He would now come back to the particular case under discussion. The Federal Council had found itself in the following position. In order to satisfy the just desires and legitimate requirements of the League and of the other Governments associated in the League, it was placing an embargo on goods consigned to Italy. It was placing it on exports, re-exports and transit. The Federal Council considered that in so doing it was fully complying with the League's intentions. But could it do otherwise than place an embargo on goods consigned to Ethiopia also? That brought up the question of the Hague Convention of 1907, which was based on the principle that neutral States were free in case of war to prohibit or not to prohibit exports, re-exports and transit of arms, ammunition and implements of war. But, while the neutral States were free to do what they thought right and advisable and most appropriate to the current political situation, they were under an essential obligation, in virtue of Article 9 of the Convention, to treat the belligerents in the same manner. That was the principle which governed the entire Convention. If, therefore, it was desired to interpret neutrality as it had always existed so far as Switzerland was concerned, as it had been laid down in international acts and as it had been defined in the Hague Convention of 1907, Switzerland could not, without failing in her duty of neutrality as she had always conceived it, do otherwise than place an embargo on arms, ammunition and implements of war intended for Ethiopia.

To-day, he heard it said that the question might lead to serious consequences. He was asked whether he was quite certain that in another case which might arise, in a future war, that attitude of Switzerland, dictated by her conception and idea of neutrality, might not represent a considerable embarrassment for States taking action when another State had broken the Covenant.

It was desired that that question should be cleared up. It was not desired — and he was glad to note that it was so — that it should be cleared up especially on the present occasion. He had listened with great satisfaction to the French delegate, and afterwards to the other delegates who had associated themselves with the French delegate's statement, when they said that actually in this particular case the question was merely of academic importance. It was certain indeed that Ethiopia would in no way suffer from the fact that Switzerland had placed an embargo on the consignment of arms, ammunition and implements of war from Switzerland. Many other States were in a position to make such deliveries, so that Ethiopia's resistance would be in no way weakened or even affected. It was therefore correct that, in this particular case, the question was not of practical importance.

He greatly regretted, since this was a question which profoundly affected the traditional conceptions of his country, that he was unable to state that the Federal Council was prepared to change its attitude in the future; but he was not so uncompromising or so oblivious of the postulates of mutual regard as not to admit that the question might be studied, not in connection with the present case, but in connection with future cases. If it was to be so examined, he raised no objection. The League, in any case, have the right, and even the duty, to examine the question even if the Swiss Government stated that it did not wish it to be examined. He was familiar with the law of the League of Nations. He reserved the possibility for the Federal Government and for the Confederation to explain their reasons and the causes of their attitude before any authority whatever. On that occasion, there would be a debate which would be very important in many respects; it might perhaps extend beyond the definite case in question and lead to a loftier comprehension of things as they had evolved around the League since 1920. He could not therefore say that the Federal Council was prepared to change its point of view; but he admitted that that view might, and should, be discussed at the proper time. He expressed his great satisfaction at the statement by the United Kingdom delegate that, while, in principle, he shared the opinion of the French delegation, he considered it perhaps unnecessary to settle the question in connection with the present case on the ground that the latter raised a theoretical rather than a practical issue.

Switzerland believed she had acted in the spirit of the League and had brought her loyalties to the League into harmony with her fundamental and traditional conception of neutrality.

He must admit there was one aspect of the question on which he had not yet had time to reflect at length — an aspect which appeared to him to be new. Switzerland's object in imposing the embargo against Italy was to prevent transit. That, she felt, was the general aim of the present conference. Obviously, there was danger in prohibiting the conveyance of arms while permitting transit from certain countries which need not be named. In order to comply with the spirit of the League, Switzerland had placed an embargo on transit to both countries; but it had been represented to him that transit to the country which had broken the Covenant was one thing, while transit to a country which was rather in the rôle of victim was another. It was particularly in a conversation which he had had with the Polish delegate that this aspect of the question had appeared to him in a fresh light; and, without committing himself — for such questions were extremely delicate, and mature reflection was required before satisfactory solutions could be forthcoming — he had replied that on a first showing it might be possible for the Confederation, in the case of transit of arms, ammunition and implements of war to a country which was the victim, to examine the particular case, and to some extent mitigate the general rule by means of exceptions.

In expressing that opinion, he felt he had given the best proof of the goodwill with which the Swiss Government and he himself approached the question. He had spoken quite frankly; but he must candidly say that the Swiss Government and the Swiss people would be faced by a serious dilemma if attempts were made to impose on them offhand an interpretation of neutrality which was not in accordance with the national tradition.
The CHAIRMAN noted the statements made by a number of delegates, and M. Motta's reply, on this very delicate issue, which it was not for the Committee of Eighteen to solve and which would have to be referred to another authority.

M. POLITIS (Greece) thought it was not the Committee's intention to embark on a discussion of the problem. He had listened with the greatest respect, and even with emotion, to what M. Motta had said. M. Motta had spoken with a sincerity, frankness and good faith that must earn him the admiration of all. But, since the question had been raised, M. Politis thought it his duty to point out that at the basis of the discussion there lay a misunderstanding which had arisen in the free exercise of their judgment by the Federal Council and the Swiss people. He did so because the discussion would be recorded in the Minutes, and because M. Motta had stated that he desired to study the question and was prepared to consider particular cases, but required time for reflection. In those circumstances, M. Politis ventured to put the following considerations to M. Motta.

It was held in Switzerland that the tradition of neutrality as hitherto conceived compelled the Federal Government to impose the dual embargo, and it was in this spirit that the Federal Government had invoked the Hague Convention and more particularly Article 9 of that Convention. But therein lay the misunderstanding. The traditional neutrality of Switzerland was no longer exactly what it had been before Switzerland had become a Member of the League. It was no longer the same in respect of what were known as economic and financial sanctions. It was no longer the same, first and foremost, because one of the fundamental principles of neutrality had been abandoned — viz., the principle by which neutral countries had not the right to make distinctions by which they waived the right of forming an opinion as to the attitude of two belligerents, and were bound to hold the balance even as between such belligerents. That principle had been abandoned by the Members of the League and by Switzerland herself when the latter agreed to examine, in common with the other Members of the League, the question of the responsible party in a case of breach of the Covenant. M. Motta had further taken part in the declaration made by a number of countries that it was Italy which in the present case had broken the Covenant. That discrimination in respect of initial responsibilities constituted a derogation from an essential principle of sovereignty as hitherto understood and traditionally applied by Switzerland. In the present case, he respectfully asked M. Motta in his consideration of the issue to take into account the observations which he (M. Politis) had put forward, since it might well be that those observations would have the effect of reinforcing the de facto considerations advanced by the Polish delegate.

M. BECH (Luxemburg) made the following statement:

“Our Legal Sub-Committee has pointed out in its report that Luxemburg, in applying Proposal I, has not discriminated between the belligerents. This attitude of the Luxemburg Government is in accordance with the traditional policy of my country, with its regime of perpetual neutrality, which was established in 1867 in the interests of European peace and the principle of which is inscribed in our Constitution. Luxemburg, placed on the cross-roads of the great military routes of history, without military resources of her own and without any possibility of creating them, has been enabled by this policy not to remain a cause of discord in Europe.

“This policy, which is necessitated by the unique geographical and military situation of the Grand-Duchy, thus remains within the guiding lines so often laid down by the Assembly and the Council in accordance with which each State is bound to co-operate in collective action in so far as its geographical situation and the special position of its armaments permit. On the admission of Luxemburg to the League of Nations in 1920, the Assembly recognised the special conditions existing in my country.

“This constitutional tradition of its external policy does not prevent the Government of my country from carrying out the obligations contained in the Covenant, in so far as they do not conflict with its special situation. Consequently, in spite of the bonds of friendship which unite us to Italy, and in spite of the very heavy sacrifices which our co-operation imposes on our national economy, we have adhered to the other proposals of the Co-ordination Committee.

“The Luxemburg Government thus brings to the collective measures of peace loyal co-operation dictated solely by the principles of the Covenant.”

The CHAIRMAN thanked M. Bech for his statement. The substance of the question could not be discussed by the Committee of Eighteen, but must be studied by some other body of the League of Nations.

The report of the Legal Sub-Committee was adopted.
FIFTH MEETING.

Held on Saturday, November 2nd, 1935, at 3 p.m.

Chairman: M. DE VASCONCELLOS (Portugal).


M. BIBICA-ROSETTI, Chairman of the Sub-Committee for Financial Measures, presented the following report and draft resolution:

"The Sub-Committee for Financial Measures has considered the replies received from Governments of Member States regarding Proposal II. These replies number forty-nine. It appears, subject to what is said below, that twenty Governments have already taken measures designed to carry out the principles contained in this proposal; that nineteen Governments were, at the time of the despatch of their communications, actively engaged upon framing such measures. Ten replies are confined to a simple statement of acceptance of the principles proposed.

"The Sub-Committee has requested certain delegations further to elucidate the replies from their Governments. It will report again to the Committee of Eighteen on these cases, should the occasion arise.

"The only other replies which would appear to call for special note are those from:

"(a) The United Kingdom. — Under the terms of the Order-in-Council published in the London Gazette on October 26th, which gives effect to Proposal II, it is provided that 'a person shall not be deemed to make a loan by reason only that he delivers goods the price whereof has been paid on or before delivery in manner provided by Article 4 of the Agreement regarding trade and payments embodied in an exchange of notes dated April 27th, 1935' (see document No.: Co-ordination Committee/79(b), (2)(c)). This proviso is further explained in an 'Explanatory Notice' dated October 26th, 1935, in the following terms: 'The acceptance by United Kingdom exporters of the method of the payment laid down by the Anglo-Italian exchange of notes of April 27th, 1935, does not contravene the order, provided that payment by the deposit of lire is made on or before the delivery of the goods.'

"The Sub-Committee for Financial Measures observed that this exemption involves the problem of the continuation of clearing agreements, and that the whole question of clearing and similar agreements was being discussed simultaneously by the Sub-Committee on Economic Measures. In consequence, it desires to draw the attention of the Committee of Eighteen to this question in order that it may be examined together with the cognate questions now under discussion.

"(b) Norway. — In the reply received from the Norwegian Government, it is stated that the measures taken with a view to putting Proposal II into execution do not cover the transactions referred to in paragraph (4) of that proposal. It is understood that the Norwegian Government wishes to consider this question in connection with the question of clearing agreements (see (a) above).

"(c) Paraguay. — The Sub-Committee for Financial Measures draws the attention of the Committee of Eighteen to the following reply received from the Government of Paraguay:

"'According to the national Constitution, the decisions contemplated in Your Excellency's cable must be taken by Congress. In view of the conditions obtaining in this country, the Government does not deem it desirable for the present to contemplate a resolution regarding the measures proposed'.

"The Sub-Committee for Financial Measures would add that, in certain cases, the date on which the measures proposed can be brought into execution is dependent upon the date of the convocation of Parliament. It understands that this problem will be discussed in connection with Proposals III and IV and confines itself, therefore, to this simple observation.

"The Sub-Committee for Financial Measures, in addition to drawing the attention of the Committee of Eighteen to the points mentioned above, ventures to submit the following resolution for consideration by that Committee:

"'The Co-ordination Committee notes that thirty-nine Governments of Members of the League of Nations have taken, or are taking, measures with a view to rendering
impossible those financial operations with Italy and Italian possessions defined in Proposal II adopted by the Committee on October 14th, and that ten other Governments have expressed their willingness to take such measures.

‘It requests all Governments to take steps in order that the measures contemplated in Proposal II may take full legal effect by or before November . . .

‘Each Government which has not already sent a communication to this effect is requested to inform the Committee, through the Secretary-General of the League, within the shortest possible time, of the measures which it has taken in conformity with this resolution.’

M. Bibica-Rosetti added that the Sub-Committee had not examined the reply from Panama, that question having been discussed in the Committee of Eighteen.

On the other hand, the question had been raised of the penalties to be inflicted on persons infringing the measures adopted; the Sub-Committee thought, however, that that was a question for Governments and had decided to bring it to the attention of the Committee of Eighteen, so that the latter might take whatever decision it thought advisable.

Mr. Eden (United Kingdom) referred to the comments made—with complete propriety—in the report regarding the Order-in-Council published in the London Gazette on October 26th.

The position was a little complicated, but he would try to give a clear explanation. The Committee would remember that none of the Proposals I to IV authorised the abrogation of clearing agreements; and, so long as the Anglo-Italian payments agreement continued, United Kingdom exporters were obliged to accept payment in lire which could only be converted into sterling after considerable delay. That delay—for which the exporters were not responsible—was not tantamount to a grant of commercial credit in the ordinary sense; and it was necessary to make it clear that the exporters, who had to suffer the delay, were not infringing the Order-in-Council by reason of the fact that they were suffering the delay.

The United Kingdom was in exactly the same position in this connection as the countries with clearing agreements. The exporters of the latter had continued to export and receive payment through their respective clearings after a certain delay.

If the Committee should conclude to suspend all clearings as from the date of Proposal III coming into force, the United Kingdom would be perfectly ready to accept that conclusion; but, before taking such a decision, the Committee might do well to consider fully the complicated technical aspects of the position. For that reason, he warmly endorsed the Chairman’s suggestion to refer the matter to a sub-committee of experts.

M. Westman (Sweden) sincerely thanked the United Kingdom representative for his statement, which made it unnecessary for him at the present moment to discuss certain questions raised by the United Kingdom reply. M. Westman only hoped that the discussion of the matter in the Sub-Committee on Economic Measures would take place as soon as possible.

After a short exchange of views, the Committee decided to fix the date left in blank in the second paragraph of the resolution for November 18th.

The report and resolution, with the above addition, were adopted.


M. Momtchiloff, delegate of Bulgaria, and M. Kôdar, delegate of Estonia, came to the table of the Committee.

M. Momtchiloff (Bulgaria) said that, for the first time since the discussions on the dispute between Italy and Ethiopia had begun, the Bulgarian delegation had, somewhat to its regret, to intervene in the discussion. It had not done so hitherto, because its Government felt that its signature of the Covenant was not a matter for discussion, and for the same reason it had in principle accepted the Co-ordination Committee’s proposals.

During the proceedings of the various Sub-Committees, however, certain exceptions had been considered and granted, the exact scope and future effects of which it was hard to estimate at the moment. Further exceptions would probably be granted in the course of the work on the application of the measures decided upon.

In such circumstances, a clear statement of the position was essential. The Bulgarian Government had instructed M. Momtchiloff to associate himself with the declaration made by the Latvian delegate at the Co-ordination Committee’s last meeting.

He wished to state most explicitly that the object of his intervention was not to modify or restrict the scope of the acceptance given to the Co-ordination Committee’s proposals, but merely to ensure that his country should be accorded exactly the same treatment as other countries parties to the Covenant which had acceded to the proposals in question.

1 See page 27.
M. Kódar (Estonia) said that he had asked for an opportunity to be heard by the Committee of Eighteen in order to state briefly his Government’s situation with regard to the Co-ordination Committee’s proposals.

On behalf of his Government, he explained the sense in which the Estonian Government had replied to the Co-ordination Committee’s proposals. During the discussions in the Committee of Eighteen and its Sub-Committees, certain delegations had asked for various exceptions respecting the provisions of those proposals. In view of that fact, the Estonian Government was carefully watching developments and, to the extent to which exceptions might be granted, reserved the right to submit, if necessary, requests for similar exceptions.

The CHAIRMAN assured the Bulgarian and Estonian representatives that the Committee duly noted their declarations, and added that all concrete cases would be considered by the sub-committees set up for the purpose.

M. Momtchiloff and M. Kódar withdrew.

15. Economic Measures: Draft Resolution concerning the Application of the Measures contemplated in Proposals III and IV.

The draft resolution submitted by the Chairman was adopted (for final text of the resolution, see Minutes of the Co-ordination Committee, second session, second meeting).


The CHAIRMAN placed before the Committee a draft resolution contained in document No.: Co-ordination Committee/85, to which the date would have to be added. He emphasised the necessity of setting to work as soon as possible.

A number of questions might be dealt with immediately — viz.: (1) that of clearing agreements in connection with the issue raised by the Sub-Committee for Financial Measures in regard to the United Kingdom reply; (2) that of iron ore in connection with the Canadian question; (3) the transit question; (4) that of contracts in course of execution (e.g., the case submitted by the Polish delegate); (5) the question of the despatch to non-participating countries of goods on which an embargo had been placed.

M. Van Rappard (Netherlands) pointed out that he had asked that the Committee’s examination should cover, not only the products mentioned in the Canadian proposal, but also those contained in the list of commodities not under the exclusive control of the States applying sanctions.

The CHAIRMAN replied that that question would be considered together with the Canadian proposal.

After an exchange of views, it was decided that the questions enumerated by the Chairman should be studied by the Sub-Committee on Economic Measures.

After noting that the Committee on Mutual Support referred to in the last paragraph of the resolution on outstanding claims adopted by the Co-ordination Committee on November 2nd, 1935, was, in view of paragraph III of Proposal V, none other than the Committee of Eighteen itself, the Committee set up, to assist it in the study of questions of mutual support, including the clearing question raised by the Roumanian delegation, a Sub-Committee on Mutual Support consisting of representatives of the same States as had composed the former Sub-Committee of the same name, with the addition of the Turkish representative.

It was further agreed that any delegations which might consider that it was necessary for them to follow the proceedings of any of the Sub-Committees might send representatives to them.

The draft resolution was then adopted in the following form:

“"The Committee of Eighteen, with a view to the execution of the functions entrusted to it by the Committee of Co-ordination,

"Decides:

"(a) To meet on November 6th, at 3.30 p.m.;"

1 Document No.: Co-ordination Committee/84 (1).
2 See page 8.
3 See Minutes of the Co-ordination Committee, second session, second meeting, page 12.
4 Document No.: Co-ordination Committee/97.
"(b) To empower the President to convene, whenever he considers such a
course desirable, any of the Sub-Committees appointed by it during its last or present
sessions;

“(c) To request any Government represented on the Co-ordination Committee
to notify the President of the Committee of Eighteen should it desire to be represented
on that Committee or on the Sub-Committee for Mutual Support when the application
of Proposal V arises for consideration."

