of departure Article 11 of the Covenant, and would prefer that reference should not be made to the "obligations arising out of Article 11", for that article gave to the Council a pacific mission. Every decision taken by the Council had to obtain the assent of the parties who in fact took part in the vote. Thus, if the right of the parties to vote was maintained, the result would be practically nil, for there would only be a simple reference to the provisions of Article 11. The real progress which it was desired to realise was to draft provisions enabling the Council to prescribe measures without the intervention of the vote of the parties to the dispute. The British proposal accepted that provision, but it appeared to withdraw with one hand what it gave with the other, since, if the recommendation of the Council appeared to be dangerous for one of the parties, that party had the right to refuse to apply it and to notify the Council of its refusal. The reservation of the British delegation gave to the parties greater freedom to refrain from carrying out the measures prescribed.

In addition, M. Rutgers observed that in its first part the proposal of the British delegation made, or seemed to make, a step in advance, since it gave unlimited competence to the Council. Nevertheless, he would prefer the French proposal, which made real if restricted progress, and he asked whether it would not be preferable to adopt the latter proposal, at least in regard to military and air affairs.

Finally, M. Rutgers stated that in regard to the question of control and sanctions, he would, for the moment, not express his opinion.

Viscount Cecil of Chelewood (British Empire) wished first to reply to M. Goppert. The latter had taken the Rapporteur's proposal and accepted it in regard to land forces, but when the question of naval forces was reached, he had made the same observations which Viscount Cecil's naval experts had put forward and had recognised the impossibility of laying down precise measures. He obviously proposed a simple solution, which consisted in saying to the Powers: "You will do as you like"; but that solution would appear to be difficult to apply.

Dr. Goppert (Germany) pointed out that, according to his proposal, the Powers would have no liberty to do what they wished. They would be compelled to take the necessary measures to guarantee the observance by the naval forces of the Council's prescription to avoid any hostile act. They would be free only to choose the appropriate measures to attain this end and it would be their business to take care that those measures should be adequate.

Viscount Cecil of Chelewood (British Empire) said that M. Rutgers had stated that the British proposal did not lead to progress. Viscount Cecil willingly recognised that the progress made was small, but he considered that it was progress in the right direction, that was to say, in the direction of making more effective the powers conferred by the Covenant on the Council. On the other hand, if it were desired to re-draft the Covenant, two categories of powers would be laid down for the Council, some of which would be obligatory and some of which would not be obligatory. Viscount Cecil opposed that solution for the very reasons which had caused the inclusion in the Covenant of the League of Nations of the provisions of the Pact of Paris, in order to avoid the co-existence of two sets of obligations of unequal
bearing. He drew the attention of M. Massigli and M. Rutgers to the great danger of decreasing the value of the machinery set up by the League of Nations, which had already shown itself to be very effective.

He also wished to point out to the delegations of France and the Netherlands that in its first paragraph the British proposal gave to the Council very important powers of decision. Whatever might be the result of the recommendations of the Council, it would be officially registered that the Council had recommended a certain measure. That was a very valuable result. On the other hand, the parties to the dispute should not be able to render the decisions of the Council useless by a simple negative vote. If they did not wish to submit, they should be obliged immediately to furnish the Council with the reasons for their refusal to comply with its recommendations. It was easy to add that a country might put forward fallacious reasons, but, as a matter of fact, in the international sphere reasons of that kind were not put forward. Viscount Cecil recalled the Greco-Bulgarian dispute. The Greek Government had never put forward fallacious reasons, and it had withdrawn its troops. If the Council drew up reasonable recommendations, the parties were obliged to comply with them. Viscount Cecil recalled the working of the Mandates Commission which in theory had no power but which, nevertheless, had done very valuable work in improving the administration of the territories under mandate. It was supported by public opinion and it was the force of public opinion which the British proposal hoped would intervene in cases with which the Committee was concerned.

