Geneva, September 17th, 1936.

LEAGUE OF NATIONS

APPLICATION OF THE PRINCIPLES OF THE COVENANT OF THE LEAGUE OF NATIONS

STUDY OF THE PROPOSALS SUBMITTED BY MEMBERS OF THE LEAGUE

Note by the Secretary-General.

In accordance with the recommendation adopted by the Assembly on July 4th, 1936, the Council instructed the Secretary-General "to make a first examination and classification" of any proposals which the Members of the League might wish to make in order to improve, in the spirit of the recommendation and within the limits laid down therein, "the application of the principles of the Covenant".

The following study deals with the proposals received by the Secretariat prior to September 12th.
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INTRODUCTION.

The communications regarding the application of the principles of the Covenant which are analysed in this report were received before September 12th, 1936. They came from the Governments of the following seventeen countries:

Argentina
Colombia
Denmark
Estonia
Finland
France
Hungary
Iraq
Latvia

Lithuania
New Zealand
Norway
Peru
Sweden
Switzerland
Union of Soviet Socialist Republics
Uruguay

The present analysis aims at classifying the principal points in the communications and setting forth the definite proposals they contain, but it is none the less essential to read the replies themselves.

The points in the communications have been classified in the following fourteen chapters.

CHAPTER I. — STATEMENTS ON TENDENCIES AND METHODS.

The Governments state in general that they appreciate the value of the League and desire its maintenance and prosperity.

As regards the rôle of the League, the obligations under the Covenant and the methods to be adopted in order to obtain better results, opinions to some extent differ.

SECTION I. — THE RÔLE OF THE LEAGUE.

Some Governments lay stress on some particular one of the League's functions or express regret that certain of those functions have not been adequately fulfilled.


Some Governments urge the importance of collective security. The Estonian Government considers that it is the main duty of the League "to supervise the operation of the system of collective security". The Government of Iraq says that it attaches "the utmost importance" to the principles of collective security.

The Latvian Government states that "the system of collective security... from the outset has been, and must continue in the future to be, the chief aim and the supreme task of the League". It adds: "Any reform of the Covenant must centre on the provisions relating to repressive measures—that is to say, the question of Article 16".

The Lithuanian Government says: "The essential task of the League of Nations is to safeguard the security of its Members and the inviolability of their territories".

The Government of the Union of Soviet Socialist Republics puts forward proposals exclusively concerned with the development of collective security. Several other Governments, including those of France and New Zealand, make statements or proposals in which an important place is given to collective security.

2. Prevention of War.

Certain Governments lay stress upon the function of preventing war and upon the effective settlement of international disputes.

The Danish and Norwegian Governments append to their communications the declaration issued by the Foreign Ministers of Denmark, Finland, the Netherlands, Norway, Spain, Sweden and Switzerland on July 1st, 1936, which includes the following passage: "In the first place, an agreement must be reached to make more definite preparations for the application of the rules in the Covenant which are designed to obviate any violation of its principles, by strengthening the preventive activities of the League".

The Norwegian Government also states that it "sets out from the idea that the primary aim of the League of Nations is to settle conflicts and to prevent war between nations".

The Hungarian Government stated, on July 2nd, through the mouth of M. de Velics, that it "cannot associate itself with the view that the League's task should be exclusively to ensure the..."
strict application of the punitive provisions of the Covenant. The Hungarian Government would like to bring these punitive provisions into equilibrium with the other provisions of the Covenant which—in particular, Articles 11, 13 and 19—provide pacific and preventive means of settling disputes that may arise between States Members, and offer possibilities of remedying situations the maintenance of which might imperil world peace.¹

The Uruguayan Government says that "it seems necessary to lay greater stress on the importance of the preventive function assigned to the League."³

3. Disarmament.

Some Governments urge the importance of disarmament, since they hold that the proper application of Article 16 depends upon the application of Article 8.