The last paragraph of the draft resolution, reading as follows, was held over:

“(d) To request the Governments of . . . to nominate experts to study
in Geneva the information furnished by Governments concerning the application
of the measures proposed by the Committee of Co-ordination.”

SEVENTH MEETING.

Held on Wednesday, November 6th, 1935, at 6 p.m.

Chairman: M. de Vasconcellos (Portugal).

17. Extension of the Embargo on Certain Exports to Italy : Draft Proposal IV(a), submitted
by the Sub-Committee on Economic Measures.

The following draft of Proposal IV(a) 1 was read:

“In the execution of the mission entrusted to it under the last paragraph of Proposal IV,
the Committee of Eighteen submits to Governments the following proposal:

“It is expedient that the measures of embargo provided for in Proposal IV
should be extended to the following articles as soon as the conditions necessary to
render this extension effective have been realised:

“Petroleum and its derivatives, by-products and residues;

“Pig-iron; iron and steel (including alloy steels), cast, forged, rolled, drawn,
stamped or pressed;

“Coal (including anthracite and lignite), coke and their agglomerates, as
well as fuels derived therefrom.

“If the replies received by the Committee to the present proposal and the information
at its disposal warrant it, the Committee of Eighteen will propose to Governments a date
for bringing into force the measures mentioned above.”

M. Komarnicki (Poland), referring to the last paragraph, thought it should be clearly
understood that, if the replies received were not concordant, the Committee of Eighteen would
have to consider, not the principle, but the methods of application.

The Chairman thought that was in fact the Committee’s intention. The draft would
be accepted in principle, but it would be for the Committee of Eighteen to take practical decisions
later.

M. de Madariaga (Spain) proposed that, in the item “Coal (including anthracite and
lignite), coke and their agglomerates, as well as fuels derived therefrom”, the words “as well
as fuels derived therefrom” be replaced by “as well as their derivatives”, so as to cover
derivatives which, while not fuels, were of very great importance for the prosecution of war
— in particular, toluol.

Earl Stanhope (United Kingdom) suggested replacing “their derivatives” by “coal
tar and coal-tar oils”, which would, he thought, cover M. de Madariaga’s point without cutting
out such things as dyes and other derivatives which had nothing to do with munitions and were
outside the Committee’s proposal.

M. Coulondre (France) explained that the Sub-Committee on Economic Measures had
wanted to include coal in the list in so far as it was used as a fuel and therefore, in particular,
as a means of transport. That was why the expression “fuels derived therefrom” had been
adopted. There were, of course, other derivatives of coal the prohibition of which might be
contemplated, but there were also other commodities that might appear in the list but did not.
The Sub-Committee on Economic Measures had thought that it would be wise for the moment

1 Document No.: Co-ordination Committee/91.
to confine the list to the products mentioned, though that would not signify that in its opinion the embargo measures could not subsequently be extended to yet other articles. For that reason, the French delegation had supported the wording used in the Sub-Committee's text.

M. DE MADARIAGA (Spain) explained that it was his intention to extend the embargo measures to all products which ought to be covered, but that he had no desire whatever to go too far. He would be prepared to accept Lord Stanhope's proposal if he were sure that it also covered products obtained from the hydrogenation of coal, which was a very important point.

Earl STANHOPE (United Kingdom) said that his Government was quite content with the original text. He had only made his suggestion as being preferable to M. de Madariaga's proposal to include all derivatives of coal.

M. DE MADARIAGA (Spain) would accept the view of the Committee, but pointed out that the present text did not cover toluol which was very important in the manufacture of explosives. If his colleagues wished to take that responsibility, he would take it with them.

M. STUCKI (Switzerland) observed that the document before the Committee did not require Governments to take an immediate measure of application. It was a statement of principle, a contingent statement. The same Committee of Eighteen as that meeting at present would have to reassemble before the measures contemplated could be put into force. The present text could therefore be accepted, and, before proposing definite measures to the Governments, the members of the Committee could send in any necessary additions, and, in particular, raise the question of toluol, which was extremely important. That would leave them time to think matters over.

The CHAIRMAN proposed that, as the Spanish delegate did not object, the Committee should accept the text as it stood.

Proposal IV(a) was adopted.

18. Indirect Supply (Proposal IV(b)) : Draft Resolution submitted by the Sub-Committee on Economic Measures.

After a short discussion on questions of form, the draft resolution submitted by the Sub-Committee on Economic Measures was adopted, as Proposal IV(b), in the following terms:

"The Committee of Eighteen,

"Entrusted by the Co-ordination Committee with the task of following the execution of the proposals submitted to Governments and empowered to make such new proposals as it may think desirable, is of opinion that the following measures should be taken:

"In order to render effective the provisions of point 2 of Proposal IV, Governments represented on the Co-ordination Committee will take, as regards the export of prohibited products, such measures as are necessary to verify, by all means in their power, the destination of such products.

"Those Governments which do not immediately restrict their exports of these articles will keep under constant review the volume and direction of such export. In the event of an abnormal increase in this export, they will immediately take such steps as may be necessary to prevent supplies reaching Italy or Italian possessions by indirect routes.

"Each Government is requested to inform the Co-ordination Committee, through the Secretary-General of the League, within the shortest possible time, of the measures which it has taken in conformity with the above provisions."

19. Statement by the Secretary concerning Information received with regard to the Prevention of War-profiteering in Germany.

Mr. LOVEDAY, Secretary of the Co-ordination Committee. — I wish to make a statement to the Committee with reference to certain information relating to Germany which has been communicated orally to the Secretariat. I want to make it quite clear that this information must not be interpreted in any way as being a reply from the German Government to the communication which you, Mr. Chairman, have made to it.

On the other hand, from a practical point of view, the attitude of the German Government is known to the Governments concerned.

The German Government is at the present moment troubled by the fact that a number of private persons — German and foreign — are purchasing all sorts of materials in Germany, apparently with a view to exporting them at a profit to the belligerent countries. The Government does not wish this to happen and will, in the very next days, issue laws with a view to controlling, and, if necessary stopping, such purchases and export, for the purpose of preventing private profiteering.

The Committee took note of Mr. Loveday's statement.

The following draft resolution was read:

"The Committee of Eighteen instructs a Sub-Committee consisting of representatives of the United Kingdom, France, Mexico, Poland, Roumania and the Union of Soviet Socialist Republcs to make proposals to the interested Governments on its behalf in regard to those contracts — other than those in respect of which payment had been made in full by October 19th, 1935 — which might be executed by way of exception to paragraph (3) of Proposal III.

"In making its proposals, the Sub-Committee should be guided by the following principles:

(a) Exception to be made only in the case of contracts concluded by a State or institution belonging to a State, or for their account, prior to October 19th, 1935, which relate to goods of essential importance to the importing State;

(b) Not less than 20% of the total sums due under the contract to have been paid by October 19th, 1935;

(c) Contracts stipulating for payment in goods, the export of which to Italy is prohibited under Proposal IV, not to have the benefit of the exception in question;

(d) Governments to furnish the Sub-Committee, not later than November 10th, with full details of each contract (nature of goods, total sums due, amount paid prior to October 19th, 1935, and amount outstanding on November 10th, 1935).

"The Sub-Committee will draw up, not later than November 12th, the final list of contracts in the case of which an exception appears to it to be justified, and will communicate the list forthwith for information to the Governments represented on the Co-ordination Committee."

M. García Oldini said that suggestions for extending the application of the exceptions laid down in the draft resolution had been put forward in the Sub-Committee on Economic Measures. Those exceptions were to apply to certain undertakings which, according to the Committee's interpretation, were not legally State undertakings or institutions belonging to the State, but served the fundamental interests of the country, thereby constituting a fundamental need of the State. The Chilian delegate had mentioned the nitrates industry in his own country, while the Spanish delegate had referred to the Spanish railways. It would undoubtedly be possible to find other industries which the States would be compelled to regard as State industries, because a considerable part, if not the whole, of their economic life depended upon them. That was why he had proposed the addition to sub-paragraph (a) of the words "or in which the State has a vital interest". The Spanish delegate had put forward a different text conceived in the same spirit.

M. Garcia Oldini proposed that the text should be amended in this sense.

M. De Madariaga (Spain) supported the Chilian delegate's point of view. The expression "institution belonging to a State" had a legal rather than an empirical basis, and everyone was aware that in existing conditions a State often had complete control of an undertaking which from the legal standpoint could nevertheless not be regarded as belonging to it. Some form of words should therefore be found to take account of that consideration.

After an exchange of views, the Committee decided to add in sub-paragraph (a) after the words "institution belonging to a State" the words "or entirely subject to its administrative control".

The draft resolution was adopted with the foregoing amendment (for final text, see document No.: Co-ordination Committee/97).


The following draft resolution was read:

"The Committee of Eighteen,

"Entrusted by the Co-ordination Committee with the task of following the execution of the proposals submitted to Governments and empowered to make such new proposals as it may think desirable:

"Suggests that, in order to render effective the application of Proposal II (4) and Proposal III, approved by the Committee of Co-ordination, Governments represented on the Co-ordination Committee should:

"I. (a) Prohibit, as from November 18th, the acceptance of any new deposit of lire into the Italian clearing account in payment for exports to Italy, and, in consequence,
“(b) Suspend to the extent necessary, the operation of any clearing or payments agreements that they may have with Italy by or before November 18th;

II. Take, if need be, the necessary steps to provide that importers who have received or shall receive Italian products, payment for which has not yet been effected, lodge their payments in a national account which would be employed for the settlement of export claims.

Each Government is requested to inform the Committee, through the Secretary-General of the League, within the shortest possible time, of the measures which it has taken in conformity with the above provisions.”

The Committee decided to redraft the draft resolution in the form of a proposal.

M. García Oldini (Chile) said that, as his Government had not yet been informed of the new form of the proposal, he could only accept it subject to his Government’s approval.

Sir Cecil Kisch (India) wished to ask a question in connection with part II of the resolution. Take the case of a contract which was allowed to go through under the proposal on contracts in course of execution just adopted; supposing a one-sided clearing was set up such as that proposed in the document new before the Committee, was it the view of the Committee that, after the receipt of the goods delivered in execution of a contract between a State and some Italian firm, payment should be passed into a one-sided clearing? Or was it contemplated that, having accepted the goods, payment should be made in the ordinary course of trade relations?

M. Protitch (Yugoslavia) said that part II of the draft resolution covered all cases, and not merely the cases of countries having clearing agreements with Italy. If there were countries that had imported from Italy goods which were not yet paid for, they could establish under part II a national account into which the sums due to Italy would be paid; and such sums would then be used to pay such exporters in the country concerned as had not yet been paid by the Italians.

Sir Cecil Kisch (India) said there was one further matter which was not yet clear — viz., the question whether the unilateral arrangement, to be set up after the present proposals came into force, applied to a Government which was given the right to conclude a contract in the process of execution as well as to private individuals. Should a Government which was itself an importer pay into the account in the same way as private individuals?

The Chairman doubted whether it was possible for the Committee of Eighteen at that stage to make an end of all the doubts which might be aroused by the practical application of the measures proposed. Delegations could always submit points on which they were in doubt to the Secretariat or to the Chairman of the Committee; and everything possible would be done to meet their difficulties. For the moment, the Committee was engaged in making, rather than interpreting, the law.

M. Cemal Hınzı (Turkey) observed that part II would be clearer if it were worded as follows:

“Take, if need be, the necessary steps to provide that importers, whether the State or private individuals, who have received or shall receive Italian products, payment for which has not yet been effected or has been effected only in part, lodge their payments in a national account the resources of which may be employed for the settlement of export claims.”

M. Coulondre (France) proposed the following text which, he thought, would meet both the Turkish delegate and the Chairman of the Sub-Committee on Clearing Agreements:

“Shall take, if need be, the necessary steps to provide that the price of Italian products already imported or to be imported, payment for which has not yet been effected, should be paid into a national account, the resources of which may be employed for the settlement of export claims.”

M. Westman (Sweden), Chairman of the Sub-Committee on Clearing Agreements, accepted this text.

M. Komarnicki (Poland) accepted M. Coulondre’s text as being more general in scope, but would like the end of the paragraph to read: “for the settlement of claims arising from their exports”, in place of the words “for the settlement of export claims”.

M. Cemal Hınzı (Turkey) thanked M. Coulondre for his proposal, which he was perfectly prepared to accept. He imagined M. Coulondre would agree that payments effected in part were to be treated as covered by the text.

Though part II had its place in the resolution on clearing agreements, he presumed the Committee would agree that it was a measure of general scope.

Earl Stanhope (United Kingdom) suggested that, in the last phrase of the text proposed by the French delegate, the old wording should be restored — i.e., “which would be employed”.4
M. Cemal Hüsnu (Turkey) said the words "would be employed" implied an obligation. Where there was a credit surplus in the account, there were a number of probable eventualities to be considered; the wording "would be employed" was liable to give rise to other problems. The expression "may be employed" was much more elastic and more general.

M. de Madariaga (Spain) said a distinction must be made. In the first place, if there were funds in the account and the country had claims of the kind contemplated, it would be inadmissible that no part of the account should be used in payment of such claims. The money must be used to meet export claims im so far as was necessary. On the other hand, he agreed with M. Cemal Hüsnu that the State ought not to be compelled to use all the funds in the account for that purpose, regardless of circumstances. The various possible eventualities must be taken into account.

M. Westman (Sweden), Chairman of the Sub-Committee on Clearing Agreements, appreciated the force of what M. de Madariaga had said, and suggested the wording "which would, if necessary, be employed for the settlement of . . .". M. Cemal Hüsnu (Turkey) thought M. Westman's proposal suggested that the existence of export claims was a condition. To avoid that impression, while retaining the idea, it would be better to say "will, if necessary, be employed . . .".

The Chairman read the text as modified by the amendments submitted:

"II. Take, if need be, the necessary steps to ensure that the purchase price of Italian products already imported, or to be imported, in respect of which payment has not yet been made, shall be lodged in a national account, the resources of which will, if necessary, be employed . . ."

Part II as amended was adopted.

At the request of the Turkish and Polish representatives, the Chairman stated that the text of part II did not relate to clearing operations solely, but was of general scope.

M. Guani (Uruguay) said he had submitted to the Sub-Committee on Clearing Agreements certain considerations in connection with contracts for sales to Italy coming under the clearing arrangements, the goods covered by which would not arrive till after the date fixed for the enforcement of the sanctions. No solution of that difficulty had been reached by the Sub-Committee. He did not wish to raise the point again, except to say that, in assenting to the proposal, he adhered to the observations he had already made in the Sub-Committee.

The Committee took note of M. Guani's statement.

The resolution, with the amendments approved in the course of the discussion, was adopted as Proposal II (a) (for final text, see document No. Co-ordination Committee/97).

22. Exceptions to the Prohibition on Importation of Italian Goods: Proposal III (a) (Books, Newspapers, etc.): Draft Resolution submitted by the Sub-Committee on Economic Measures.

The following resolution was adopted as Proposal III (a):

"The Committee of Eighteen,

"Having been instructed by the Co-ordination Committee to follow the execution of the proposals submitted to Governments, and being empowered to make such further proposals as it may think expedient:

"Proposes that, as an exception to Proposal III, the prohibition to import goods consigned from Italy or Italian possessions should not be extended to books, newspapers and periodicals, maps and cartographical productions, or printed or engraved music."


The following draft resolution was read:

"The Committee of Eighteen, with a view to the execution of the functions entrusted to it by the Committee of Co-ordination,

"Decides:

"(a) To empower the President to convene the Committee of Eighteen whenever he considers such a course desirable;"
"(b) To request the Governments of . . . to nominate experts to study in 
Geneva the information furnished by Governments concerning the application of 
the measures proposed by the Committee of Co-ordination."

The CHAIRMAN proposed to insert the names of the following countries in the blank space in paragraph (b) : United Kingdom, France, Greece, Poland, Roumania, Spain, Sweden, Turkey, Union of Soviet Socialist Republics, Yugoslavia.

He asked the Committee to empower him to request other Governments, as they might require or desire, to nominate experts to sit on the proposed committee.

M. COULONDRE (France) said the committee would be better balanced from a purely geographical standpoint if Belgium or the Netherlands were requested to appoint a representative on the Committee.

The Committee decided to give full powers to the Chairman in the matter.

M. DE MADARIAGA (Spain) observed that points of interpretation might be put to the Secretariat or to the Chairman. With a view to dealing with such points, it would be desirable to make provision for the assistance of a committee of experts. The committee might be the same as that just appointed, if it included jurists in addition to economists and financial experts. He accordingly proposed to add the following sentence at the end of paragraph (b) :

". . . and to furnish the Chairman with such assistance as he may desire, more particularly with regard to any question which may be submitted to him by Governments with regard to the application of these measures."

M. Komarnicki (Poland) seconded M. de Madariaga's proposal. He suggested that experts from the countries specially concerned as producers of the articles mentioned in the Committee's proposals should be added to the experts already proposed.

M. de Madariaga's addition was adopted.

M. STUCKI (Switzerland) presumed that the Sub-Committee just appointed was to be a sub-committee of application, since the Committee of Eighteen itself was the committee of application. It followed that the Sub-Committee would have to report to the committee of application — i.e., to the Committee of Eighteen — and not itself take final decisions.

The CHAIRMAN said that was so.

M. DE MADARIAGA (Spain) observed that, the Committee having adopted his amendment and the Sub-Committee therefore having the right to answer points put to it, it would obviously not be necessary for it to submit its replies to the Committee of Eighteen. It must have powers of rapid action.