M. Ito (Japan) recalled that Article 3 was a very important article, which had been drawn up at the beginning for cases in which hostilities had already broken out or in which frontier incidents or skirmishes, etc., had occurred. It appeared necessary to take adequate measures to prevent those incidents from degenerating into war. The British delegation had added the idea of the threat of hostility which to M. Ito did not seem to be very clear. On the other hand, M. Ito considered that the British proposal was an advance owing to the fact that the votes of the parties to the dispute were not counted when the Council drew up its recommendations. That was a step forward in the direction of the prevention of war in accordance with Article 11. M. Ito expressed his sympathy with the British proposal; meanwhile, he reserved his opinion in regard to the possibility of establishing a general treaty.

Baron Rolin Jaqueymins (Rapporteur) thought it useful in his capacity of Rapporteur to recall briefly the trend of the discussion. To begin with, the Committee had dealt with a first text of Article 3, which referred to precautionary measures "in particular, the withdrawal of forces . . . .". That text made no reference to naval or air questions. The measure indicated was of the nature of an example. The text, however, had given rise to objections, based on very strong reasons, on the part of the French delegation, which was opposed to the words "in particular". The French delegation wished for explanations, and had drawn up its proposal which was reproduced in the first column of the synoptic table. The French proposal paid special attention to the lines of demarcation, in regard to naval and air forces, and it also contained under (c) a provision which appeared in Article 4 and which still further increased the meaning of the suggested clause. In that direction, especially in regard to naval measures and sanctions, there had appeared to be little possibility of obtaining unanimity or even a majority.

It was then that Baron Rolin Jaqueymins as Rapporteur, after having consulted the German delegation, had suggested a text. During the discussion, however, it had been obvious that it was not very likely that that text would be accepted.

Finally, the Committee had dealt with a new proposal put forward by the British delegation. That proposal was dominated by a very wide tendency in regard to the recommendations of the Council. It was no longer concerned with the withdrawal of troops, and the text referred in a general manner to the recommendations of the Council. In fact, great freedom was left to the Council, but that very great freedom was balanced in the second paragraph by greater freedom to the parties to the dispute to refuse, for good reasons, to carry out the measures prescribed by the Council.

In view of those various proposals and of the discussion which had taken place, Baron Rolin Jaqueymins asked whether among the opposing opinions there could not be found a common point on which the agreement could be reached.

He would ask Viscount Cecil if he did not think that, in the event of the Council directing a State to withdraw those of its forces which had penetrated into the territory of another State, the first State would not be obliged, in that case, to comply with the Council's prescription.

Viscount Cecil of Chelwood (British Empire) replied that obviously in a case of that kind no country could even think of refusing to apply the recommendations of the Council. The consequence of a refusal would be that that State would immediately be considered as the aggressor and the provisions of Article 16 would be put into operation. Thus, it was not a question of a purely theoretical or academic discussion, but of a discussion concerning realities and, in consequence, there would be no necessity in practice to mention eventualities of that kind.

Baron Rolin Jaqueymins (Rapporteur) did not question the reply which Viscount Cecil had made to his question. He noted in regard to the withdrawal of the forces which had invaded the territory of a State that there would be agreement if the words "in particular" were omitted. Baron Rolin Jaqueymins believed, contrary to the opinion of Viscount Cecil, that it would all the same be desirable to explain the point, which would be completed by the
supervision provided in Article 4. Possibly that would be a question on which the Committee would be able to reach agreement.

On the other hand, Baron Rolin Jaequemyns would be prepared to return to the idea of the French delegation in regard to naval and air forces, but, in order to avoid raising the objections which had already been put forward, he believed it would be preferable to retain, with drafting reservations, the proposal put forward by Dr. Gropert, which would leave to the States the responsibility of taking express measures for giving satisfaction to the Council. Thus, a minimum proposal would be reached which would concern only the withdrawal of troops which had already been put forward, he believed it would be preferable to retain, with drafting reservations, the proposal put forward by Dr. Gropert, which would leave to the States the responsibility of taking express measures for giving satisfaction to the Council. Thus, a minimum proposal would be reached which would concern only the withdrawal of troops which had already invaded the territory of another State, and that compromise would perhaps enable the members of the Committee to reach agreement.