For example, the declaration by the Foreign Ministers of Denmark, Finland, the Netherlands, Norway, Spain, Sweden and Switzerland, of July 1st, 1936, which the Danish and Swedish Governments appended to their communications, includes this passage: "We do not think it right that certain articles of the Covenant, especially the article dealing with the reduction of armaments, should remain a dead letter while other articles are enforced."²

The Estonian Government says: "Disarmament is the primary task of the organised international community of our day, and an indispensable preliminary condition for the reform of the Covenant."⁴

4. Effective Application of the Covenant as a Whole.

Some of the Governments which lay stress on one or other of the foregoing points also demand the effective and concomitant application of all the rules embodied in the Covenant. The Danish Government, for instance, "thinks that all efforts should be combined with the object of applying as satisfactorily as possible all the rules that the Covenant contains."²

The Swedish Government says: "Mention should be made in the first place of the preventive and mediatory action of political organs, general disarmament and the organisation of means of pressure to be employed against an aggressor State."³

In his speech of July 1st, 1936, to which reference is made in the French Government's communication, M. Léon Blum said: "Undoubtedly collective security is the condition of disarmament, since no State would agree to disarm unless mutual assistance offered it a degree of certainty; but the converse is equally true. Disarmament is the condition of full collective security, for States must be substantially disarmed if arbitral awards are to be imposed and pacific sanctions are to exert their constraining power."⁵

SECTION II. — MAINTENANCE OR LIMITATION OF THE OBLIGATIONS UNDER THE COVENANT.

Certain Governments explicitly pronounce in favour of maintaining or strengthening the obligations laid down in the Covenant. Others, however, would prefer those obligations to be restricted.

1. Maintenance or Enlargement of the Obligations under the Covenant.

Certain Governments make declarations of principle on this point. The French Government, as represented by M. Léon Blum,² says: "The French delegation could not . . . accept any plan for reform which would make of the League a merely academic consulting body."²

Again, M. Delbos, speaking of the Covenant on July 3rd, 1936, said: "France rejects in advance any proposal that would impair the structure or the spirit of the Covenant. There can be no question of transforming its bases but only of strengthening it by improving its application."³

The New Zealand Government says: "We are prepared to reaffirm with the utmost solemnity our continued acceptance of the Covenant as it stands."¹

The Lithuanian Government observes: "In the first place, it should be made perfectly clear that there is absolutely no suggestion of impairing in any way the structure of the League, or its Covenant, or its system of collective security."³

Other Governments—e.g., those of Colombia, Iraq, Latvia and the Union of Soviet Socialist Republics—implicitly adopt the same attitude, inasmuch as they make proposals which would have the effect of substantially strengthening the obligations under the Covenant.

2. Restriction of the Obligations under the Covenant.

The Argentine Government proposes "the following general principles":¹ "It should be considered what provisions of the Covenant have been shown by experience to be no longer in keeping with the realities of international life, and these provisions should be given an optional character instead of the character of strict obligations.

¹ The written communication from the Hungarian Government reaffirms this declaration and makes reference to the speech in which it is to be found.
² Speech in the Assembly, July 1st, 1936.
It is desirable not to enter into undertakings going beyond those which all Members of the League are in a position to observe, in order that, in future, no article of the Covenant should fail to obtain simultaneous and collective execution." ¹

The Swiss Government seems to take a similar view when it says: "The Federal Council is of opinion that the question of revising or recasting the Covenant should be considered in the light of experience. Such consideration is the more necessary because the present situation is fundamentally different from that in which the Covenant was drafted. The disparity between hopes and realities has proved to be very wide, and this is largely responsible for the decline in the League's prestige".

3. **Intention to apply the Covenant.**

Several Governments are anxious that there should be a genuine intention to apply the Covenant.

The Finnish Government desires "that all Members of the League should declare themselves willing to observe the Covenant more strictly and completely than hitherto, and to apply all its provisions".