Sir Cecil Kisch (India) said that the present proposal was of considerable interest to India, because India ranked very high in the trade relations of Italy. The Government of India was therefore naturally much concerned with Proposal V, of which not very much had been heard, since the present Committee had been concerned with the application of Proposals I to IV. India was quite prepared to bear her burden of the loss which would be involved in all the activities contemplated; she was second to none in her desire that those activities should lead to a successful and speedy solution of the problem; but she felt that Proposal V was as integral a part of the whole transaction as Proposals I to IV, and it was her earnest desire to see effect given to that proposal.

In regard to that proposal, the Government of India had said in its telegram of October 30th, 1935:

"Government of India support Sanction V in principle, but extent to which they will be able to give effect to it must necessarily depend on extent to which other countries are willing and able to take similar action in respect of Indian trade more particularly in absorbing those of India's raw materials which otherwise would have gone to Italy."

It was for that reason that he had thought it necessary to mention the matter in the Committee, so that it should be placed on record, and so that it might be possible to obtain any information that might exist as to the action contemplated to give effect to Proposal V and as to how soon any measures might be taken in that connection.

The CHAIRMAN said that the points arising in connection with Proposal V were under consideration by the Sub-Committee on Mutual Support, which would meet at a suitable moment to consider the questions referred to it. The legislation contemplated must first be put into application, in order to show what countries required to have recourse to the Sub-Committee on Mutual Support, and what proposals would have to come before the latter. There was therefore no question of immediate action in that respect, unless the Committee decided otherwise.

The draft resolution was adopted as amended (for final text, see Document No. : Co-ordination Committee/97).
SUB-COMMITTEE ON ECONOMIC MEASURES.

FIRST MEETING.

Held on Friday, November 1st, 1935, at 10.30 a.m.

Chairman: M. de Vasconcellos (Portugal).

1. Outstanding Claims.

The Chairman said the Committee of Eighteen had referred to the Sub-Committee on Economic Measures the question raised by the Roumanian delegation regarding Italy’s commercial debts to other States which had supplied Italy with goods prior to the imposition of sanctions.1

M. Coulondre (France), developing the opposite view to the Roumanian delegate’s, said that, if the matter were regarded from a practical standpoint, it must be admitted that the question was a rather academic one. M. Visoianu himself had explained why that was so, when he admitted that the right claimed for his country and for others was a “platonic” right, and acknowledged that, if imports of goods which Italy was authorised to make were not followed by exports of goods to Italy more or less offsetting the Italian imports, Italy would not make use of the option left to her and would not liquidate her clearing debt.

Hence, there were two alternatives. Either the option left to Italy would act absolutely strictly—and he was quite sure all Governments would see to that—in which case Italy would not make use of it, or else, as M. de Madariaga had stated in the Committee of Eighteen, the interested parties in the different countries would find some means of inducing Italy to make use of the option by sending her, in return, goods representing a greater or smaller percentage of Italian imports by devious routes which could not be guessed at present. It was obvious that, where private interests were at stake, the most ingenious means would be employed to get round any Government measures taken. It was of that that those members of the Committee who were opposed to the Roumanian proposal were afraid. If the Committee took a decision of principle and adopted a general measure covering the vast majority of countries—for it had been found that at the present time Italy had commercial debts vis-à-vis a large number of countries—a breach would be opened in the system of sanctions, the extent of which no one could determine.

It was not the French delegation which had made itself the champion of Proposal III; but, as that proposal had been adopted, all the Governments should endeavour to apply it as effectively as possible. That was doubtless the opinion of the Roumanian Government, as it was of the French Government.

That was the position. If the liquidation of clearing agreements and arrears of commercial debts were suspended whether subject to the clearing agreement or outside it—would the Governments represented on the Committee actually be running a very grave risk? That was perhaps a matter for the lawyers. From a legal standpoint, he did not think the Governments were running any risk, because it was a case of force majeure. The obligation entered into in virtue of the Covenant released them, under Article 20, from other undertakings in regard to clearing or commercial agreements. When the sanctions came to an end, they would be in possession of the same rights as before. A country might dispute that that was so; Italy would no doubt do so; but he was convinced that the Governments concerned would carry their point if Italy attempted to maintain that her commercial debts towards those countries had been cancelled as a result of the application of sanctions.

Nevertheless, as had been pointed out by the Yugoslav delegate at the beginning of the discussion, there remained one danger; that was the most troublesome point of all—namely, the danger of a depreciation of the lira. There would seem to be no doubt that, since the countries participating in sanctions would be unable to liquidate these commercial debt arrears speedily, their exporters would run a risk owing to the possible depreciation of the lira, unless they had made provision in the clearing agreements or contracts to guard against that contingency. There would be cases, however, where no such precaution had been taken; and those cases raised the single question which was really of practical importance. He thought the Sub-Committee on Mutual Support, or whatever body was instructed to follow up the application of that Sub-Committee’s recommendations, would have to consider the concrete cases which would arise, including the case of the Roumanian clearing agreement.

M. Visoianu (Roumania) was of opinion that the objections raised to the system proposed by the Roumanian delegation boiled down to one only—namely, the argument that, thanks

1 See pages 22 to 27.
to the possibility afforded to the Italian Government of settling claims of a specific kind by means of goods, trade might continue between the two countries in the national sphere in violation of the international law and its application.

In spite of the apprehensions voiced by the French delegate, he could not admit this risk, and for the following reason: first, in the case of claims arising out of earlier clearing transactions which would normally and legally be settled, to a certain extent at least, by deliveries of goods, there was a twofold control in Roumania — viz., by the National Bank and by the Government — which made leakages impossible.

He would, however, keep the question open further. The French delegate put the case of Roumanian sellers, anxious to obtain payment from the Italian Government in the form of deliveries of goods, endeavouring to consign goods to Italy as a kind of temptation to, or reward for, the Italian Government. That might be: but could they not do so under existing conditions? Were not Roumanian merchants free to sell to Italy now? Did the sanctions prevent them from doing so? Not at all, except in the case of certain articles. If Roumanian business men wanted to sell to Italy at the present moment at their own risk and peril, could the Roumanian Government prevent them?

The French delegate said that traders would obviously not be so generous and would not take heavy risks, but would nevertheless be prepared to run certain risks, if they could secure thereby the advantage of partial repayment by the Italian Government in the form of goods. To that point M. Visoiu replied that clearing operations were, as he had pointed out, transacted through the National Bank and the Roumanian Government, and that payments would be made on the same lines. If clearing transactions with the Italian Government were stopped to-day, it would be found that Roumania had an aggregate clearing balance, which was in the hands of the National Bank and the Roumanian Government. His own contention was that the Italian Government should be in a position to pay off that claim with goods, as it had done hitherto. What would the process be? The Italian Government would bring its goods to Roumania and hand them over to the Roumanian Government, which in its turn would distribute them. The Roumanian Government was thus in control, and, as for abuses, it was not clear where there was an opening for them to occur.

There was, moreover, a distinction to be made. Actually there were at least two kinds of claims on the Italian Government — clearing claims and other claims. Clearing claims could always, even before the present position arose, be settled by the delivery of goods. The other claims were, so to say, personal claims arising out of sales by Roumanian to Italian businessmen. There was a difference in kind between the two classes of claims; and, if it was desired to take this into account in order to facilitate the discussion, he raised no objection. In any case, speaking from a practical standpoint, he sincerely believed it possible, under the system he was advocating, to prevent any abuse of the full and complete application of the sanctions.

M. Stucki (Switzerland) reminded the Committee that, when Proposal III had been discussed a fortnight ago, he had expressed certain doubts as to the effectiveness of the measures prohibiting the importation of Italian goods. He had alluded to the relations between Italy and certain other countries with which Italy had a passive trade balance and with which she had concluded clearing agreements. His remarks had not been very well received. They had given the erroneous impression that Switzerland was being obstructive, but he had advised his colleagues on the Swiss delegation to await the course of the discussions. The discussions which had taken place yesterday and to-day were inevitable, once the problem had been raised. The question now was how to solve it.

He would not deal for the time being with the special position of his country, though he was prepared to defend it, if necessary. For the moment he would consider the matter exclusively from the standpoint of the League. It should not be forgotten that the Co-ordination Committee and its organs were not part and parcel of the League. They were a conference of sovereign Governments, and their duty was to study the co-ordination of the measures to be adopted with regard to the State which had been designated as having broken the Covenant. But it was obvious that the Co-ordination Committee and its organs could not take any decision. They could not authorise or prohibit this or that to everybody or anybody, since any such action would raise the question whether unanimity or a majority vote was required. The Committee could, however, study the problem and exercise an influence on the Governments. It had seemed to him advisable to point out this legal position, which, as he saw it, was perfectly clear.

The Co-ordination Committee, by virtue of its terms of reference, had made certain proposals. The Governments had replied, and he considered that those written replies bound the Governments, not vis-à-vis the League, but vis-à-vis the other members of the Co-ordination Committee. Was that a legal undertaking? Certainly not. It was a moral undertaking, and an extremely serious one, but nothing more. It would be imprudent to attempt, by any kind of multilateral agreement, to codify all the questions which might arise in various forms in the relations of fifty countries with Italy. Guiding principles must be laid down and discussed and their application might also be studied; but a codification in the absolute sense was impossible.

In that connection, he desired to refer to the Roumanian representative’s remarks. The latter had put the question so clearly that there could be no doubt as to his meaning. The Roumanian Government had replied in writing, like all the other Governments, and its reply...
formed the basis of its attitude. But the Roumanian delegate, in a very praiseworthy desire for fairness and clearness, had raised a question which disturbed his Government, and put forward the view that, while Roumania had undertaken to prohibit the importation of Italian goods, she had reserved the right to permit the import of Italian products in so far as such importation was intended to cover a credit balance resulting from her clearing operations with Italy. Other delegates had adopted the same view; and the essential point of the Roumanian representative's argument was that Roumania, in adopting that procedure, was not strengthening the Italian situation or making a breach in Proposal III. The Roumanian delegation, moreover, maintained that that system did not bring foreign exchange to the Italian Treasury, and that, consequently, it did absolutely nothing to place the Italian Government in a position to purchase war material or to acquire prohibited raw materials.

M. Stucki himself believed that point of view was perfectly correct. It was incontestable that the adoption of the system proposed by the Roumanian delegation would not go counter to the object in view, which was simply to prevent Italy from procuring foreign exchange.

The question then arose, however, whether it was necessary for the Co-ordination Committee explicitly to admit any reservation in that respect. If it was, the point put by M. Coulondre must be taken into consideration — viz., the untenability of any distinction between States which had concluded a clearing agreement with Italy and States which, without clearing agreements, had nevertheless commercial claims on Italy. The United Kingdom delegate had himself stated that his country had frozen commercial credits in Italy. Consequently, if the Co-ordination Committee took a decision of principle on the case raised by the Roumanian delegation, that decision must extend to all the countries which had commercial claims on Italy. He believed the United Kingdom delegate was right in saying that that decision would mean the breakdown of Proposal III. The exception granted would be extremely dangerous, not so much from the point of view of the object to be attained as on account of the impression which would be created in Italy and throughout the world.

There was a further consideration. If the Co-ordination Committee took a decision regarding the liquidation of the clearing debts, that decision would be made public, and consequently would be known at Rome. The effect in Italy would be immediate. In his opinion, the effect would be a prohibition of the export of Italian products to certain countries. Was that a desirable result? He did not think so.

Rather than evoke a proposal from the Co-ordination Committee, it would be preferable for the Sub-Committee on Economic Measures to state that, after consideration of the question, it suggested that the Committee of Eighteen should not settle it, and should request the Co-ordination Committee not to settle it either. On the other hand, the written replies of the Governments would be taken into consideration, the explanations given by certain delegations would be noted, and all the Governments, in the exercise of their sovereign rights, would be free to take whatever decision they thought fit.

If it was desired to evoke a decision from the Co-ordination Committee, there were two alternatives. Either the admission of the reservation would have to be made general, and all the countries having clearing or other commercial claims on Italy would have to be permitted to make that exception to the rule, as a result of which the entire system of economic sanctions would be considerably weakened, and Italy would be given the possibility of organising counter-action; or the Roumanian proposal would have to be rejected, and that would give rise to resistance — which he personally thought justified — on the part of a number of delegations.

M. MASENG (Norway) agreed that the possibility of fraud could not be entirely precluded, but he did not think the danger very great. For instance, as far as Norway was concerned, anyone could find out that the Italo-Norwegian clearing accounts showed a balance of 12 million lire in favour of Norway. That was a very definite amount which could not increase, since, from the time when financial sanctions came into force, no further commercial credits — which included clearing credits — were allowed to be granted to Italy. Consequently, the exemption requested by certain countries which had clearing agreements with Italy had very definite limits which anyone could verify.

It had just been stated that claims arising out of clearing arrangements and ordinary commercial claims must be treated on the same footing. Personally, he was not in a position to express an opinion on that point. He considered, however, that clearing arrangements constituted a very special form of commercial organisation between two countries. In principle, there must be equilibrium. If at any given moment equilibrium was destroyed, it was because the imports from one country to the other were of a seasonal character. In autumn, for instance, some countries which had clearing agreements with Italy were creditors of that country. But what did that credit amount to? It was merely a payment in advance for goods to be subsequently delivered by Italy. Under those circumstances, he thought the assets resulting from the clearing arrangement must be considered as a very special category of assets.

M. COULONDRE (France) was in entire agreement with the Swiss delegate that the Co-ordination Committee was a conference of Governments, and that each Government was sovereign judge, in the case under consideration, of the undertakings it could assume. Nevertheless, the Governments members of the Co-ordination Committee were bound by the obligations under Article 16, which they had all of them accepted. The reason why the Governments in question had decided to set up the Co-ordination Committee was precisely their desire for collective action under the provisions of Article 16; to guarantee, in the first place, the efficacy of the measures to be taken, and to preclude, in the second place, the possibility of States
being asked to take particular action which other countries declined to take when such action involved unnecessary injury to themselves.

It was difficult, considering the question with which the Sub-Committee was dealing, to refrain from expressing an opinion and to leave every Government free to take whatever decision it thought fit. In a matter of such importance, it was the Sub-Committee's duty, as M. Stucki had pointed out, to frame a recommendation to Governments.

It was perfectly true, as the Swiss representative had said, that, if the liquidation of clearing agreements was allowed, it would mean a very big hole in the system contemplated in Proposal III. But while it was admitted that the breach would be a wide one if the liquidation facilities were extended to all the countries with claims on Italy for arrears of commercial debts, it was equally true that the breach — though smaller — would be very considerable if the arrangement extended only to a certain number of countries. Consequently, the Sub-Committee could hardly get out of what appeared to him to be an obligation to make a communication to the Committee of Eighteen, with a view to its transmission by the latter to the Co-ordination Committee for the further information of the Governments, that the liquidation of clearing agreements should not in general be allowed. The Sub-Committee need only add that, if special cases were warranting an exception, they should be specially examined by the committee which was to meet at Geneva to consider exceptions to the rules laid down.

In reply to the observations of the Roumanian and Norwegian delegates, he did not propose to state a technical discussion on the question how far a diversion of trade might occur, or how far and by what means commercial exchanges might continue on existing lines. He had himself suggested the possibility; but it was quite certain, as he had pointed out, that, traders and exporters would find others. The Roumanian delegate had said it would be quite easy to prevent fraud, and Governments need only import the goods themselves. He did not believe that would prevent fraud, because, even with the Governments importing, the equivalent value of the goods must ultimately be passed to the exporters. It was they who in the end were interested in the liquidation of clearing agreements, and it was only natural they should make every effort to induce Italy to agree to liquidation of clearing agreements. Everyone would admit that, if Italy did so, it would be because it suited her, and because the only course open to her was to export goods. Either therefore the transaction would not take place, in which case the Sub-Committee was not interested, or it would take place and would mean a breach in the system.

The Norwegian delegate's observation was very sound; and it might be admitted that the leakage would not exceed the amount of the trade arrears. But, while in the case of Norway those arrears were quite small — the sum of 12 millions of lire had been mentioned — the figures in the case of the United Kingdom were 150 millions, and in the case of France 150 millions of French francs. It might be assumed that the total of commercial debt arrears would amount to 500 millions of francs; that showed what a gap there would be in the system evolved by the Co-ordination Committee. He urged accordingly that the Sub-Committee should negative exceptional treatment in the case of liquidation of clearing agreements, while admitting particular cases — especially cases of clearing agreements which did not cover exchange risks — to consideration by committees set up for the purpose.

M. GOMEZ (Mexico) proposed, as a practical measure, that the various countries should be asked whether they were parties to clearing agreements with Italy. Examination of the clearing agreements would make it possible to ascertain what the balances really amounted to and so throw light on the practical significance of the decision which the Committee was about to take. Clearing agreements had been discussed, and allusions were already beginning to be made to the question of commercial arrears. He feared that, little by little, the tendency to continued trade with Italy by subterfuge channels would develop, just as the French representative had said it would. The Committee should, therefore, examine the various special cases, as that was the only means whereby it could place itself in a position to bring about the strict application of sanctions in the best interests of peace.

Mr. RIDDELL (Canada) was unable to agree with the Swiss representative that the proposal was too difficult and not likely to be effective. In his own view, Proposal III represented the key to all the sanctions, the central column of the whole structure. Having had the opportunity of sitting through the meetings of the Committee of Thirteen, he knew that the one sanction which was objected to at that time by the country which had now become the aggressor was the very sanction now called "Proposal III".

He did not agree that the Committee should merely give its approval to certain Governments to do as they wished in this matter, and therefore violate paragraph 3 of the proposal. The members of the Committee were there as individuals, representing sovereign States whose Governments had last word. This would have the final word. The Canadian Government had taken that position as strongly as any other, and he could not conceive of his delegation giving any other answer than "No" to the proposition before the Committee.