M. Rutgers (Netherlands) had listened with great interest to the observations of Viscount Cecil. He fully recognised that moral forces were at the basis of the League of Nations and its work and that those moral forces were as apparent in the application of Article 11 as in the working of the Mandates Commission. In the case under discussion, it was a question of legal obligations.

Viscount Cecil of Chelwood (British Empire) observed that a legal obligation was always a moral obligation.

M. Rutgers (Netherlands) maintained that it was a question of legal obligations which the parties could refuse to carry out by a simple declaration based on well-founded reasons that the measures prescribed by the Council were incompatible with their national security. It was obvious that a country which put forward fallacious reasons in support of its refusal would incur the disapproval of public opinion, but he feared that the Convention would not have great force if it simply rested on disapproval, even of the whole world. It was to be feared that this disapproval would be braved. M. Rutgers appreciated, as did Viscount Cecil, the value of moral forces, but he considered it necessary to establish legal obligations.

The Chairman proposed to leave the French delegation's proposal on one side and to endeavour to arrive at a single text combining all the other proposals. There would then be two texts, and an effort would be made to bring them together by means of a compromise text. During the discussion, he had noted that the shades of differences between the proposals had not been weakened, but emphasised. In order that an attempt should again be made to reach a solution, he proposed that the meeting should be adjourned for a few minutes in order that the delegations concerned might consult together and, if possible, reach an acceptable text.

(The meeting was adjourned at 6.5 p.m. and re-opened at 6.35 p.m.)

The Chairman said that during the break in the meeting the Rapporteur had endeavoured to draw up a compromise which should take account of the proposal submitted by Viscount Cecil and the other suggestions. The text was as follows:

“In a case of a threat of hostility, or if any hostile acts have been committed by one of the contracting parties against another party, and if the Council, acting under the provisions of Article 11 of the Covenant of the League of Nations, shall, in consequence, make recommendations with a view to diminishing or putting an end to that threat of war, the High Contracting Parties hereby undertake to comply with such recommendation. No exception can be made to this undertaking if the Council has confined itself to ordering the withdrawal of forces which have penetrated into the territory of another State. In all other circumstances, each High Contracting Party also undertakes to comply with the recommendation of the Council in so far as it does not think such recommendation to be inconsistent with its national safety; but in that case it shall forthwith furnish to the Council its reasons for refusing to comply with the Council's recommendation. The above provisions do not in any way affect the rights and obligations incumbent upon High Contracting Parties as the result of the treaties and conventions which they have previously concluded.”

The first paragraph of this text was based on the proposal of the British delegation, of which it reproduced most of the wording. The second paragraph emphasised the necessity of the withdrawal of any forces which might have penetrated into the territory of any other State. The third paragraph reproduced almost word for word the suggestion contained at the end of Lord Cecil's proposal. The last paragraph contained the clause suggested by Baron Rolin Jaequemyns to cover the rights and obligations resulting from previous treaties and conventions. The Chairman would inform the Committee immediately of a fresh suggestion presented. The last paragraph contained the clause suggested by Baron Rolin Jaequemyns to cover the rights and obligations resulting from previous treaties and conventions. The Chairman would inform the Committee immediately of a fresh suggestion presented. The last paragraph contained the clause suggested by Baron Rolin Jaequemyns to cover the rights and obligations resulting from previous treaties and conventions. The Chairman would inform the Committee immediately of a fresh suggestion presented. The last paragraph contained the clause suggested by Baron Rolin Jaequemyns to cover the rights and obligations resulting from previous treaties and conventions. The Chairman would inform the Committee immediately of a fresh suggestion presented. The last paragraph contained the clause suggested by Baron Rolin Jaequemyns to cover the rights and obligations resulting from previous treaties and conventions. The Chairman would inform the Committee immediately of a fresh suggestion presented.

Viscount Cecil of Chelwood (British Empire) thought that the formula proposed which he was now examining for the first time only was of too vague a nature. He did not mind where a formula of this kind was inserted, but its meaning must be more clearly stated.
Dr. Göppert (Germany) regretted that no reference was made to the lines of demarcation behind which the forces of the two States must be withdrawn.

