

communicated to the Council.

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C.19.1930.VIII.

Geneva, January 7th, 1930.

REQUEST OF THE SOPRON-POSZONY RAILWAY COMPANY.

Note by the Secretary-General.

On June 12th, 1929, at its Fifth-fifth Session, the Council decided, in order to render possible the conclusion of a friendly agreement between the interested parties, to postpone to its December session consideration of the request of the Sopron-Poszony Local Railway Company that the Council should appoint arbitrators under Article 320 of the Treaty of Saint-Germain and Article 304 of the Treaty of Trianon. The attached letter from the Chairman of the Advisory and Technical Committee for Communications and Transit, dated December 20th, 1929, together with the Transit Committee's report, is submitted for the Council's consideration.

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Letter from the Chairman of the Advisory and Technical
Committee for Communications and Transit to the
Secretary-General.

Geneva, December 20th, 1929.

(translation).

Sir,

As the result of a communication made by the President of the Council at the Fifty-fourth Session held on March 4th, 1929, the Advisory and Technical Committee for Communications and Transit was asked to submit to the Council a report regarding the inclusion on the Council agenda of a request from the Sopron-Poszony Local Railway Company based on Article 320 of the Treaty of Saint-Germain and Article 304 of the Treaty of Trianon.

The Chairman of the Advisory and Technical Committee for Communications and Transit referred the matter to the Permanent Committee for Transport by Rail and, after considering the explanations given by the Austrian and Czechoslovak Governments, the Committee reached the conclusion that further time should be allowed for negotiations before giving a final reply to the Council. In its opinion, friendly agreement between the parties was still possible and the results of the negotiations in progress or about to be resumed should be awaited before deciding the question submitted by the Council. The Committee therefore thought that the Council should not deal with the question as to what action should be taken on the Sopron-Poszony Railway Company's request before the session in December 1929, and not even then, should the interested parties meanwhile have succeeded in concluding a friendly agreement. If no such agreement were reached, the Committee would duly furnish the Council with a final report to help in arriving at a decision.

The Chairman of the Advisory and Technical Committee for Communications and Transit forwarded to you, for submission to the Council, a resolution to the above effect adopted by the Advisory and Technical Committee at its Thirteenth Session. The Council at its Fifty-fifth Session approved the opinion expressed therein, and decided to postpone to its December session the consideration of the Railway Company's request.

No agreement having been reached by the interested parties, I have the honour to forward to you, for submission to the Council, the final report of the Advisory and Technical Committee for Communications and Transit.

(Signed) SEELIGER.

REPORT BY THE ADVISORY AND TECHNICAL COMMITTEE FOR COMMUNICATIONS
AND TRANSIT ON THE REQUEST OF THE SOPRON-POSZONY RAILWAY COMPANY.

Geneva, January 6th, 1930.

The Council of the League of Nations asked the Advisory and Technical Committee for Communications and Transit to submit a report which would help it to decide the questions of including on its agenda the request from the Sopron-Poszony Railway Company and of appointing arbitrators in pursuance of Article 320 of the Treaty of Saint-Germain and Article 304 of the Treaty of Trianon.

The questions before the Committee are therefore preliminary questions. The Committee is not called upon to examine the merits of the dispute between the Sopron-Poszony Railway Company on the one hand the Austrian and Czechoslovak Governments on the other, but merely to consider whether the Council should take a decision on the request for arbitration. Should arbitrators be appointed it would be for them, and for them alone, to consider the merits of the question.

Under Articles 320 and 304 the Council is obviously bound to appoint arbitrators if the conditions laid down in these articles are fulfilled. The Committee accordingly thought that there were two distinct questions to be considered:

- 1) Whether the nature of the dispute brought it within the scope of Articles 320 and 304, and
- 2) Whether, in accordance with the terms of Articles 320 and 304 under which resort is to be had to arbitration for differences "on which agreement is not reached" it was, or was not, already possible to consider that agreement could not be reached.

The first was essentially a question of the interpretation of the treaty and the second a question involving a judgment on the actual position of the negotiations.

On the first point the Committee thinks that there can be no doubt that the differences between the Sopron-Poszony Railway Company and the Austrian and Czechoslovak Governments, as a whole come within the scope of Article 320 of the Treaty of Saint-Germain (Article 304 of the Treaty of Trianon is identical). The terms of these articles are absolutely clear. The articles provide that, in every case, the administrative and technical reorganisation of the railways of the former Austro-Hungarian Monarchy owned by private companies, which will henceforth be situated in the territory of several States, shall be regulated in each instance by an agreement between the owning company and the States territorially concerned, and this provision is, moreover, not subject to any condition.

As regards the second point, up to the time when the question was referred to the Committee, the Company's overtures do not appear to have met with a definite and binding reply from the Governments. Since that date, the negotiations undertaken which the Committee had hoped would be terminated successfully before December, have failed. The Committee, accordingly considers that the Council should now proceed to appoint the arbitrators asked for by the Company.