The function of the Committee was not to say whether countries were carrying out their duties under Article 16 of the Covenant, but to decide whether or not their replies corresponded to the texts sent out. Paragraph 3 of Proposal III read as follows: "Goods the subject of existing contracts will not be excepted from the prohibition". That, he presumed, was clear to all; and yet they were asked to make an exception in the case of clearing agreements. Personally, he could not see the difference between being owed money under a clearing agreement
and being owed it under any other agreement. There was no difference. If the Committee
approved the suggestion before them, most of the countries represented on the Committee
would come under such an exception.

Why, it might be asked, was he so strongly opposed to the proposed exception? In the
first place, he believed it would undermine solidarity in the case of what was by far the most
important sanction. They were building up the structure of sanctions through the concerted
action of the nations, and should be wary of anything that threatened that structure. Any
threat to it would weaken it.

If this exception were allowed, how long would it be, after the sanctions came into effect,
before it would be said that certain countries were shipping just as many goods to Italy as
previously? It would be no easy task in such cases to explain that this was because the
countries in question happened to have a credit balance on clearing agreements. Half the
world did not know what a clearing agreement was. The result would be to weaken the
enforcement of the sanction, not in the countries taking advantage of the exceptions, but in
the countries which adopted Proposal III without qualification.

Further, the adoption of the suggestions would delay enforcement of the sanctions. The
general view was that the date for putting the sanctions into effect should be fixed as early
as possible, sometime in November, and the suggestions implied the postponement of effective
action for one or two or three months — which would only comfort the aggressor.

Negotiations were proceeding, and there was still hope that a settlement might be reached:
but it seemed to him that any weakening of their efforts at the present time would be fatal to
such a settlement. The issue at stake was tremendously serious — much more serious no doubt
for many countries there represented than it was for his own. They were called upon to make
Article 16 effective through economic sanctions and without resort to war. That was the
biggest experiment ever yet tried among the nations. He had the impression that some nations
wished to play their part at little or no cost to themselves; but, as the Canadian representative
at a previous meeting had said, the thing could not be done without cost. Canada was a long
way from the seat of the trouble; but the Canadian Government was prepared to pay its share
towards the greatest experiment the world had ever known. What were a few million lire
against the attainment of real security?

Believing that his Government felt as he did on this matter, he would consider he was
betraying them if he weakened on these proposals, and must frankly say he could not associate
himself with any attempt to undermine what, not only now, but in the future, would be found
to be the most effective sanction of all.

The Belgian representative had said the other day a jurisprudence was being created,
and stressed the importance of what was being done and the precedents being established.
They did not want to create precedents now which might operate against them in the future,
and he therefore felt the Committee should not approve of any exceptions. If a State so desired,
let it act as it wished on its own responsibility, without expecting to receive approval of its
actions from others.

M. Cantos (Spain) said the Spanish delegation, which had raised this question from
entirely disinterested motives, had come to the conclusion that in Europe the creditor was
no less closely fettered to his debtor than was the case in Ethiopia. There could be no doubt of
that, just as there was no doubt of the fact that, in the event of complications, it was infinitely
more convenient to be a debtor than a creditor. That was the point with which he wished
to deal.

The Committee was now engaged upon a study of the problem of credit balances vis-à-vis
Italy, and the danger to which such balances might be exposed through the application of
sanctions. But, in the present situation, credit balances would be in danger in any case, with
or without sanctions. What would happen if sanctions were not applied? It was only reasonable
to suppose that the balances would not be liquidated and that trade with Italy would become
even more active, as that country's need of goods grew greater and greater, so that, in the
end, the balances would be increased. That being the case, it was only to be expected that
the ultimate settlement, when it came, would be made in depreciated currency. Italy was
engaged upon a long and very costly war, and, even if sanctions were not applied, there was
little prospect of the lira being maintained at its present rate. In consequence, it would appear
that, in order to guarantee the claims in question and ensure their liquidation, it would not be
enough to refrain from applying sanctions; it would be necessary to give Italy financial
assistance. In the meanwhile, the Committee had been set up to study sanctions, and to attempt
to devise a means of putting an early end to the adventure upon which Italy had embarked.
The need for sanctions was admitted by all.

It would appear to be beyond question that an authorisation to continue to import Italian
goods up to the amount of the credit balances, so as to allow of these balances being liquidated,
would be of no avail, as in any case there was no likelihood that liquidation would take place.
As everyone was convinced that liquidation would be postponed, there only remained the
danger that, by the time the balances came to be liquidated, the Italian currency would have
depreciated. His contention was that such depreciation would take place whether sanctions
were applied or no.

When that happened, there were two solutions to be considered. The first would be to
demand from Italy, as a condition of suspending the sanctions, an undertaking to settle credit
balances at the present rate of exchange. That of course only effected States which had no exchange guarantee; other countries ran no such risk. The second solution would be to give Italy financial assistance when the period for applying sanctions was over. That would certainly not be an easy matter, but there was nothing absurd in envisaging such a solution, and there were many reasons for thinking that, when circumstances changed, it would be one of the decisions to be adopted. He even gathered that that possibility had been mooted.

To sum up, it was a fact that, at the present time, there was a number of claims in danger. Those claims could certainly not be settled immediately, whether a system of sanctions was applied to Italy or not, and in the meanwhile there was a risk of the lira depreciating. The danger that thus threatened the States which were creditors of Italy could only be obviated by the two solutions he had suggested; and any discussion on other lines would prove useless.

M. Soubbotitch (Yugoslavia) did not agree with M. Coulondre's view that the present discussion was purely academic. It was argued that Italy would prohibit all exports by her nationals. Speaking personally, M. Soubbotitch said that from the same premises he would draw an opposite conclusion to that of the French delegate. If it turned out that Italy was going to prohibit exports and so herself prevent the clearing credit balances from being liquidated by exports of goods, why prevent her from doing so and taking the responsibility? Why try and put that responsibility on the League? On the contrary, that was an additional reason for not forbidding creditor States to import Italian goods.

The question was not without its political aspect. While countries were all equal in the eyes of the League, they were not all equal from the material standpoint. All were not equally interested in the question, as the figures cited proved. If it was a fact that the aggregate of French claims on Italy was 150 millions, and that British claims were for the same amount, while those of Yugoslavia totalled 50 millions, there was a considerable practical difference between the three, for the reason that the Yugoslav claims on Italy represented 10% of Yugoslavia's total foreign trade, whereas the claims of France or the United Kingdom represented only a few one-tenths per cent of the total foreign trade of the two countries in question. Public opinion in the various States realised the responsibilities arising out of the Covenant; but it realised also the sacrifices thereby entailed, and desired those sacrifices to be limited to the strict minimum. It was not a matter of indifference to the public to know to what those sacrifices were due — i.e., whether they were due to an act emanating from the League or to the ill will of the aggressor country?

He turned to the other argument with regard to the breach which, it was said, would be opened in the system. It was contended that, if the path he advocated were followed, an uncertain situation might arise, the implications of which were not to be foreseen. That might be; but the remedy was to separate the question of clearing claims from that of other claims. The former alone should be considered.

What he wanted was permission to realise clearing credit balances. Those balances constituted precise, liquid and clearly-defined claims which were and could be checked. There was no possibility of abuse. It was known, or could be known within twenty-four hours, what those claims were and how much they amounted to. A credit balance represented money belonging to Yugoslav traders and deposited in Italy: it was intended for the purchase of goods, or, if the expression was preferred, it represented goods paid for in advance.

In that connection, he pointed out that certain States had put a very elastic construction on contracts on which payments had been made in advance. He quoted a passage from the United Kingdom Order-in-Council reproduced in document No.: Co-ordination Committee 10(d), page 4:

"The acceptance by United Kingdom exporters of the method of payment laid down by the Anglo-Italian exchange of notes of April 27th, 1935, does not contravene the Order, provided that payment by the deposit of lira is made on or before the delivery of the goods."

Was there not some resemblance between that and the claim which several delegations were putting to the Committee in connection with the liquidation of clearing credit balances. Again in the French Government's reply he noticed in Article 4 of the Decree of October 28th, 1935, which the reply quoted, a provision that presented features strikingly resembling those of the present case, though it related to financial rather than to commercial transactions. It read as follows:

"The foregoing provisions shall not apply to the payments made in settlement of shares or other securities applied for prior to the publication of the present Decree when an initial payment has already been made."

In other words, the Decree allowed French capital to be exported to Italy for the settlement in full of shares, of which only a very small proportion — it might be only 1% — had been paid up, whereas it was proposed to prevent States which had money in Italy from withdrawing it in the form of goods.

Although some delegations wished, or at least seemed to think so, those States were not making an attempt to render collective action nugatory. They had no intention of giving any advantage to Italy. On the contrary, they were making her position worse, because they were trying to make her deliver goods, without a penny crossing the frontier and entering Italy.

There was one argument that had caused him a good deal of misgiving, though he must

1 Document No.: Co-ordination Committee/17(e).
confess he had not entirely grasped its significance. He understood M. Coulondre to have criticised the system advocated by M. Visonianu, on the ground that goods arriving from Italy in the countries concerned would be converted into money in those countries, and that the money would be used to pay the exporter, thereby providing him with fresh openings for export.

That was true enough; but was it the object of sanctions to reduce the exporter’s openings for export and his financial capacity? If so, the result would be a remarkable confusion. The object of sanctions was to prevent capital and foreign exchange from entering Italy; and in that connection there was nothing unfair or illegitimate in his contention. He agreed that the period for the recovery of such debts, and even the amount to be recovered, might be regulated so as to make the control stricter; but the exception that he had in mind was entirely in harmony alike with the spirit of the Covenant and with the motives of the sanctions.

M. Stucki (Switzerland), replying to the Canadian delegate, said it was a very much more important matter for Switzerland than it was for Canada that no State should be allowed to attack a neighbour, break the peace and violate the Covenant with impunity. He entirely agreed that Article 16 contained clauses which must be preserved.

Since the last session, perhaps no other member had done as much as he had to enlighten public opinion in his country. It was very difficult for the Swiss people to understand that their economic neutrality was at an end.

He thought it dangerous and inexpedient to discuss at undue length the legal questions that arose out of Article 16 of the Covenant. Everybody knew that Article 16 had a past. Everybody knew how often it had been said that Article 16 had not always been observed. Everybody knew that Article 16 contained three paragraphs, all of which had equal legal force. It was impossible to lay all the stress on one paragraph and ignore the other two.

He had been impressed by the remarks made by certain delegates, more especially those of Roumania and Yugoslavia. He was convinced that it was necessary to avoid weakening the sanctions. He had made a suggestion with the object of reconciling the two views, because he was very much afraid of the Committee taking a decision which would be dangerous in one way or another. In view, however, of the Canadian representative’s reaction to his suggestion, he withdrew it; but he thought within a few days it would be seen who had taken the correct view.

The Chairman thought the study of the highly technical question of clearing agreements should be referred to a sub-committee of experts in which it would be open to the representatives of Roumania and Yugoslavia as the parties most concerned in the question to advocate their views. The problem was also connected, in one of its aspects, with the question of mutual support; and that aspect might be referred to the Sub-Committee on Mutual Support.

M. Visonianu (Roumania) said that the more he thought of the objection with regard to the possibilities of fraud which it was alleged, were implicit in the arrangement recommended by the Roumanian delegation, the less could he detect the presence of any such possibilities. He had been controlled the exercise by the Governments would be effective in these cases. It had been suggested that the Roumanian proposal would have no practical result, because Italy would refuse to pay her debts by the delivery of goods. He was inclined to accept that regrettable assumption; but, if it was well-founded, he could not see why Roumania and the other countries in the same position should be prevented from pressing their claims vis-à-vis Italy. Why should Roumania be placed in the position of refusing payment of a claim from Italy, a payment which the latter would not fail to offer as soon as she learned of the prohibition decreed by the Committee? And why should the League take decisions implying additional responsibility in respect of the loss or whittling away of the Roumanian claim on Italy? He put these points to the Sub-Committee for consideration. For his part, he would reconsider the matter, but, in view of the differences of opinion which had been apparent during the discussion, he thought no decision should be taken for the moment. A committee of experts should not be set up. The only course was to refer the question back to the Committee of Eighteen. In the meantime, he would apply to the head of his delegation for instructions.

The Chairman was certain the Sub-Committee would desire to meet the wishes of the Roumanian representative; but he hoped the discussion would not be re-opened in the Committee of Eighteen. He proposed to inform the Committee of Eighteen of the discussions which had taken place, and to put the suggestion he had just made. He hoped the representatives of Roumania and Yugoslavia would be in a position to accept a solution on those lines.

M. SOUBBOTITCHE (Yugoslavia) associated himself with the Roumanian representative’s request for time to consult their respective Governments. He likewise accepted the Mexican delegate’s proposal, to which all the delegates appeared to agree, to request the various States to furnish information as to the amounts of their commercial claims on Italy. Figures were essential as a basis for the discussion. As far as he was concerned, though he had recommended that the problem of clearing claims should be settled by an authorisation to receive Italian goods, he would not rule out any other solution. On the contrary, he thought, for example, a solution might be sought by considering the issue from the standpoint of the obligations of mutual support.

The Chairman said he would take the Mexican representative’s proposal as adopted, and a Circular Letter would be sent to all States in accordance with that proposal. The Secretariat submitted the following text for the Circular Letter:

“To ask whether they have clearing agreements with Italy and what is the amount of their credit balances.”
Mr. WILLS (United Kingdom) was reluctant to restrict the question to clearing agreements, except on the assumption of an elastic interpretation of the term "clearing agreement". The United Kingdom had no clearing agreement with Italy, but it had a payments agreement—a form of agreement jocularly described as a "one-legged clearing agreement". This kind of agreement ought to be taken into consideration along with clearing agreements; and there might be other classes of agreements which, while not clearing agreements properly so called, should also be included. A wide interpretation of the term "clearing agreement" should be embodied in the communication to Governments; otherwise, it was possible that only a few Governments would reply.

M. SOUBBOTITCH (Yugoslavie) suggested that, in order to take account of the United Kingdom representative's point, the wording should be: "... clearing agreements or equivalent agreements..."

The Mexican delegate's proposal was adopted as formulated in the text submitted by the Secretariat and completed by M. Soubbotitch.

The discussion of the question of outstanding claims in the Sub-Committee on Economic Measures was declared closed; the question was referred back to the Committee of Eighteen.

SECOND MEETING.

Held on Monday, November 4th, 1935, at 10.30 a.m.

Chairman: M. DE VASCONCELLOS (Portugal).

2. Tribute to the Memory of M. Robert Haas, Late Director of the Communications and Transit Section.

The CHAIRMAN announced that he had just learnt with deep emotion the sad news of the death of one of the most loyal workers of the League in the person of M. Robert Haas, whose friend and admirer he himself had been. The death of M. Haas was a great loss to the Secretariat, for he was not only an expert of distinction, but also an official of an energy equal to every demand and of a quite exceptional competence. The Chairman was sure he was interpreting the sentiments of the Sub-Committee in expressing its sympathies to M. Haas's widow and to the Secretary-General.

M. COULONDRE (France) said that the official whom the League had just lost had been a compatriot of his. He thanked the Chairman for the moving terms in which he had referred to M. Haas and for having associated the Sub-Committee with his message of condolence to Mme. Haas.

3. General Question of Clearing Agreements.

The CHAIRMAN reminded the Sub-Committee that there was a certain number of questions which it had either to examine itself or to refer to special sub-committees to be set up.

The first point which the Sub-Committee would discuss was the method of handling the general question of clearing agreements. The Sub-Committee would remember that a number of countries had informed the Co-ordination Committee that they had clearing agreements with Italy and that some of them had stated that their clearing accounts with Italy were being wound up. It would also remember that the question raised by the Sub-Committee for Financial Measures concerning the United Kingdom Government's Order-in-Council had a connection with the clearing agreements problem.

Mr. STEVENSON (United Kingdom) said the United Kingdom delegation had nothing to add to the explanation given by Mr. Eden on Saturday, November 2nd, concerning the particular point raised by the Sub-Committee for Financial Measures. The United Kingdom delegation was entirely in agreement with the Chairman's proposal that a small sub-committee should be set up to examine the technical aspects of the whole question.

M. WESTMAN (Sweden) said that, during one of the discussions in the Sub-Committee for Financial Measures, he had drawn attention to certain doubts which his Government had felt, when about to enact the necessary decrees for the adoption of Proposal II. One of those doubts was due to the fact that the United Kingdom Government considered that its arrangement with Italy whereby Italian importers continued to make their payments to Italian banks, should not be interpreted as being equivalent to granting credits to Italy. He understood that interpretation up to a certain point, but he thought that the position should in any case be modified from November 18th onwards, and that, after that date, inasmuch as

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1 See page 44.
2 See page 78.
Italy would be unable to discharge her liabilities by exporting Italian goods to different countries, sums paid by Italian importers to a clearing account in Rome should cease to be regarded as cash payments. This point should, at the least, form the subject of a declaration by the Sub-Committee. Any other course would, in his opinion, be at variance with the provisions of Proposal II.

The Sub-Committee could of course contemplate another solution, to which Mr. Eden had alluded — viz., the suspension of clearing agreements. He was quite ready to consider that solution, but hoped that the different delegations would intimate their views on the matter, so that, if need be, a sub-committee might be set up later to frame the proposals to be placed before the Committee of Eighteen.

M. COULONDRE (France) appreciated M. Westman's point. The question was important and required very careful consideration. For that very reason, however, and also because it was highly technical — as was shown by M. Westman's mere statement that his Government would be prepared to make a declaration, of which he had indicated the purport on November 18th — M. Coulondre, while prepared to follow the Swedish delegate, hoped that the problem would receive very close examination. For that reason, he concurred in the United Kingdom delegate's proposal to send the question to a sub-committee.