Baron Rolin Jaequemyns (Rapporteur) thought that the German delegation preferred the first text suggested, to be found in the third column of the synoptic table. That text was based directly on the German proposal. He would, however, point out that this new text constituted a minimum and that it was perhaps better than nothing.

Dr. Göppert (Germany) asked for time to reflect before giving his opinion. Moreover, he wondered whether military Powers might perhaps fear that even the communication of reasons of national security because of which the State refused to conform to a measure of the Council, might in certain cases compromise this security. Personally, he did not think there could be any question of that.

Viscount Cecil of Chelwood (British Empire) replied that in that case their security would be of a very precarious nature.

The Chairman noted the tendency to move in the direction of a single formula, except in regard to the observations which the German delegation might feel inclined to make after closer examination of the point.

M. Massigli (France) said that if the work of the Committee resulted in a text which should achieve real unanimity, not only would he forward this text to his Government, but he would advise its adoption. He would, however, point out that in no case could he recommend the adoption of a text in which the Committee showed itself really too afraid to call things by their proper name. He was referring at the moment to demilitarised zones. The existence of these zones was not a new fact. Provision had been made for them in existing treaties, and it might be regarded as likely that they would also be found in future treaties, since the League of Nations itself had recommended the adoption of this system in certain cases. M. Massigli did not wish to decry the prudent ingenuity of the proposal put forward by Baron Rolin Jaequemyns, but where psychology and public opinion were concerned, every shade had to be taken into account. If they arrived at a text which not only did not add fresh elements to the question of security, but which even carefully avoided using the proper word to describe a system brought into being precisely in order to reinforce security in certain cases, the effect on opinion would be disastrous. He would forward such a text to his Government because it was his duty to do so, but he could not conscientiously recommend its adoption, and he was certain that no French Government would accept it.

Viscount Cecil of Chelwood (British Empire) agreed with M. Massigli on this point. He saw no reason not to say what was meant. It was obvious that the provision which it was desired to add to the second paragraph covered demilitarised zones. In that case, this should be clearly stated.

Baron Rolin Jaequemyns (Rapporteur) fully agreed with Viscount Cecil and M. Massigli. He had suggested a general formula, however, in order to meet objections. The duty of a Rapporteur was obviously to seek means to offend no one.

The Chairman noted that Dr. Göppert had no objection to a reference to demilitarised zones.

M. Rutgers (Netherlands) said that what was essential was to prevent armed forces from actually engaging. It was this point which had specially pleased him in the text previously proposed. In his view, the formula was of little importance. What was essential was to preserve the idea of the lines of demarcation. This idea, however, had disappeared from the proposed text, at any rate, in so far as the second paragraph was concerned, though that paragraph was the keystone of the arch.

Baron Rolin Jaequemyns (Rapporteur) pointed out to M. Rutgers that the reason why the idea of lines of demarcation had not been kept in the new draft was because he had been under the impression that there was very little chance that any agreement would be reached on this point. He repeated that the text submitted contained the minimum possible. Was it not better, however, to remain content with making very small progress rather than to achieve nothing?

M. Ito (Japan) said that the formula with which the first paragraph opened, "should there be a threat of hostilities", appeared to him difficult to interpret. He would prefer the wording of the Covenant in which the formula "threat of war" was used.

Viscount Cecil of Chelwood (British Empire) supported M. Ito's suggestion. It would be preferable to adopt the wording of Article 11. If not, the Committee would appear to allude to cases different from those covered by that article to which indeed allusion was made a little further on in the text. This was merely a question of words, however, which it was extremely difficult to discuss in a large Committee. He said that he could accept in advance any solution which the Bureau of the Committee might adopt in this matter.
The CHAIRMAN noted that, as the result of the exchange of views which had just taken place, agreement had been achieved in regard to Article 1. To Article 2 of the present text would be added the formula: “or in a demilitarised zone in virtue of international agreements”. Paragraph 3 would remain unchanged, and paragraph 4 would be deleted.