M. GARCÍA OLDINI (Chile) asked that the task of the sub-committee to deal with clearing agreements might be defined. The problem of clearing agreements was a technical one, and in certain respects it might be said that its scope was clearly circumscribed. It was, however, closely bound up with other matters which were not always identical in the different countries. Thus, for Chile, the question of compensation was closely bound up with that of Chile's communications with the rest of the world; it was closely related to the possibilities connected with the service of the foreign debt and the payment of goods not subject to the clearing agreement. That being so, he asked whether the sub-committee would have power to deal with these various questions which, although closely connected with the existence and operation of the clearing agreements, were nevertheless of a different character.

The Chairman replied that the sub-committee would naturally make a preliminary study of the questions referred to it, and would put on its agenda those which were within its jurisdiction with a view to their closer consideration. The others, it would refer back to the Sub-Committee on Economic Measures.

M. GARCÍA OLDINI (Chile) agreed to this course on the understanding that all matters cognate to the clearing agreements problem would be examined.

M. VISIOIANU (Romania) supported the United Kingdom delegate's proposal, which had been seconded by the French delegate, for a sub-committee to study the question of clearing agreements. The work should however be pushed ahead. Some countries, like Romania, had clearing agreements with Italy, which were at present under review. Those countries must know definitely as soon as possible the value of the United Kingdom Government's reservation. They must also know what decisions the proposed sub-committee might take on reservations similar to those just put forward.

M. WESTMAN (Sweden) thought the Sub-Committee's primary task was to co-ordinate the efforts of the different Governments. Certain interpretations of the obligations contained in the clearing agreements did not concord with one another. An endeavour must be made to harmonise them as far as possible. He did not object to the setting-up of a special sub-committee, but feared that the proceedings were deteriorating into the sort of game of tennis with which all those who had taken part in the Disarmament Conference were only too familiar. Once already an opinion had been asked for from a sub-committee which had sent the question back again. If however his colleagues were anxious for the matter to go to a sub-committee, he would not object.

The Chairman hoped the present proceedings would not be haunted by the ghost of the Disarmament Conference. Hitherto the Co-ordination Committees and sub-committees had worked effectively and fast. If purely technical questions arose, it was quite obvious that the best course was to have them examined by qualified experts.

M. PROTITCH (Yougoslavia) said that the United Kingdom's reply to the Sub-Committee for Financial Measures had awakened that Sub-Committee's attention because, judging from point 4 in the explanatory notice,1 the Sub-Committee had felt that, even after Proposal II had been put into application, it would be possible in the United Kingdom to continue to pay for British exports to Italy by deposits in lire effected in Italy. The Sub-Committee for Financial Measures had held that that method of payment was not absolutely in accord with the spirit of Proposal II, since from the exchange point of view a deposit in lire was not equivalent to a payment made in good and due from.

It had considered that that aspect of the question was of some importance and had submitted it to the Committee of Eighteen. The latter had not settled it, but had decided that it should be studied by a committee of experts or some other committee. As it was now on the agenda of the Sub-Committee on Economic Measures, he thought he might say that it was not as

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1 Document No.: Co-ordination Committee (10(d), Annex II).
complicated as had perhaps been supposed, and he believed it could be settled at once. The Sub-
Committee on Economic Measures need only propose to the Committee of Eighteen, and the
Committee of Eighteen to the Co-ordination Committee, that the Governments should be
requested to apply Proposal II in the sense that they would prohibit commercial credits to
Italy even in the form of exchange credits; in other terms, the Governments would, in certain
cases, have to suspend their clearing or other similar agreements. Such a prohibition would
thus cover the system of deposits of lire in Italy for the payment of goods. That was the object
of Proposal II.

Mr. Stevenson (United Kingdom) agreed with M. Protitch that the issue itself was a
comparatively simple one. The suggestion made by Mr. Eden had been that the Committee
of Eighteen should have some clear idea of the practical results of the suspension of clearing
agreements, and although this question was raised on a particular clause in the Order-in-Council
of the United Kingdom, it was one which, in the view of the United Kingdom delegation,
affected all clearing and similar agreements. For that reason, although the question was a
fairly simple one and could be decided fairly quickly, he thought there should be an exchange
of views in a technical sub-committee before a decision was taken.

M. Coulondre (France) agreed strongly with Mr. Stevenson's argument.

The Chairman thought the time had come to set up a sub-committee to study the various
aspects of the problem. He would submit proposals later.

4. Extension of the Embargo on Certain Exports to Italy: Examination of Draft Proposal IV (a).

The following draft proposal was read:

"In execution of the mission entrusted to it under the last paragraph of Proposal IV,
the Committee of Eighteen submits to Governments the following proposal:

"It is expedient to adopt the principle of the extension of the measures of embargo
provided for in the said proposal to the following products:

- Petroleum and derivatives;
- Coal;
- Iron, cast iron and steel.

"As soon as it appears that the acceptance of this principle is sufficiently general to
ensure the efficacy of the measures thus contemplated, the Committee of Eighteen will
propose to Governments a date for bringing them into operation."

The Chairman said the Canadian proposal was closely connected with the Spanish motion
concerning the embargo on iron ore. The Netherlands delegation, as the Committee would
remember, had recommended the extension of the Canadian proposal to the other items in
the list of commodities not under the exclusive control of the States taking part in sanctions.

M. van Rappard (Netherlands) said that, in view of expert explanations as to the secondary
importance of the three other products in the list in question, he was prepared to withdraw his
proposal and to consider only the products specified in the Canadian proposal. Possibly magne-
sium and magnesite might be added to the latter.

The Chairman said that, in these circumstances, the Sub-Committee had only the Canadian
proposal before it. The latter, if adopted, should satisfy the Spanish delegation, because it
included pig-iron and iron and steel in the embargo.

M. Coulondre (France) thanked the Netherlands delegate for simplifying the position
by the withdrawal of his proposal. He thought, however, it would be of advantage that the
Canadian proposal, unless it was modified in its wording, should be given a little more precision by
such comment as might be made in the course of the present discussion. He himself would
maintain it as it stood; but he put forward the suggestion—it was no more than a suggestion—
to add copper, a product on which an embargo would have been laid if the States Members of
the League had commanded complete control of that commodity. As they did not, copper had
not been included in the list; but it might be added now. He would not press his proposal,
if there were difficulties in the way.

With regard to the interpretation of the Canadian proposal, he need not point out in the
matter of oil, for example, that, in addition to States Members of the League participating in
the sanctions, there were countries—one in particular—with a considerable production of
oil and controlling a considerable part of the production of oil.

1 Document No.: Co-ordination Committee/83.
He therefore understood the resolution submitted for recommendation to the Committee of Eighteen as a decision of principle, which was not to come into force pending the accession of the non-participating countries whose co-operation was required for the effectiveness of the measure proposed.

M. CANTOS (Spain) said that the Spanish delegation was neither for nor against an embargo on all the articles in question. But he insisted once more that no difference should be made between iron ore and iron. The principle on which the Committee had based its omission of certain products was the consideration that the embargo would be ineffective, either because Italy was self-sufficing, or because the States participating in the sanctions had no control of the products in question, or for some other reason. There was no question that it was useless to place an embargo on iron ore while allowing Italy to receive all the iron and steel she required. The Spanish delegation was prepared to accept the Sub-Committee’s decision, whether for or against an embargo on iron ore; but, if the Spanish standpoint was not approved, the inevitable conclusion would be that the standards applied were not uniform in the case of all products.

M. ANTONOV (Union of Soviet Socialist Republics) said his delegation had no objection to the proposal to extend the embargo to the products specified, but concurred in the French delegate’s interpretation of the proposal. It did not conceal its belief that the measures proposed could not be effective without the support of the States which were not members of the League.

Mr. LOVEDAY, Secretary of the Co-ordination Committee, said that in the draft as submitted “iron, cast iron and steel” was really not a definition of anything. The item ought to read “pig-iron and iron and steel rolling-mill products.” All iron had to go through the pig-iron stage, and the next stage was iron and steel rolling-mill products.

Mr. RIDDELL (Canada) had no objection to the alteration.

M. SOUNBOTITCH (Yugoslavia) said his Government was prepared to place an embargo on the products in the Canadian list, some of which were exported by Yugoslavia, while others were not.

He understood “coal” to include anthracite and coke, but not charcoal or lignite for domestic purposes.

Mr. WILLS (United Kingdom) agreed with the interpretation to be placed on the draft, but thought it was clear a drafting sub-committee would have to be appointed. It would probably spend some considerable time in giving precision to the terms used before a proposal could be drawn up for submission to the Committee of Eighteen.

The French delegation had already suggested that copper might be added to the list, and it was possible there might be other additions. Mr. Wills therefore suggested it might be well, in the second paragraph, to amend the words “to the following products” to read “to certain other products—e.g.” That would make it clear that the list might at some future time be extended or revised. This alteration would also require a slight amendment in the last paragraph, which would have to read “the Committee of Eighteen will propose to Governments the method and date for bringing them into operation”.

M. VISIOANU (Roumania) said the Roumanian Government had no objection to the adoption in principle of the Canadian proposal, subject to the interpretation put forward by the French delegate and supported by the Soviet delegate. The Roumanian Government was prepared to apply the proposal as soon as the condition stipulated by the French delegate was realised.

M. GARCÍA OLDINI (Chile) said that his Government would have objections to raise in regard to certain products on the Canadian list; he would formulate those objections in due course, if necessary.

The matter should be discussed from the standpoint of principle. There was no question as to the object of sanctions: all were in agreement that they were not to be applicable unless they were effective. Their effectiveness was subject to the control which the Members of the League were in a position to exercise over the products on which the sanctions were imposed. But the products on the list mentioned by the Chairman at the beginning of the discussion and those with which the Sub-Committee was at present concerned were not controlled by the countries imposing sanctions. That being so, it might be asked what was the use of an embargo on those products. The result might well be the paradoxical situation that, on the one hand, the sanctions would be ineffective, while, on the other hand, the countries not belonging to the League and not participating in sanctions would receive a premium.

M. SUETENS (Belgium) said that Belgium accepted the Canadian proposal. He gathered it was not proposed to put the embargo on a certain number of products until the non-member States were associated with the embargo policy, or measures were taken to prevent the trade of those countries with Italy rendering the embargo illusory. The question with which he was concerned was, what negotiations it was proposed to undertake with those countries, and if it was hoped that such negotiations would shortly be successful. In the contrary event, Italy, threatened with the prospect of not being able to procure certain products after a given moment not yet specified, would purchase them at once—possessing as she still did a relatively considerable stock of foreign exchange—either in countries belonging to the League or in countries not belonging to the League. Italy would in that way accumulate stocks; and, when the negotiations were concluded and it became possible to apply the proposal, its effect would be nil.
M. COULONDRÉ (France) agreed with the United Kingdom delegate as to the reference of the proposal to a drafting sub-committee, but saw certain difficulties in the way of the United Kingdom delegate’s proposed amendments. The text as amended by the latter would leave the position pretty much where it was under the last paragraph of Proposal IV, which said that the attention of the Co-ordination Committee had been drawn to the possible extension of the embargo to other products. The proposal in the present instance was to go a step further, and that could only be done by specifying the products on which it was proposed to place an embargo. The list must be a limiting one.

Unless the articles for embargo were specified, there would be the risk that the non-participating countries whose association was desired would be scared away. The latter were likely to be afraid of being committed by an indefinite decision to applying the embargo to products they would wish to exclude.

In the matter of copper, he would not press his suggestion. It was one of the key products which the Committee of Thirteen had considered in July; but it was for the Sub-Committee to decide whether it should be added to the Canadian list.

With regard to M. Suetens’ point, his own proposal was that the decision when taken should be communicated to the non-participating States on the understanding that each member of the Co-ordination Committee should make such representations to the States in question as appeared desirable. Discretion was obviously called for in that connection, if only for the sake of the results aimed at. He felt therefore that, for the same reasons which had led the Co-ordination Committee in the first instance to confine their action to a communication to the States non-members, it would be better in the present instance again to restrict action to a similar communication.

M. WESTMAN (Sweden) said that Sweden, a country which exported certain of the products covered by the Canadian proposal, accepted the principle of that proposal and would take the necessary steps as soon as there appeared to be a possibility of adopting effective measures.

Mr. WILLS (United Kingdom) was prepared to withdraw his proposal to insert the words “for example”, but perhaps the drafting sub-committee might consider the insertion of some such words as “in the first place” in paragraph 1, in order to make it clear that this was not necessarily a final list.

M. GARCÍA OLDINI (Chile) said that under the Canadian proposal the embargo on the products specified was to be imposed as soon as the principle was sufficiently generally recognised to enable the action taken to prove effective. That was to say, the Sub-Committee was proposing to take a decision which for the moment was impossible of application and had no certain prospects of application in the future. Some of the drawbacks to such a course had already been pointed out, and there were others to which attention might be drawn. The idea was that, before applying the embargo to those products, the assent must be obtained of the countries which were not present members of the League; and it was suggested that the Committee by accepting the present proposal might be in a position to induce the countries in question to act in agreement with the States Members of the League. But it was only human nature to suppose that the effect of the States Members putting an embargo on products they could not control would be to induce the States non-members to increase their trade with the country which was the object of the embargo, and profit by the opportunity offered to expand their markets. He agreed that the imposition of the embargo on those products could be decreed when the attitude of the States non-members was known; but any decision taken at the present juncture was calculated to play into the hands of the States outside the League. In any case, the Committee would be taking up a somewhat peculiar attitude in coming to decisions it was not in a position to apply. The proper course was first to ascertain the attitude of the non-member States, and only then — if the attitude of the latter was favourable — to decide on the embargo.

The Chairman said that all those members of the Sub-Committee who had spoken had accepted the proposal, subject to the reservation made by the French delegate. The representative of Chile alone had opposed it, even with the French delegate’s interpretation. Did the Chilian delegate press his objection?

M. GARCÍA OLDINI (Chile) was not prepared to modify his attitude, which was based on logical considerations of procedure. He had no objection however to the reference of the proposal to a drafting sub-committee.

M. VAN RAPPARD (Netherlands) associated himself on behalf of the Netherlands delegation with the French delegate’s interpretation. The proposed measures were not to come into force until they could be really effective.

The Chairman gathered there were no further objections to the reference of the question to a drafting sub-committee.

M. COULONDRÉ (France) agreed to the procedure proposed by the Chairman on the clear understanding that the drafting sub-committee would have no powers to alter the substance of the proposal.

The Sub-Committee decided to refer the proposal to a drafting sub-committee.

The Chairman put the question whether copper should be added to the list of products in the Canadian proposal.
M. CANTOS (Spain) observed that, while the production of copper in Italy showed a considerable decrease, that was due to the fact that the fall in the price of copper had made it more advantageous for Italy to purchase copper than to produce it. The main producer of copper in Europe was Germany, and the main producer outside Europe was the United States. He did not press his objection, but wondered whether the proposed measure would be useful and effective.

M. COULONDRE (France) said that, in the light of M. Cantos’ observations, as also of the fact that it was desirable to proceed with prudence if only in view of the results aimed at, he would withdraw his proposal.

5. **Existing Contracts.**

M. Adle, delegate of Iran, and Luang Bhadravadi, delegate of Siam, came to the table of the Sub-Committee.

M. ADLE (Iran) said his country was approximately in the same position as Siam. The Government of Iran had given orders for the construction of ships and for the supply of certain materials. Some of those orders had been paid for in full and others in part.

At the time when Proposal III was passed, the Siamese delegate had made a reservation regarding existing contracts. The same reservation had been made in the reply from the Iranian Government regarding the date of execution.

He therefore requested the Committee to take these contracts into consideration and to authorise their execution.

The **Chairman** pointed out that contracts which had been paid for in full were already exempt under the terms of the Co-ordination Committee’s proposals.

M. MASENG (Norway) reported to the Sub-Committee an order given by the Norwegian State to an Italian firm for the supply, during the autumn, of five aeroplanes at a total cost of 600,000 lire, one-fifth of which had already been paid.

The **Chairman** pointed out that the Sub-Committee had only to deal with State contracts and not with private contracts.

Luang BHADRAVADI (Siam) said the contract referred to by his delegation was a State contract. It was for war vessels required by the Siamese navy. The first delegate of Siam would furnish in due course particulars in addition to those already contained in the letter from the Siamese delegation.

The **Chairman** thought the Sub-Committee should have all possible details.

*It was decided that the question should be referred to a special sub-committee.*

M. ANTONOV (Union of Soviet Socialist Republics) asked whether particulars should be furnished for each contract separately or whether they could be furnished for all together.

The **Chairman** said it would be desirable to furnish them for each case.

6. **Indirect Supply.**

M. COULONDRE (France) recalled that the South African delegate had pointed out at a previous meeting the way in which this question arose.¹ There was a danger that the embargo measures might have no effect if prohibited goods could be exported in unlimited quantities to non-participating countries without any undertaking by the latter not to re-export those products to Italy.

In a proposal which M. Coulondre had submitted previously, it was suggested that, where more effective measures were not possible, Governments should restrict quotas — *i.e.*, limit their exports of prohibited products to non-participating countries, to the average amounts exported to such countries during, say, the last three years. The French Government had taken that standpoint from the first, and it proposed to embody that attitude, not in the actual decree to be published on embargo measures, but in the instructions to be issued direct through the administrative channels to the competent departments, in the following terms:

> Subject to more restrictive provisions arising out of the regulations in force, the following instructions are to be observed in granting exceptions:

> 1. Countries not participating in the special measures taken under Article 16 of the Covenant. — Each exporter will be authorised to export each month on an average a quantity corresponding to one-twelfth of the exports which he effected in 1934 to the countries in question."

The French Government took the view that that was the only possible measure that could ensure a minimum of effectiveness for the embargo. The proposed restrictions were simple in application. He commended them to the Sub-Committee’s attention.

¹ See page 38.
Mr. ANDREWS (Union of South Africa) said that the Government of the Union of South Africa was interested in this matter, because it was laid down quite definitely in Proposal IV that Governments of the Members of the League were to take such steps as might be necessary to prevent the diversion of trade. What the South African Government wanted was to be in a position to lay down guiding rules for South African exporters. The Sub-Committee had already had the very helpful suggestion of the French delegation, and he would be grateful to know if delegations had any other suggestions which might assist Governments in drawing up regulations in accordance with the requirements of Proposal IV.

The Sub-Committee decided to hold over the question of indirect supply pending receipt of the French delegation's proposal.

7. Appointment of Sub-Committees.

The Sub-Committee on Economic Measures decided to appoint its various Sub-Committees with the following membership:

Sub-Committee on Clearing Agreements: United Kingdom, Chile, Netherlands, Sweden, Turkey, Yugoslavia.

Transit Sub-Committee: Belgium, France, Netherlands, Switzerland, Yugoslavia.

Contracts Sub-Committee: Mexico, Poland, Roumania, Union of Soviet Socialist Republics.

Drafting Sub-Committee for the Proposal to extend the embargo on certain exports to Italy: Canada, Poland, Spain, Union of Soviet Socialist Republics.

It was agreed that each delegation should be entitled to send an expert to each Sub-Committee.

THIRD MEETING.

Held on Tuesday, November 5th, 1935, at 5 p.m.

Chairman: M. DE VASCONCELLOS (Portugal).

8. General Question of Clearing Agreements (continuation): Draft Resolution submitted by the Sub-Committee on Clearing Agreements.

The following draft resolution was read:

"The Committee of Eighteen,

"Entrusted by the Co-ordination Committee with the task of following the execution of the proposals submitted to Governments and empowered to make such new proposals as it may think desirable:

"Suggests that, in order to render effective the application of Proposals II and III, approved by the Co-ordination Committee, Governments of Member States should:

"I. (a) Abrogate any clearing or payment agreement that they may have with Italy by or before November 18th, and, in consequence,

"(b) Prohibit, as from November 18th, the acceptance of any new deposit of lire into the Italian clearing account in payment for exports to Italy;

"II. Take, if need be, the necessary steps to provide that importers who have received or shall receive Italian products, payment for which has not yet been effected, lodge their payments in a national account which may be employed for the settlement of export claims."

M. WESTMAN (Sweden), Chairman of the Sub-Committee on Clearing Agreements, explained that the draft resolution represented a compromise which had been adopted on the previous day by all the members of the Clearing Sub-Committee, the representative of Chile at the same time repeating his reservation.

The Sub-Committee had not dealt with those questions in connection with clearing agreements which formed the subject of the resolution adopted by the Co-ordination Committee on November 2nd, 1935, with regard to current outstanding claims on Italy under clearing and other agreements. It had been concerned with another aspect of the clearing problem.
It had endeavoured to consider the situation of Members of the League having clearing agreements with Italy, as it would be from November 18th onwards. It had considered the situation in the light of Proposals III and II as adopted by the Co-ordination Committee, under the first of which all imports of goods from Italy by Members of the League would cease on November 18th, while under the second, the Governments were under the obligation to take all requisite steps to exclude the possibility of any banking or other credits, direct or indirect, to Italy.

The Sub-Committee had found that in view of the complicated character of clearing questions, it was desirable, if not necessary, to lay down, at any rate, certain rules of a general character for the guidance of the action of the different Governments. As the result of a discussion, in which all the members of the Sub-Committee stated their views, it had been felt that the prohibition of all imports of Italian goods from November 18th was so important, and so far-reaching in its effect on the very bases of the existing clearing agreements, that it was necessary to recommend Governments to suspend their clearing agreements with Italy not later than that date. In order to make the position perfectly clear and free from misunderstanding, sub-paragraph I (b) had been embodied in the draft resolution, under which it was stipulated that Member States must “prohibit, as from November 18th, the acceptance of any new deposit of lire into the Italian clearing account in payment for exports to Italy”.

During the discussion, certain delegations had insisted that, when once the import of Italian goods was prohibited, the deposit of lire into the Italian clearing account could not be regarded as a cash payment but was tantamount to a credit to Italy. They contended that the continuance of such operations in the future was not consistent with the object or the spirit of Proposal II, adopted by the Co-ordination Committee.

As the Sub-Committee had concluded that clearing agreements ought to be suspended, it had seemed desirable to insert a further proviso as paragraph II of the resolution. The eventuality with which that paragraph was concerned was the case of importers in the countries applying sanctions receiving Italian products not yet paid for. How was payment to be made after the clearing agreements were suspended? The Sub-Committee thought it well to give guidance in the matter by a recommendation to the effect that they should “lodge their payments in a national account, which may be employed for the settlement of export claims”.

Mr. Stevenson (United Kingdom) said the word “abrogate” in the English text should be replaced by “suspend”.

M. Protitch (Yugoslavia) preferred the word “suspend” for the reason that the clearing agreements had special provisions under which they could not be denounced before the lapse of a certain interval, which might in some cases be as much as three months.

M. Van Rappard (Netherlands) remarked that Mr. Eden had pointed out a few days ago that the clearing agreements had not been abrogated by the measures taken up to the present. The Netherlands Government saw no necessity for suspending or abrogating its clearing agreement with Italy, though it would of course take all the necessary action to prevent the granting in future to Italy of such credits as would no longer be authorised.

The Netherlands Government desired to reserve the right:

1. To continue to accept under the existing agreement payments in guilders to the Netherlands in settlement of goods imported by Italy before November 18th. He presumed there was no objection to that.

2. To use the amounts thus accruing for payment of the Netherlands exporters;

3. At the same time, to prevent any increase in the balance due by Italy to the Netherlands on November 18th.

The Netherlands Government was in fact opposed to any suggestion that all clearing agreements should be suspended or abrogated.

M. Westman (Sweden), chairman of the Sub-Committee on Clearing Agreements, gathered that the Netherlands objection affected only sub-paragraph I (a). The Netherlands wished to retain the power not to suspend the operation of clearing agreements. The point was one with which the Sub-Committee had been much concerned; and it had been found in the course of discussion that some delegations were strongly in favour of the insertion of the provision in sub-paragraph (a) — i.e., a rule recommending the suspension of clearing agreements — while other delegations pressed for the provision in sub-paragraph (b) — i.e., a prohibition of the acceptance of deposits in lire. The compromise reached consisted in the embodiment of both views in the resolution. He regarded himself as committed to that compromise, but, if the Sub-Committee on Economic Measures took a different view, he thought it would be easy to find a solution.

The Chairman asked the Netherlands representative to submit an amendment in form.
M. Van Rappard (Netherlands) replied that he would omit sub-paragraph (a) and add the following words at the end of sub-paragraph (b):

"... increasing the creditor balance on the clearing account in the exporting country on November 18th."

Mr. Loveday, Secretary of the Co-ordination Committee, gathered that the Netherlands delegate was concerned about goods en route from Italy round about November 18th, and the question of the payment for those goods no doubt arose. The position was governed by paragraph (4) of Proposal III; and possibly the point raised by the Netherlands delegate could be met by inserting at the end of the covering paragraph (paragraph 3) of the draft resolution the words "without prejudice to paragraph (4) of Proposal III".

Mr. Stevenson (United Kingdom) understood sub-paragraph (a) to connote the abrogation or suspension of any clearing or payment agreement, and he therefore saw no reason why it should not be included in the document. The point was of considerable importance, and he thought there should be a clear recommendation from the Committee of Eighteen to Governments on the subject. Sub-paragraph (b) implied sub-paragraph (a); but it was not so satisfactory standing alone as it would be if sub-paragraph (a) were left in.

The Chairman asked if M. van Rappard's point was met by Mr. Loveday's suggestion.

M. Van Rappard (Netherlands) replied in the negative. The Netherlands Government did not think it necessary to abrogate clearing agreements with Italy, and accordingly did not see why Members of the League should be asked to undertake to do so. The end in view was to prevent clearing agreements having effects conflicting with the action taken by the Members of the League; but that did not necessarily mean asking for the abrogation of all clearing agreements with Italy.

The Chairman remarked that the French text spoke only of suspension, and not of abrogation, of clearing agreements.

M. Westman (Sweden), Chairman of the Sub-Committee on Clearing Agreements, suggested the following wording to meet the Netherlands representative:

"(a) Suspend, where necessary, the operation of any clearing or payment agreement . . . .

"(b) Prohibit in any case as from November 18th . . . ."

As he understood M. van Rappard, the Netherlands Government was prepared to conform with the rule embodied in sub-paragraph (b), but hoped to be able to do so without necessarily suspending its clearing arrangements with Italy.

M. Van Rappard (Netherlands) accepted M. Westman's proposal. He added in explanation of his point that, if the Netherlands Government suspended its clearing agreements with Italy, it would not be able to continue to receive the payments made to the Netherlands in guilders for goods imported from Italy under the clearing agreements before November 18th; and it was anxious to get in these payments.

He would agree therefore to the words "suspend, where necessary, the operation of" being added in sub-paragraph (a); but he pressed his proposal for the addition of the words "increasing the creditor balance on the clearing account in the exporting country on November 18th" at the end of sub-paragraph (b).

M. Protitch (Yugoslavia) pointed out that M. van Rappard's addition to sub-paragraph (b) conflicted with the final paragraph of the draft resolution. If the Sub-Committee agreed to M. van Rappard's proposal to limit the prohibition to accept deposits of lire to the amount of the clearing balance as at November 18th, a situation might arise under paragraph II of the draft resolution in which, the credit balance being reduced, it would be possible to export goods to Italy without cash payment therefor.

He suggested that it would meet M. van Rappard's point if the words "effected after November 18th" were added at the end of sub-paragraph (b). That would not preclude the freedom of action which M. van Rappard desired to retain.

The Chairman thought the discussion showed that the best course to take was to ask the Sub-Committee on Clearing Agreements to draft an agreed text. His suggestion would have the additional advantage of enabling the Uruguayan delegate to consider the draft resolution.

Agreed.

M. Stucki (Switzerland) had no doubt that the Sub-Committee was agreed in regarding the proposal discussed as not applicable to the special position of Switzerland, as it had been explained. The Swiss position was founded on compensation; and it was quite out of the question for Switzerland, in accepting, as she did, the Sub-Committee's proposal, to relinquish that position.

The Chairman thought there was no misunderstanding on the point. The Sub-Committee could satisfy the Swiss representative.

Agreed.
9. Extension of the Embargo on Certain Exports to Italy (continuation) : Examination of Draft Proposal IV (a), submitted by the Drafting Sub-Committee.

The following draft proposal was read:

"In the execution of the mission entrusted to it under the last paragraph of Proposal IV, the Committee of Eighteen submits to Governments the following proposal:

"It is expedient that the measures of embargo provided for in Proposal IV should be extended to the following articles as soon as it appears that circumstances are such as to render effective this extension by Governments of States Members of the League of Nations:

- Petroleum and its derivatives, by-products and residues;
- Pig-iron, iron and steel (including alloy steels), cast, forged, rolled, drawn, stamped or pressed;
- Coal (including anthracite and lignite), coke, and their agglomerates.

"If the replies received by the Committee to the present proposal and the information at its disposal warrant it, the Committee of Eighteen will propose to Governments a date for bringing into force the measures mentioned above."

"Note. During the discussions in the Drafting Sub-Committee, it was pointed out that the text of the proposal adopted by the Sub-Committee on Economic Measures did not include the various derivatives of coal, some of which are used as fuels and some of which are more particularly destined for military uses. Before including these products in the list, however, the Drafting Sub-Committee thought that it should receive further instructions from the Sub-Committee on Economic Measures."

M. COULONDRE (France) proposed to substitute for the words "as soon as it appears that circumstances are such as to render effective this extension by Governments of States Members of the League of Nations" in the second paragraph of the Drafting Sub-Committee's text the words "as soon as the conditions necessary to render this extension effective have been realised."

Agreed.

M. SOUBBOTITCH (Yugoslavia) referred to the Minutes of the last meeting, from which it would be seen that he had asked for the word "coal" to be interpreted as including anthracite and coke, but not charcoal or lignite used for household purposes. That interpretation, he understood, had been accepted by the Sub-Committee, and in particular by the United Kingdom delegate; but the text now submitted by the Drafting Sub-Committee ignored his interpretation. Lignite was not used as fuel for propelling ships, or for blast furnaces or big, industrial war-plant.

The CHAIRMAN was afraid the Yugoslav delegate's request had given rise to objections. It appeared that lignite could be used for other purposes.

M. SOUBBOTITCH (Yugoslavia) said that lignite might be used in small industries, but certainly not in war industries.

Mr. STEVENSON (United Kingdom) said the United Kingdom delegation would prefer to retain lignite in the list.

The CHAIRMAN said that what he had had in mind was hydrogenation processes and processes for converting lignite into oil. Did the Yugoslav delegate press his proposal?

M. OBRADOVITCH (Yugoslavia) said the Committee had the alternative of either prohibiting the supply of all products to Italy without exception, or of prohibiting the supply only of such products as could be used for war purposes. If the Sub-Committee proceeded on the latter assumption, there would seem to be no objection to restricting the list of products, the export of which was to be prohibited, to products capable of assisting Italy in the conduct of the war. In the case of coal, such products were primarily black coal and coke, the first because it was used in ships' boilers, and the second because it was used in blast furnaces — i.e., in the metallurgical industry, which was an industry specially concerned in the preparation of war. It was true that, in certain circumstances, lignite could be used in place of black coal — e.g., in small industries, on railways, etc. But its use for such purposes was, after all, limited, and might surely be left out of consideration in the present case. The lignite exported by Yugoslavia to Italy was used almost exclusively for domestic heating purposes in the frontier districts. The exports were not large; it was a question of some 1,500 to 1,600 wagons a year.

That was the motive behind the Yugoslav delegation's request for the omission of lignite from the list of prohibited exports. But Yugoslavia would not insist if the majority of the Sub-Committee felt that there were serious grounds in favour of prohibiting its export. The Yugoslav delegation would however ask for an exception to be made for the small amount

2 See page 62.
of lignite used for supplying the needs of the inhabitants of these frontier districts, since that trade could never become really large or hamper the application of sanctions against Italy. It was quite possible to safeguard the local interests concerned in that way, without making a breach in the system of sanctions.

M. SOUBBOTITCH (Yugoslavia) added that the Yugoslav delegation did not ask the Sub-Committee for the insertion in the resolution of any special clause to exempt this frontier quasi-traffic; it would be content with a mention in the Minutes and with the quantity of 1,600 wagons.

Mr. STEVENSON (United Kingdom) said the Yugoslav Government was naturally at liberty to make any reservations it liked on any of these proposals, and he supposed it was as a sort of reservation that this exception must be regarded.

M. SOUBBOTITCH (Yugoslavia) replied that there were some reservations which constituted "conditions of application", and others which might be described as "supplements of application". The present Yugoslav proposal was of the latter character. He appealed to the United Kingdom delegation to make allowances for the rather special situation of his country in the matter.

Mr. STEVENSON (United Kingdom) merely wanted to understand the position of the Yugoslav delegation.

The CHAIRMAN noted that the exception requested by the Yugoslav delegation was of small importance and, if there was no objection, he would take it as accepted.

The Yugoslav delegation's proposal was accepted.

The CHAIRMAN asked whether the Sub-Committee accepted the rest of the draft Proposal IV.

M. CANTOS (Spain) thought the list contained in the proposal was not complete, especially with regard to oil and coal. In order to be effective, the embargo on those products should cover all fuels derived from them. In the case of oil, the proposal mentioned the derivatives, by-products and residues, while as regards coal only the various categories of coal and their agglomerates were mentioned. There were products derived from coal by distillation or other chemical processes — viz., liquid fuels, such as benzole, toluol, xylol and products derived from the hydrogenation of coal. The Drafting Sub-Committee had considered placing an embargo on those products also. He thought it would indeed be advisable to include them in Proposal IV A.

M. COULONDRE (France) proposed that the text of the draft should read: "Coal (including anthracite and lignite), coke, and their agglomerates, as well as fuels derived therefrom".

This amendment was adopted.

The draft proposal was adopted with the foregoing amendments.


The following report and draft resolution were read:

"1. The Sub-Committee appointed to consider contracts in course of execution for which an exception might be made to the rule laid down in paragraph (3) of Proposal III was of opinion that its terms of reference were confined to the consideration of contracts:

"(a) Which had been concluded by the State or by an institution belonging to the State;

"(b) In respect of which a part payment had been made before October 19th, 1935.

"On the first point, however, a reservation was made by one member, who considered that the distinction between contracts concluded by State organisations and contracts concluded by private persons was unjustified, in view of the wide variations in the powers of the State in different countries.

"2. The question was raised whether contracts should be submitted for the Sub-Committee's consideration only by Governments which had made written or oral reservations in regard to the application of paragraph (3) of Proposal III. The Sub-Committee did not feel competent to decide this question.

"3. The Sub-Committee heard representatives of several of the Governments which had made reservations in regard to contracts in course of execution. Some of them were not in a position to furnish adequate information, but had applied to their Governments for it. In those circumstances, the Sub-Committee felt that it could not, at the present juncture, make proposals as to the treatment of any particular contract, but should endeavour to arrive at rules in accordance with which decisions might later be reached on the various actual cases submitted to it for consideration.

1 Document No.: Co-ordination Committee/97.
4. The first question that arises is whether the fact that a part payment, however small, has been made, justifies the making of an exception. The Sub-Committee thought that the minimum percentage might be fixed at, say, 20.

5. Another question is to what extent the goods to be imported are of importance to the essential interests of the purchasing country. The Sub-Committee felt that this factor might be borne in mind in coming to a decision as to the contracts.

6. A third question arose in connection with the methods of payment provided for. Some of the contracts laid before the Sub-Committee are payable in kind. If the goods deliverable to Italy already come under the embargo instituted by Proposal IV, there is no difficulty; the contract cannot be executed in the form intended. A more difficult case, however, arises when payment had to be made in goods which might later be brought under embargo. The Sub-Committee is of opinion that, should this occur, the contracts in course of execution should be reconsidered.