If the Committee agreed, this text could, he thought, be provisionally adopted.

M. Rutgers (Netherlands) did not wish to commit himself definitely. He wished to examine the new text closely, for he did not think it free from dangers and objections. He would confine himself to pointing out the difficulties which would occur in cases where one of the great Powers stated that it was unable to accept the recommendations of the Council. Without wishing to emphasise this point, he feared that the attitude of the Council would differ according to whether the matter concerned a great or a small Power. This procedure, which referred to national security, was of no great interest in so far as he was concerned, and he felt compelled to reserve his opinion.

Dr. Göppert (Germany) and M. Westman (Sweden) also reserved their views. M. Sokal (Poland) would explain the views of the Polish delegation at the following meeting.

The CHAIRMAN noted that the Committee could register at any rate a provisional agreement upon the text. The only text outstanding was that proposed by the French delegation and this new text.

Article 4.

The CHAIRMAN briefly analysed the different kinds of proposals to be found in the five columns dealing with Article 4. Article 4 covered the question of control, and it was especially necessary to find a formula for this. It would be easier, he thought, to achieve a single formula covering the point. The texts contained in columns 2, 3 and 4 were very much alike, and differed only with regard to shades of meaning. He wondered whether it would not be possible to combine them in a single text.

Viscount Cecil of Chelwood (British Empire) preferred the draft suggested by Baron Rolin Jaequemyns. The other texts would lead to delay. In time of crisis, however, every hour was precious, and no provision should be adopted which might hinder the action of the Council in cases of this kind.

M. Ito (Japan) had no insuperable objection to the text suggested by Baron Rolin Jaequemyns, but preferred the former text, which he thought more supple.

Baron Rolin Jaequemyns (Rapporteur) said that his text did not stipulate that representatives of the Council must of necessity be sent to the spot. The difference between this text and the former was that the former provided for the despatch of representatives. He would remind the Committee of the Council's discussions in regard to this matter during the spring of 1927. They had often been quoted, and they had contemplated the possibility of sending representatives.

Dr. Göppert (Germany) was in favour of the draft proposed by Baron Rolin Jaequemyns.

M. Westman (Sweden) thought that the object of the proposal put forward by M. Undén was to anticipate the French proposal. If, however, the French delegation was unable to accept the suggestion of M. Undén, he thought that the Swedish delegation would be ready to adopt the proposal of Baron Rolin Jaequemyns.

M. Ito (Japan), in reply to a question of the Chairman, said he would refrain from voting.

The CHAIRMAN was under the impression that a number of delegations would be prepared to accept the draft suggested by Baron Rolin Jaequemyns.

M. Massigli (France) had serious objections to the vague character of the proposed wording. He would emphasise the importance of the words “without delay” to be found in the first paragraph of the French proposal. It would be useful to lay down that the high contracting parties should execute the measures decided on by the Council without delay, for in no other part of the Convention did this phrase occur.

Baron Rolin Jaequemyns (Rapporteur) said this idea could be introduced into Article 3, where it could be laid down that the contracting parties would undertake to conform without delay to the precautionary measures, etc.

Viscount Cecil of Chelwood (British Empire) had no objection to this solution.

M. Sokal (Poland) would give his views at the following meeting on Article 4 as well as on Article 3.
The CHAIRMAN summarised the discussion. After an exchange of views, the Committee now had before it the text proposed by the French delegation in the form suggested by Baron Rolin Jacqueymps, which appeared to have encountered the support of several delegations. He proposed that the remainder of the discussion should be postponed to the next meeting.

This proposal was adopted.

7. Appointment of a Rapporteur of the Sub-Committee instructed to Deal with the Question of Aircraft.

M. de Castro (Uruguay) was appointed Rapporteur of the Sub-Committee for dealing with the question of aircraft.

SIXTH MEETING

Held on Thursday, May 8th, 1930, at 10 a.m.

Chairman: M. Beneš (Czechoslovakia).

Present: All the members of the Drafting Committee.


The CHAIRMAN explained that the Bureau had suggested that Article 1C should be omitted and had brought forward a new drafting for Article 23; it also proposed to introduce a new Article 26A into the text of the Convention.