7. The Sub-Committee is of opinion that it rests with the Committee of Eighteen to come to a decision on the points raised in paragraphs 4, 5 and 6. When these principles have been laid down, the Sub-Committee can proceed to a final consideration of such contracts as may be submitted to it by the various Governments. In this connection, it thinks that a final date, not later than November 10th, should be fixed, by which the Governments concerned should furnish it with a full detailed list of the contracts for which they wish exceptions to be made. The Sub-Committee would then be able to lay before the Committee of Eighteen, on November 12th, a final list of contracts for which it thinks an exception justified.

Draft Resolution.

The Committee of Eighteen instructs a Sub-Committee consisting of the representatives of . . . to make proposals on its behalf in regard to those contracts—other than those in respect of which payment had been made in full by October 19th, 1935—which might be executed by way of exception to paragraph (3) of Proposal III.

In making its proposals, the Sub-Committee should be guided by the following principles:

(a) The only contracts for which an exception might be made would be contracts concluded prior to October 19th (already notified to the Committee of Eighteen);

(b) Such contracts should have been concluded by the Government or governmental institutions;

(c) A minimum proportion of x % of the total contract price should have been paid prior to October 19th.

No further proposals could be made by the Sub-Committee after November 12th; the Governments should have furnished the Sub-Committee, not later than November 10th, with full details of the nature of the goods covered by the contract, the total of the sums due under the terms of the contract, the amount paid up to October 19th, 1935, and the amount outstanding on November 10th, 1935.

M. VISOIANU (Roumania), Chairman of the Contracts Sub-Committee, explained the difficulties with which the Sub-Committee had been faced.

In the first place, many delegates had not yet received the necessary particulars which they had previously requested their Governments to supply. It had therefore been impossible to discuss the matter fully.

In the second place, the task of the Sub-Committee had not been sufficiently precise. It had had to consider two rules which arose naturally out of the previous discussions, and which might, as it were, constitute its terms of reference. Those rules were stated in the report. Under the first rule, all the contracts to be examined must have been concluded by the State or by an institution belonging to the State. Under the second rule, part payment must have been made on the contracts before October 19th, 1935.

The first of these two rules had given rise to an objection from the Norwegian delegate, who had pointed out that, in view of the difference in the organisation of States, this rule might lead to injustice in judging between contracts if the only contracts to be considered were those concluded by the State or by institutions belonging to the State. The Norwegian delegate wished this category of contracts to be extended, and he contemplated also contracts concluded by private firms.

The second rule did not involve any difficulty except possibly in its practical application. The Contracts Sub-Committee had considered that, when the rules laid down in its report were approved, it must take them as a basis for examining the contracts submitted to it. In order to carry out that work, the Sub-Committee would have to be enlarged.

M. Maseng, delegate of Norway, came to the table of the Sub-Committee.

M. VISOIANU (Roumania), Chairman of the Contracts Sub-Committee, explained that the various paragraphs in the report should be considered in turn, since they involved certain fine points which were not reproduced in the draft resolution. The report should be regarded as a kind of executory regulation of the law constituted by the draft resolution.
Paragraph 1.

M. MADSEN (Norway) thought the Sub-Committee would have no difficulty in accepting his delegation's point of view if he gave a definite instance: that of ships. One case referred to a ship ordered by a shipping company under the authority of the State, while another case referred to a vessel ordered by an absolutely private shipping company. He found it somewhat difficult to make an absolute distinction between those two cases, and the Norwegian delegation had therefore made a reservation on the subject. It was, however, obvious that a private contract must be submitted to the Sub-Committee by the Government concerned in order that the latter might take its share of the responsibility.

The CHAIRMAN pointed out that the Norwegian delegation's reservation appeared in the report, and that, if it were maintained, it would be submitted to the Committee of Eighteen.

M. CANTOS (Spain) thought the Norwegian delegate was right. Different conditions would indeed be created for different countries according to whether the shipping companies were controlled by the State or not. That was a question of internal organisation. The object of the distinction made by the Sub-Committee was to avoid fraud, since it was extremely easy to fabricate a contract. He thought, however, that a solution could be found by admitting all contracts if they were recognised by the State submitting them. That implied that the State took its share of the responsibility and would be, as it were, jointly liable in the case of a fictitious contract.

M. GARCÍA OLDINI (Chile) asked what was meant by the expression "institutions belonging to the State". Did it refer to institutions belonging entirely to the State, or did it also include institutions in which the State's share was large enough to enable it to exercise control?

M. VISIOANU (Roumania), Chairman of the Contracts Sub-Committee, pointed out that the Contracts Sub-Committee had been given definite instructions to examine the cases of contracts concluded by States. It had somewhat extended its terms of reference by examining the case of contracts concluded by institutions belonging to the State. But it had not desired to go further and study the case of contracts concluded by institutions under the authority of the State. In using the expression "institutions belonging to the State", the Sub-Committee had desired to include all institutions belonging entirely to the State. In some countries, the railways were in that position; there was no question of private companies with State participation.

In reply to the Norwegian delegate, he agreed that some particular cases of special importance might be considered, but he pointed out that, if a general formula were adopted covering contracts concluded by private firms in addition to contracts concluded by the State, there would be no limit, and distinctions would then have to be established according to value; such distinctions would be arbitrary and difficult to apply. Moreover, if the Sub-Committee accepted the principle of the Norwegian proposal, even with the restrictions suggested, there was a danger that private companies would exercise considerable pressure on the Governments in order that all kinds of contracts might be accepted. He had ventured to point out the difficulties with which the Sub-Committee would be faced if it accepted a wider formula, but it was obvious that it could consider this possibility and find a satisfactory solution.

The CHAIRMAN agreed that the discussion in the Committee of Eighteen had merely referred to contracts concluded by the State to the exclusion of private contracts.

M. GARCÍA OLDINI (Chile) thought the formula "belonging to the State" did not cover certain situations which corresponded to vital necessities in certain countries. In making that remark, he was not thinking of private contracts, to which he had never referred. He had often observed that Europeans had sometimes difficulty in understanding the circumstances of countries in other continents. To illustrate his meaning, he would give an example.

The industry which was the key of economic life in Chile was the nitrates industry; it was organised under a law of the Republic. The State participated in that industry, but the latter could not be regarded as "belonging to the State", and, therefore, the exception provided for could not be applied to it. It was nevertheless true that this industry was of vital importance to Chile — i.e., to the State. Chile would be dooming herself if she agreed that the nitrates industry should not be included in industries for which an exception was admitted. To accept the Sub-Committee's suggestions as they stood would result in the paradox of considering a small industry belonging to the State as of greater importance for the economic life of a country than an industry of capital importance without which the other industries of the country could not exist, but which could not be considered from the legal point of view as belonging to the State.

He could mention other industries in his country, and in other countries of America, which were in the same position and which consequently could not be included in the exception unless the Sub-Committee's text were amended. He therefore proposed the following wording, subject to drafting: "... an institution belonging to the State or one in which the State has a vital interest".

The CHAIRMAN thought the Sub-Committee should examine definite and not general cases.
M. García Oldini (Chile) regarded the proposal submitted to the Sub-Committee as a general rule applicable to particular cases.

M. Cantos (Spain) did not wish to enter into a discussion of principle; but there were certain contracts in course of execution in Spain, and he would like to know whether they came under the terms of the resolution submitted to the Sub-Committee or not. Those contracts related to engines intended for the Spanish railways which were not nationalised in the true sense of the word. For practical purposes, however, the railways were in the hands of the State; the latter was represented in each company by a commissioner; all purchases were subject to the previous authorisation of the State, which furnished the necessary money. The engines in question had been ordered, and partly paid for, and, if they were delivered, would continue to be paid for out of credits appearing in one of the chapters of the national budget. Could these engines be imported?

In reply to a suggestion by the Chairman, he agreed that the question should be discussed by the Committee of Eighteen. He intended to suggest a slight change in the formula proposed by the Chilian delegate, so that it would read: "or enterprises controlled by the State".

The expression "controlled by the State" would not mean in this case "with preponderating State participation", but "subject to the control - i.e., to the supreme authority - of the State".

M. Mæseng (Norway) said that, in making his reservation, he had had no intention of weakening the sanctions. Since it was stated in the draft that a payment must have been made before October 19th, 1935, he did not think that the consequences of his reservation could be serious.

It was decided that the foregoing amendments should be proposed to the Committee of Eighteen, which would take the final decision thereon.

Paragraph 2.

M. Visoiianu (Roumania), Chairman of the Contracts Sub-Committee, said the United Kingdom delegation had submitted a proposal for limiting the examination of contracts to States which had already submitted written reservations. The Sub-Committee had not settled that point, but it had expressed its preferences indirectly. It had decided to send a circular to all States requesting them to give information concerning any contracts which fulfilled the conditions mentioned. The Sub-Committee had considered that this was a matter of justice. The Sub-Committee on Economic Measures must therefore decide whether or not it wished to limit the examination to contracts submitted by States which had already made reservations.

The CHAIRMAN thought that question must be settled by the Committee of Eighteen, to whom he proposed to refer it.

Agreed.

Paragraph 3.

Adopted.

Paragraph 4.

M. Visoiianu (Roumania), Chairman of the Contracts Sub-Committee, said that, in the case of the contracts reported to the Sub-Committee, the part payment was 20% - i.e., the proportion stipulated in Paragraph 4.

Paragraph 4 was adopted.

Adopted.

Paragraph 5.

Paragraph 6.

M. Visoiianu (Roumania), Chairman of the Contracts Sub-Committee, explained that the Sub-Committee has desired in the second part of Paragraph 6 to provide for contracts payable in commodities - for instance, in oil - the consignment of which to Italy might be prohibited in future. In the Sub-Committee's view, such contracts might be reconsidered but, for his part, he would be prepared to deal with them in the same manner as was laid down for the contracts referred to at the beginning of Paragraph 6.

M. Wszelaki (Poland) asked that the text of the second part of Paragraph 6, should be maintained as it stood at present.

Paragraph 6 was adopted.

Paragraph 7.

After an exchange of views, the last sentence of Paragraph 7 was worded as follows:

"The Sub-Committee would then be able to draw up on November 12th the final list of contracts for which it thinks an exception justified."

Paragraph 7 was adopted with the above amendment.
Draft Resolution.

The CHAIRMAN pointed out that hitherto no reports had been submitted to the Co-ordination Committee, still less reports containing rules. It did not appear advisable at present to depart from the established practice. Consequently, he thought the rules to be applied by the States, as laid down in the report, should be transferred to the draft resolution.

M. VISOIANU (Roumania), Chairman of the Contracts Sub-Committee, agreed, and said that the Contracts Sub-Committee would supplement the draft resolution in this sense.

FOURTH MEETING.

Held on Wednesday, November 6th, 1935, at 3.30 p.m.

Chairman: M. DE VASCONCELLOS (Portugal).

11. Exceptions to the Prohibition on Importation of Italian Goods (Proposal III(a): Books, Newspapers, etc.).

M. COULONDRE (France) stated that a number of delegations, including his own, were not sure whether books, newspapers, periodicals, etc., should not be exempted from the prohibitions arising out of Proposal III. As these were what were usually called media of thought, and as no Government wanted to stop the exchange of ideas between their country and Italy, the French delegation, for its part, thought that this exception should be adopted.

M. WESTMAN (Sweden) and Earl STANHOPE (United Kingdom) supported M. Coulondre's proposal, which was adopted in the following form:1

"The Committee of Eighteen,

"Having been instructed by the Co-ordination Committee to follow the execution of the proposals submitted to Governments, and being empowered to make such further proposals as it may think expedient:

"Proposes that, as an exception to Proposal III, the prohibition to import goods consigned from Italy or Italian possessions should not be extended to books, newspapers and periodicals, maps and cartographical productions, or printed or engraved music."

12. Existing Contracts (continuation): Revised Draft Resolution submitted by the Contracts Sub-Committee.

The following revised draft resolution,2 drawn up by the Contracts Sub-Committee in accordance with the decision taken by the Sub-Committee on Economic Measures the previous evening, was read:

"The Committee of Eighteen instructs a Sub-Committee consisting of representatives of . . . to make proposals on its behalf in regard to those contracts—other than those in respect of which payment had been made in full by October 19th, 1935—which might be executed by way of exception to paragraph No. 3 of Proposal III.

"In making its proposals, the Sub-Committee should be guided by the following principles:

"(a) Exception to be made only in the case of contracts concluded by a State or institution belonging to a State, or for their account, prior to October 19th, 1935, which relate to goods of essential importance to the importing State;

"(b) Not less than 20% of the total sums due under the contract to have been paid by October 19th, 1935;

"(c) Contracts stipulating for payment in goods, the export of which to Italy is prohibited under Proposal IV, not to have the benefit of the exception in question;"
"(d) Governments to furnish the Sub-Committee, not later than November 10th, with full details of each contract (nature of goods, total sums due, amount paid prior to October 19th, 1935, and amount outstanding on November 10th, 1935).

"The Sub-Committee will draw up, not later than November 12th, the final list of contracts in the case of which an exception appears to it to be justified, and will communicate the list forthwith for information to all members of the Co-ordination Committee."

M. Maseng (Norway) would not press for the exemption of private contracts, if the Sub-Committee thought such an exception would weaken the effectiveness of sanctions.

He was under the impression that the private contracts for which payment had been made before October 19th were not of any considerable importance. He was moved to make his request rather because of general considerations. In some countries, industry belonged to the State; in others, it was in the hands of private individuals. In those circumstances, it would seem somewhat difficult to draw a distinction between State and private contracts.

In any case, the Norwegian delegate felt that the proposal which had been made by the Spanish delegate was perfectly justified.

Earl Stanhope (United Kingdom) suggested that the words "or any subsequent proposal" be added after "under Proposal IV" in sub-paragraph (c), in order to cover any extension of the embargo to goods such as oil and coal.

M. Cantos (Spain) regretted that it had not been possible to find a formula other than that submitted to the Sub-Committee, for it entailed differential treatment between countries with a more or less controlled economy and those with a liberal economy, which would be to the detriment of the latter.

He proposed that the expression "institution belonging to a State" in point (a) should be replaced by "undertaking subject to State control". In this connection, he pointed out that he had placed before the Sub-Committee the case of the Spanish railways, which were controlled by the State and could not change a tariff or modify an itinerary without the approval of the Director General of Railways and the Supreme Railways Board, an official institution whose offices were at the Ministry of Public Works. Even if it were admitted that the fears of fraud which had been expressed were justified in the case of some categories of contracts, the text he had suggested should remove them.

M. Antoniade (Roumania), Chairman of the Contracts Sub-Committee, was of opinion in the first place, that the Sub-Committee could accept the United Kingdom delegate's suggestion for the consequent addition would not prevent the proposal from being applied in the event of a general embargo.

With regard to the suggestion relating to point (a), he had understood that the Norwegian delegate was prepared to withdraw his proposal that an exception should be made on behalf of contracts entered into by private individuals before October 19th.

Lastly, with regard to the Spanish delegate's proposal, he pointed out that, in drawing up the text, the Sub-Committee had only been carrying out its mandate. It had only considered contracts concluded by States or institutions belonging to a State or acting for the account of the State, as it felt that such an extension (that indicated by the words in italics above) should be interpreted in the strictest possible sense. The question of undertakings "subject to State control" had been raised during the Sub-Committee's discussions; but it had seemed to the members of the Sub-Committee that that expression was somewhat vague, at any rate in French, for in English the word "control" had a more precise signification. If however, the Sub-Committee thought it could allow this extension, he would see no objection to it, particularly as, in that way, the Spanish delegate would have satisfaction.

M. Wszelaki (Poland) was unable to take the same view as the Roumanian delegate of the addition of the paragraph (c) proposed by the United Kingdom delegate. In this connection, he pointed out that the problem had been examined in the Contracts Sub-Committee as well as during the meeting of the Sub-Committee on Economic Measures the previous day, and although there had been a proposal to supplement the provision in order to cover the hypothetical case of the extension of the embargo contemplated under Proposal IV, the conclusion had finally been reached that that addition was not necessary. From the practical standpoint, moreover, it might be asked what would be the advantage of the measures taken against the belligerent if Italy, instead of obtaining oil and coal, could obtain foreign exchange and gold, which would enable her to purchase abroad products of even greater importance for war. If circumstances subsequently enabled the principle of the extension of Proposal IV to be accepted, there would always be time to discuss the matter.

M. García Oldini (Chile) agreed in substance with the Spanish delegate, whose observations were linked up with those of the Norwegian delegate. For his part, he was compelled to repeat the remarks he had made at the previous meeting with a view to showing that there might be institutions which, while not under State control according to the Sub-Committee's interpretation of that expression, and not belonging to the State, were of greater importance in the life of the State than State institutions. That was why he had proposed the following addition to the draft resolution: "... or in which the State has a vital interest". As M. Antoniade had just said that the Sub-Committee had not felt it was competent to examine...
that proposal, the Chilian delegate asked that the Sub-Committee on Economic Measures or the Committee of Eighteen should consider it.

M. COULONDRE (France) thought it would be better, in view of the actual instructions given to the special Sub-Committee mentioned in the first paragraph of the draft resolution, to stipulate in the last paragraph that the final list of contracts should be communicated to all States Members of the League of Nations rather than to all members of the Co-ordination Committee.

Earl STANHOPE (United Kingdom), referring to the point raised by the Polish representative, observed that as the clause stood, goods upon which there was an embargo could be paid for in gold. As there appeared to be some difficulty about inserting the words "or any subsequent proposal", he would be content if it were mentioned in the Minutes that should the embargo be extended to other things, the matter would have to be reconsidered and in consequence to come before the Co-ordination Committee.

The CHAIRMAN proposed that the amendments suggested by the Spanish and the Chilian delegates should be referred to the Committee of Eighteen, which, in his opinion, was alone competent to discuss them.

Agreed.