The aforementioned articles ran as follows:

"Article 23.

"Those ordinary or special guarantor Governments undertake to facilitate to the fullest possible extent the issue of loans authorised under the present Convention, both by opening their financial markets to such loans and by abstaining from any measure capable of compromising the efficacy of the financial assistance provided for by the present Convention."

"Article 26A.

"The provisions of the present Convention may not be interpreted as affecting the rights and obligations of the High Contracting Parties under the provisions of Article 16 of the Covenant."

The Preamble, Articles 1A, 1B, 2 and 3 were adopted; Article 1C was deleted.

Article 4 (Original Text).

The CHAIRMAN said that the Financial Committee had unanimously decided that the present text was the only one which could be adopted. M. Janssen had explained that the Belgian Government, after hearing explanations of the customs of international markets, had completely abandoned its original point of view.

M. Tumedei (Italy) reserved the right for the competent Italian financial organisation to refuse to be bound by the provisions of the text, should they find it necessary.

M. Westman (Sweden) made the same reservation for Sweden.

Article 4 was adopted.

Articles 5 to 21 were adopted.

Article 22.

The CHAIRMAN reminded the Committee that explanations had been given to the Turkish delegate during the plenary meeting. Besides the reasons which had been given, the Financial Committee had put forward considerations of technical order. It had had the opportunity during a private meeting to explain these to a representative of the Turkish delegation and had upheld its point of view.

Article 22 was adopted.

Article 23 was adopted in the new form proposed by the Bureau.

Articles 24 to 26 were adopted.
Article 26A.

M. Tumedei (Italy) asked if this article, proposed by the Bureau, might not contain a general formula that appeared in all treaties which stipulated that it was impossible for the present Convention to infringe the rights and character of the League of Nations.

The Chairman replied that the present text, which left intact the rights under Article 16 of the Covenant, had been arrived at after a long discussion.

Viscount Cecil of Chelwood (British Empire) pointed out that it was impossible to accept the formula proposed by M. Tumedei, because the present Convention introduced certain modifications which restricted the right of voting in the Council.

M. Tumedei (Italy) agreed with Viscount Cecil.

Article 26A was adopted.

Articles 27, 28 and the Articles A and B were adopted.

Article C.

M. Tumedei (Italy) pointed out that the duration of the Convention had been increased by half the period originally suggested.

Viscount Cecil of Chelwood (British Empire) replied that, practically speaking, that increase meant nothing at all, for, at the beginning, a period of ten years after the coming into force of the plans for disarmament had been suggested; but, in spite of all his optimism, Viscount Cecil could hardly hope that a disarmament convention would be adopted before two or three years’ time.

M. Tumedei (Italy) added that Article 8 of the Covenant made provision for a revision of this plan every ten years. It would be useful if it had been possible to make the duration of the present Convention coincide with the duration of the Disarmament Convention.

Article C was adopted.

Article D.

Viscount Cecil of Chelwood (British Empire) pointed out that paragraph 1 of this article made the entry of the Convention into force subject to the entry and maintenance in force of the plans for the reduction of armaments, but the second paragraph mentioned no plan for the reduction of armaments, but a plan for the limitation and reduction of armaments by the general disarmament conference; Article 8 of the Covenant dealt with a certain number of questions, and it was conceivable that confusion might arise from these two texts. The same expression ought to be used in the two paragraphs.

M. Massigli (France) felt that there was a difficulty. According to the second paragraph of Article C, the Convention should continue in force for further successive periods of five years, but under Article 8 of the Covenant disarmament conventions were subject to revision at least every ten years. He thought that the Committee should establish a certain parallel between the two texts.

The Chairman reminded the Committee that the aim of the relation that they were trying to create between the Convention on Financial Assistance and the plan of disarmament was, above all, a political and tactical one; but, nevertheless, they had tried to secure an independent existence for the Convention on Financial Assistance.

Viscount Cecil of Chelwood (British Empire) pointed out that the principal reason for this link between the two Conventions was the fact that the British Government considered that a disarmament plan would reinforce the security of the world to such an extent that, in the circumstances, the British Government would be prepared to look favourably upon an extension of its obligations which otherwise it would have been unwilling to consider.

M. Massigli (France) recalled the fact that Viscount Cecil’s proposal laid it down that the entry into force and the maintenance of the Convention would be subject to the entry into force and the maintenance of the plans for disarmament. To it the Committee had added the French proposal, which ought to lead to the revision of the whole of the article. Would it not be possible to say in the first paragraph that the entry into force of the Convention on Financial Assistance was subject to the entry into force of the Convention for the Reduction of Armaments, and to lay it down in the second paragraph that the grant of assistance under this Convention to a contracting party was subject to the acceptance by this contracting party of the plans for disarmament? M. Massigli proposed the following wording:

“‘The entry into force of the present Convention is subject to the entry into force of the plan for reduction of armaments contemplated by Article 8 of the Covenant. ‘Notwithstanding the provisions of Articles 1A, 1B, and 13, if one of the High Contracting Parties has not carried out such a plan so far as he is concerned, such High Contracting Party shall not be capable of benefiting by the financial assistance provided for by the present Convention.’”
Viscount Cecil of Chelwood (British Empire) found himself unable to accept this text.

M. Tume dei (Italy) pointed out that it might happen that a contracting party that had adopted the plan for disarmament might not carry it out. There was even another possibility that would have to be taken into account, in which the plan of disarmament would have collapsed for some reason or another.

M. Massigli (France) replied that Article 8 of the Covenant provided for a plan for disarmament that was subject to revision at certain intervals; but inasmuch as no one had agreed as yet to the necessity of revision, the original plan was still there. It was impossible for a country to evade the obligations of Article 8 unless it actually left the League of Nations.

M. Tume dei (Italy) thought that this was too strict an interpretation to give to Article 8.

In Viscount Cecil of Chelwood's (British Empire) opinion, it was quite obvious that as soon as a plan for disarmament should expire each of the High Contracting Parties would cease to enforce it.

Baron Rolin Jaqueemynts (Rapporteur) did not insist on adding the expression "maintenance in force" after the expression "entry into force", but in his opinion it should be made quite clear that this article referred to a plan for limitation and reduction of armaments adopted by the disarmament conference in accordance with Article 8 of the Covenant.

M. Tume dei (Italy) said that the present text did not cover the possible case when, for some reason or other, no general plan of disarmament being in existence, a State, after the expiration of the six months' delay, should come to ask for financial assistance.

Viscount Cecil of Chelwood (British Empire) admitted this possibility. Were there really objections to the first paragraph mentioning not only the entry into force of plans for disarmament, but also their existence?

In M. Tume dei's (Italy) opinion, not only the entry into force of the Convention, which would merely establish the initial relationship, but also the existence of the Convention, which would affect the duration of the Convention on Financial Assistance, would have to be taken into account.

Viscount Cecil of Chelwood (British Empire) pointed out that it was not necessarily exact to say that Article 8 of the Covenant made provision for perpetual plans for disarmament. The phraseology of that article was sufficiently vague for the plans to be considered as being of limited duration.

M. Sokal (Poland) said that the difficulties and obstacles in the way of putting this Convention into force were accumulating. It was proposed to make a definite time provision, i.e., the entry into force of the plans for disarmament, to which was to be added an indefinite and completely vague time provision concerning the actual existence of plans for disarmament. Those two conditions were irreconcilable.

It would be much simpler to say that the duration of the Convention on Financial Assistance should be the same as that on the Disarmament Convention.

M. Erich (Finland) was in complete agreement with M. Sokal.

Viscount Cecil of Chelwood (British Empire) said that, after all, no one would be so stupid as to suppose that, if the entry into force of the Convention on Financial Assistance was subject to the entry into force of the plans for the reduction of armaments, there would be no reason for the Convention to lapse immediately the plans for the reduction of armaments ceased to exist. It was consequently useless to speak in this text, not only of the entry into force, but also of the existence of these plans.