M. STUCKI (Switzerland) observed, with regard to the change for which M. Coulondre had asked, that the Committee of Eighteen had received instructions not from the League but from the Co-ordination Committee, and that the list in question should therefore be addressed to the members of the Co-ordination Committee and not to the Members of the League. The point was not so much the instructions given to the special Sub-Committee as those the Committee of Eighteen itself had received from the Co-ordination Committee.

The CHAIRMAN remarked that the text of the resolution adopted by the Co-ordination Committee on October 19th, 1935, contained the following paragraph:

"The Co-ordination Committee requests the Committee of Eighteen to continue in session in order to follow the execution of the proposals already submitted to Governments, and to put such new proposals as it may think advisable to make before the Co-ordination Committee or the Governments represented thereon."

He proposed that the Sub-Committee should word the last sentence of the draft resolution as follows:

"The Sub-Committee will draw up, not later than November 12th, the final list of contracts in the case of which an exception appears to it to be justified, and will communicate the list forthwith for information to the Governments represented on the Co-ordination Committee."

This wording was adopted.

The names of the following countries whose representatives will form the sub-committee were inserted in the first paragraph of the draft resolution: United Kingdom, France, Mexico, Poland, Roumania, Union of Soviet Socialist Republics.

The draft resolution was adopted with the foregoing amendments.

13. Indirect Supply (continuation): Draft Resolution submitted by the Transit Sub-Committee,

The following draft resolution was read:

"The Committee of Eighteen,
"Entrusted by the Co-ordination Committee with the task of following the execution of the proposals submitted to Governments and empowered to make such new proposals as it may think desirable,
"Suggests that, in order to render effective the provisions of point (2) of Proposal IV, approved by the Committee of Co-ordination, Governments of Member States:
"Should take the necessary steps to control as far as lies in their power the destination of any articles, the export of which is prohibited to Italy or to Italian possessions.
"Those Governments which do not immediately restrict their exports of these articles will keep under constant review the volume and direction of such export. In the event of an abnormal increase in this export, they will immediately take such steps as be necessary to prevent supplies reaching Italy or Italian possessions by indirect routes.
"The Committee of Eighteen will be kept informed of the steps taken in this connection."

The CHAIRMAN said that only paragraphs 3, 4 and 5 called for discussion.

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1 Document No.: Co-ordination Committee/40.
2 Document No.: Co-ordination Committee/97.
3 Document No.: Co-ordination Committee/S.C.M.E.11.
Paragraph 3 ("Should take the necessary steps . . . ").

M. Stucki (Switzerland) said that the Swiss delegation's amendment required merely a slight change in the wording for the purpose of preventing any misinterpretation on the part of those who had not attended the Sub-Committee's discussions. The Sub-Committee's text as it stood might be taken to imply an obligation to control, for instance, transit; that was no part of what was in the minds of the authors of the draft resolution.

Paragraph 3 was adopted in the wording proposed by the Swiss delegation — viz.:

"Take, as regards the export of prohibited products, such measures as are necessary to verify, by all the means in their power, the destination of such products."

Paragraph 4 ("Those Governments which do not immediately restrict . . .").

M. Soubbotitch (Yugoslavia) explained that it had been found in the Sub-Committee that the English and French forms ("by indirect routes" and "détournement de trafic") were exactly the same, though different at first sight.

M. Wszelaki (Poland) asked for an explanation of the words "in the event of an abnormal increase in this export". Certain countries in Central Europe, including Poland, were at present establishing war industries of their own, with the result that their imports of war material were showing a continual decrease. On the other hand, they were importing larger and larger quantities of nickel, aluminium and other materials for the manufacture of arms, the export of which to Italy had been prohibited. Did the growth of such imports into these countries represent "an abnormal increase in this export?" He did not think so; but perhaps the Chairman of the Transit Sub-Committee could assure him on that point.

The CHAIRMAN said the problem was quite simple. It was above all a question of the good faith of Governments. If statistics showed an increase of the imports in question, the State concerned had only to offer explanations. That, he apprehended, was what the authors of the draft resolution intended.

M. Coulonдре (France) said that, in the case under discussion, the question was that of Poland, a country participating in the sanctions which desired to obtain supplies from another country also participating in the sanctions. It seemed to him that paragraph (4) could not constitute an impediment to the receipt of the proposed supplies.

Paragraph 4 was adopted.

Paragraph 5 ("The Committee of Eighteen . . .").

In deference to an objection raised by M. García Oldini (Chile), the Sub-Committee decided to replace the wording in the text by the usual formula ("Each Government is requested . . .").

The draft resolution was adopted with the foregoing amendments.


The following revised draft resolution was read:

"The Committee of Eighteen,

"Entrusted by the Co-ordination Committee with the task of following the execution of the proposals submitted to Governments and empowered to make such new proposals as it may think desirable:

"Suggests that, in order to render effective the application of Proposal II, paragraph (4), and Proposal III, approved by the Committee of Co-ordination, Governments of Member States should:

"I. (a) Prohibit, as from November 18th, the acceptance of any new deposit of lire into the Italian clearing account in payment for exports to Italy; and, in consequence,

"(b) Suspend to the extent necessary, the operation of any clearing or payments agreement that they may have with Italy by or before November 18th;

"II. Take, if need be, the necessary steps to provide that importers who have received or shall receive Italian products, payment for which has not yet been effected, lodge their payments in a national account which would be employed for the settlement of export claims.

"Each Government is requested to inform the Committee, through the Secretary-General of the League, within the shortest possible time, of the measures which it has taken in conformity with the above provisions."
M. WESTMAN (Sweden) Chairman of the Sub-Committee on Clearing Agreements, indicated briefly the changes made by the Sub-Committee in the draft resolution discussed at the previous meeting. In the second paragraph, the words “paragraph 4” had been added after the words “Proposal II” in order to emphasise the intention to prevent any banking or other credits being accorded directly or indirectly to Italy. In pursuance of the same intention, the order of sub-paragraphs I (a) and I (b) had been inverted.

The actual text of (the new) sub-paragraph I (a) had not been changed. The Sub-Committee had discussed certain cases, but had come to the conclusion that the important thing to do was to draw up a clear and unmistakable rule for application by Governments to special cases in the light of the essential aim of the proposal as defined in paragraph 4 of Proposal II.

Sub-paragraph I (b) (the former sub-paragraph I (a)) had been slightly modified. In the first draft, the Committee of Eighteen had been made to suggest to Governments of States Members of the League that they should suspend all clearing agreements. To meet certain objections which had been raised to that proposal, it was proposed in the new text to suggest that the Governments should “suspension to the extent necessary”.

No change had been made in paragraph II; the Sub-Committee had added a paragraph requesting Governments to inform the Committee of the measures taken by them in execution of the resolution.

M. GARCÍA OLDINI (Chile) said he had more than once pointed out that the Chilian Government’s conception of the clearing system and its operation did not allow him to accept the proposal embodied in the draft resolution. He was grateful none the less to the Chairman and Members of the Clearing Sub-Committee for the efforts they had made to meet the Chilian Government’s standpoint. The wording “suspend to the extent necessary” in sub-paragraph I (b) might possibly enable the Chilian Government in the future to meet the standpoint of the Sub-Committee. He had received telegraphic instructions from his Government which enabled him to state that the latter would do everything in its power to restrict exports to Italy as a means of preventing corresponding imports; but the telegram added “we cannot undertake officially to suspend the clearing agreement”. On further experience of the facts, it might be that the Chilian Government would be led to reconsider the question of the compatibility of the formula proposed with the situation with which it had to cope.

Subject to the above reservation, the Chilian delegation accepted the draft resolution.

M. COULONDRE (France) pointed out that, to conform with the text of one of the previous resolutions adopted, the second paragraph should read:

“Suggests that, in order to render effective the application of Proposal II, paragraph 4, and Proposal III, approved by the Committee of Co-ordination, Governments represented on the Committee of Co-ordination should . . .”

Agreed.

The draft resolution was adopted with the foregoing amendments.¹

¹ Document No.: Co-ordination Committee/97.
SUB-COMMITTEE ON FINANCIAL MEASURES.

FIRST MEETING.

Held on Friday, November 1st, 1935, at 11 a.m.

Chairman: M. Bibica-Rosetti (Greece).

1. Financial Measures: Consideration of Replies from Governments to Proposal II.

After having heard the explanations given by Mr. Loveday, Secretary of the Co-ordination Committee, the Sub-Committee decided to consider the replies from the various Governments to Proposal II, in order to determine how far those replies constituted an acceptance of the recommendations made in the proposal.

The Sub-Committee further approved Mr. Loveday's suggestion that the report should be followed by a draft resolution referring to the countries which had not yet taken the financial measures recommended.

The main object of the draft resolution would be to dispel the misunderstanding which had arisen as to the date of application of the financial measures, certain countries having thought that Proposal II would not be applied until Proposals III and IV came into force.

The Sub-Committee then turned to consideration of the replies received up to October 31st and classified the various States according to whether they had already taken the measures recommended, or proposed to take them at a specified date or without any indication of the date, or whether they had simply accepted them in principle without specifying what measures they intended to take.

The replies of certain countries formed the subject of the following observations and discussions.

United Kingdom.

M. Westman (Sweden) drew attention to a point in the United Kingdom's reply relating to a question already raised by Sweden in the Committee of Eighteen. Sweden desired to know the exact scope of the second paragraph of Article 3, section 2, of the Order-in-Council which was quoted textually in the annex to the United Kingdom's reply. It was stated in that paragraph that the fact of delivering goods the price whereof had been paid on or before delivery in the manner provided by Article 4 of the agreement regarding trade and payments embodied in an exchange of notes dated April 27th, 1935, between the United Kingdom and Italy should not be deemed to be a loan.

Sweden was particularly interested in the question, as she was bound to Italy by an ordinary clearing agreement and as several Swedish exporters had contracts with Italian firms under which they had undertaken to effect deliveries in installments spread over a number of years. If, therefore, Sweden, putting the economic measures into execution, as from, say, November 15th, prohibited imports from Italy, Swedish exporters would no longer have any means of obtaining payment for their deliveries by the clearing system. Thus, the question arose whether the payment to the Bank of Italy of the price in lire of goods delivered to Italian firms by Swedish exporters should be considered a cash payment, and whether, for that reason, the Swedish exporters would still be bound by their sale contracts.

The doubt that arose in that respect was strengthened by the fact that the United Kingdom Government had thought it necessary to insert the provision to which M. Westman had just referred. Moreover, that doubt was confirmed by the second sentence in point 4 of the Explanatory Notice accompanying the Treasury Order reproduced in document No. Co-ordination Committee/10(d).

M. Westman therefore thought it necessary that this question should be settled.

M. Protitch (Yugoslavia) observed that his country was in the same situation as Sweden. The sentence inserted in point 4 of the Explanatory Notice, mentioned by the Swedish delegate, showed that certain scruples were felt as to that method of payment. The sentence seemed intended to give the impression that the deposit of lire representing the value of the British goods constituted a method of settlement in accordance with Proposal II, the object of which was to prevent commercial credit. But, if the British goods sold to Italy were not

1 Document No. : Co-ordination Committee/10(b).
paid for in foreign exchange, the effect of the stoppage of Italian exports to the United Kingdom would be to render payment of those goods impossible. The operation would therefore be equivalent to an exchange credit, if not a purely commercial credit.

Yugoslavia herself, who also had a clearing agreement with Italy, would not be able to continue her exports to that country when Italian exports had ceased.

The second point to which the Yugoslav delegate wished to draw attention was the connection between the question just raised and that of the settlement of existing clearing claims. The Sub-Committee should consider whether the two questions could not be settled together.

Lastly, M. Protitch would like the object with which Proposal II had been framed to be more clearly specified. It would seem that the idea was to prevent the export of goods to Italy without payment in cash and in foreign exchange. If that object was not specified, the purpose of Proposal II, and, above all, of Proposal III, would not be achieved, because Italy would find a means of obtaining goods without having to pay foreign exchange. The intention, however, was precisely to deprive Italy of foreign exchange.

M. Rueff (France) shared the doubts expressed by the delegates of Sweden and Yugoslavia. A clearing account in deficit was certainly equivalent to an exchange credit granted to the debtor country. Nevertheless, he thought that, in view of the complexity of the problem raised by the existence of clearing agreements, the Sub-Committee on Economic Measures would have some difficulty in dealing with that question without the collaboration of the Sub-Committee for Financial Measures.

Mr. Brittain (United Kingdom) explained that the question had been fully considered by the competent services. In point of fact, the United Kingdom Government had concluded an agreement with the Italian Government whereby British exporters were obliged to accept payment in lire of the value of the goods with the establishment appointed for that purpose. So long as that agreement was in force, His Majesty's Government had not thought it possible to break it unilaterally by an Order-in-Council. Even if it were agreed that the arrangement worked imperfectly, it was hardly possible to denounce it unless it were broken by Italy herself.

The Chairman asked whether it would not be desirable to submit the question to the Committee of Eighteen.

Mr. Brittain (United Kingdom) thought that, if the Committee of Eighteen dealt with the question, it would have to decide how far the application of sanctions involved the suspension or denunciation of the clearing agreements.

M. Protitch (Yugoslavia) observed that the application of the economic sanctions would involve the suspension of all the treaties of commerce concluded between Italy and the countries participating in sanctions. There was no doubt on that point, which was unanimously agreed. There seemed no reason why an agreement arising from a mere exchange of notes should remain inviolable.

The Chairman also thought that the Covenant took precedence over all other treaties.

Mr. Loveday, Secretary of the Co-ordination Committee, observed that the clearing question was being discussed by the Sub-Committee on Economic Measures. Moreover, the question of the inviolability of contracts involved considerations of a pre-eminently political nature and could be discussed only by the Committee of Eighteen.

The Sub-Committee decided to insert in its report a sentence bringing the matter to the attention of the Committee of Eighteen.

France.

M. Protitch (Yugoslavia) drew attention to Article 4 of the Decree issued by the French Government. That article provided that the clauses of the Decree did not apply to payments made for the paying-up of shares or other securities previously subscribed, where an initial payment had already been made. He observed that the first payment made might be negligible in amount as compared with the total value of the securities. He wondered whether, in those circumstances, Article 4 did not make a breach in the system contemplated.

M. Rueff (France) explained that the point had been discussed at length and that the Sub-Committee had decided to exclude from the application of financial sanctions the payments made for the paying-up of shares already subscribed. In order to prevent abuses, however, the French Government had stipulated that that exemption would not be granted unless a first payment had already been made. In view of the wide publicity given to issues in France, it was hardly probable that that tolerance could give rise to abuses.

Mr. Brittain (United Kingdom) noted that the French Decree did not provide penalties for breaches of the prohibitions prescribed. The only sanction provided was the cancellation of the transactions carried out in violation of the provisions of the Decree.

M. Rueff (France) explained that the French jurists had been of opinion that the Government had not the right to prescribe penalties by decree. He thought, however, that the

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1 Document No.: Co-ordination Committee/17(e).
fact of declaring null and void transactions carried out in violation of the provisions of the Decree itself constituted a sufficiently severe penalty, since the offenders would be deprived of any appeal to the courts in the event of failure to carry out the contract, and consequently could not claim recovery of the debts due to them.

Chile. ³

The Sub-Committee noted that the Chilian Government's reply left some doubt as to the exact scope of the measures taken. That reply seemed to give the impression that the prohibition related only to bank credits and did not affect sales of goods on credit.

It decided to ask the Chilian delegation for explanations.

Finland. ⁴

The Sub-Committee noted that the Finnish Government's reply referred only to banking and financial establishments and did not mention commercial credits in the exact sense of the term.

It decided to ask the Finnish delegate for an explanation.

Norway. ⁵

The Sub-Committee noted that the Norwegian Government reserved the right to take a decision later on points (2) and (4) of Proposal II, after studying them in conjunction with the Co-ordination Committee's proposals concerning economic measures.

The Sub-Committee decided to make special mention in the report of Norway's attitude, which seemed to be dictated by considerations relating to the clearing problem.

Panama. ⁶

The Sub-Committee noted that the Government of Panama relied on the fact that it was hardly probable that important cases necessitating the application of sanctions would arise in its territory as justifying the conclusion that the taking of general measures was useless.

It was decided to mention the matter in the report.

Poland. ⁷

M. Starzenski (Poland) explained the considerations underlying his Government's reply. There was a de facto situation which excluded all probability that the measures provided for in points (1), (2) and (5) of Proposal II would have to be applied in Poland. Poland was in fact a debtor country in relation to Italy, and any measure taken by the Polish Government would be of a purely theoretical character. As regarded points (3) and (4), the Minister of Industry and Commerce had sent the Polish Chambers of Commerce a circular inviting them to recommend banks and traders, as from October 26th — or at latest from October 31st — not to carry out any financial or commercial transactions of the kind mentioned in those points.

M. Protitch (Yugoslavia) observed that a large number of countries might find themselves in the same situation as Poland with regard to the application of points (1) and (2) of Proposal II.

Mr. Brittain (United Kingdom) asked whether the Polish delegate thought that mere recommendations made through Chambers of Commerce were sufficient. He observed that the exporters of countries in which the cessation of credit operations became a legal obligation might feel that they were placed in a disadvantageous situation as compared with Polish exporters.

M. Rueff (France) was afraid that the circumstance to which the Polish delegate had referred was not sufficiently stable to preclude any possibility that the situation might suddenly change. The position of debtor was not permanent. It was quite likely that, when all other channels had been closed to Italy, credit operations might be carried on through the Polish banks.

The Chairman also asked the Polish delegate whether his Government could not take the measures recommended, even though those measures might be purely theoretical in character. That would enable a uniform system to be established for all States.

³ Document No.: Co-ordination Committee /47(a).
⁴ Document No.: Co-ordination Committee /18(a).
⁵ Document No.: Co-ordination Committee /37(a) and (b).
⁶ Document No.: Co-ordination Committee /65.
⁷ Document No.: Co-ordination Committee /13(a).