M. Rutgers (Netherlands) said that the expression "plans for the reduction of armaments" was much too vague. How many such plans ought there to be? The Council should be given the power to decide whether the conditions laid down in this article had been fulfilled or not.

The Chairman warned the Committee that it was dangerous to make amendments in the text at the last moment, and proposed that they should accept the first paragraph of the text proposed by the Bureau as it stood and follow it by the second paragraph of the text proposed by M. Massigli. In that case, the article would run as follows:

"The entry into force of the present Convention, and its maintenance in force as regards authorisation of new loans, shall be conditional upon the entry into force and maintenance in force of the plans for reduction of armaments contemplated by Article 8 of the Covenant of the League of Nations.

Notwithstanding the provisions of Articles 1A, 1B, and 13, if, after the expiry of one year from the coming into force of the aforesaid plans, a High Contracting Party does not discharge the obligations incumbent upon it in consequence of such plans, such High Contracting Party shall not be capable of benefiting by the financial assistance provided for by the present Convention."

This proposal was adopted.
Article 31 (original text) was adopted.

Article 29 (Interval between Ratification and Participation).

M. Tumeidei (Italy) asked if a State that should accede to the Convention after its entry into force would ultimately be able to claim the benefit of financial assistance or would be obliged to wait for a period of six months or a year. In the first case, it would be in the interest of certain States to adjourn their accession indefinitely until they found themselves menaced by a case of war.

The question had been badly put at the Third Committee when it had been pointed out that it would be advisable to provide an interval between the moment when a State that had just deposited its accession to the Convention had actually ratified the Convention and the moment when it might benefit from the advantages and obligations resulting from the Convention. For that reason, he had not been persuaded by the reply of the Financial Committee, the text of which made it necessary to renounce a provision of this kind, which might in certain cases diminish the efficiency of the Convention.

M. Westman (Sweden) reminded them that the Third Committee had expressed its opinion on the Swedish proposal. He agreed with M. Tumedei in thinking that every State that acceded to the present Convention after its entry into force should not be allowed to enjoy the benefits of the Convention except after a certain delay.

Sir Henry Strakosch said that the Financial Committee had tried to make accessions to the Convention as easy as possible. By allowing States the possibility of acceding to the Convention even when they were immediately menaced by an imminent conflict, the Council would be given an efficacious weapon for the prevention of war.

M. Westman (Sweden) pointed out that, on the contrary, other Conventions contained a provision preventing States from depositing their accession at the last minute.

Sir Henry Strakosch replied that the ratification of this Convention, which involved financial engagements, would certainly arouse considerable difficulties in Parliaments. In certain cases, the existence of an immediate danger might be necessary to bring them to give their ratification.

M. Tumedei (Italy) thought that the present text would produce a diametrically opposite result.

The Chairman said that there was no doubt that if a gap was left in the Convention allowing States to adjourn their ratification a large number would take advantage of such a gap to evade the Convention. He proposed that the present text should be retained, but that mention should be made in the report of the scruples shown by certain delegations.

This proposal was accepted.
The whole of the Convention was adopted.
(The representatives of the Financial Committee withdrew.)


M. Cobian (Spain) read his report, which was adopted.


Article 3.

Dr. Goppert (Germany) made the following declaration:

"We cannot forget that it was the German suggestions which were the origin of our work, and we feel to an even greater extent than the other delegations — if that is possible — responsibility for making progress in this direction.

"In regard to the text of Article 3 which is now before us, we regret that it seems impossible, in the first place, to attach a system of well-defined measures to be compulsorily carried out and to obtain unanimity for our proposal concerning lines of demarcation.

"In its present form, nevertheless, the article lays down for a particular case a recommendation to which the parties must comply without conditions: the withdrawal of forces which have penetrated into the territory of another State. It is not going very far to submit in advance to a prescription of that nature. Nevertheless, the same provision which was considered worthy of appearing, as one example of a measure which the Council might take, in Article 3 of the model treaty.

"In regard to that part of the text which has been taken from the British proposal, I acknowledge that my judgment yesterday was perhaps a little too prompt and that I was