The Iraqi Government holds the view that "the League of Nations can avoid future failures, and can maintain and increase its usefulness and influence, only if its Members are prepared to subordinate individual interests to universal interests, accepted and defined by the Assembly".

The New Zealand Government says: "It is our belief that the Covenant as it is, or in a strengthened form, would in itself be sufficient to prevent war if the world realised that the nations undertaking to apply the Covenant actually would do so in fact".²

**Section III. — Methods to be employed.**

The principal suggested methods of increasing the value of the League are amendments to the Covenant, accessory agreements, Assembly resolutions and national plebiscites.

**1. Amendments to the Covenant.**

A. Most Governments are opposed, or at least not very favourable, to the idea of amending the Covenant.

The Danish Government "considers that, in the present situation, it is neither necessary nor possible to amend the Covenant".

The Finnish Government is of opinion "that the present world situation, fraught as it is with elements of conflict, is not propitious to the introduction of fundamental changes in the Covenant, especially since the views of all States as to the utility and desirability of such changes seem at present to differ so widely that any proposal involving substantial amendments would have little chance of securing the required majority".

The French Government stated, through M. Delbos,³ that France would not propose any amendment to the Covenant "because it does not want to call into question any of its principles, and thereby to weaken both its influence and its action".

The Estonian Government says: "The legal system embodied in the Covenant is amply sufficient to preserve the League's authority and guarantee the security of its Members. From this standpoint, there is no need whatever to alter the Covenant itself."

The Latvian Government sees no need to amend the Covenant, and is of opinion that "in proposing to modify the provisions of the League Covenant without the necessity for such modifications having been shown by proof that the juridical structure of the Covenant is inadequate, the Members would be taking action which would inevitably lead . . . to the lessening of the League's authority and to the weakening of the guarantees of security".

The Lithuanian Government hopes "that the present wording of the articles of the Covenant will be left intact".

The Government of the Union of Soviet Socialist Republics says that "the revision of the Covenant of the League of Nations cannot at the present juncture be regarded as justified by circumstances and as likely to lead to the desired results, in view of the difficulties that would be encountered by the procedure for amending the Covenant under Article 26".

B. Other Governments are in favour of amendment as a method, or propose changes that could only be effected by amendment.

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¹ M. Saavedra Lamas further says in the preface to the book on the Argentine pact of non-aggression and conciliation, to which the Argentine note refers: "It is painful to observe how far the reality falls short of the ideal of peace, but, if we look at things with a realistic eye, it would obviously be better to abandon by general consent any undertaking which past experience may have shown to be impossible of performance. There can be no security unless freely accepted treaties are completely and absolutely observed, and it seems idle to seek for new formulae or new interpretations of the Covenant so long as there is no assurance that they will not be violated."

² The same Government says: "We believe that the Covenant has never yet been fully applied, and that it cannot be characterized as an ineffective instrument until it has been so applied."

³ Speech in the Assembly, July 3rd, 1936.
M. Saavedra Lamas, in the preface to the book already mentioned, to which the Argentine
Government's communication refers, says: "It would be much better to introduce such amend­
ments as would make it impossible for a Member of the League ever to find itself compelled to
default upon its obligations either because it is unable to fulfil them or because they are too onerous ".

None the less, the Argentine Government proposes in its note that " the procedure adopted
should be that of interpretative rules . . . pending the introduction of formal amendments ".

It is stated in the Swiss Government's communication that " the Federal Council is of
opinion that the question of revising or recasting the Covenant should be considered ".

The Colombian Government does not explicitly advocate any particular method, but some
of its suggestions imply amendments to the Covenant.1

The Peruvian Government proposes a considerable number of changes, most of which would
involve amendments to the Covenant.

The New Zealand Government, after saying: " (3) We are prepared to reaffirm with the utmost
solemnity our continued acceptance of the Covenant as it stands ", adds " (4) We believe, never­
theless, that the Covenant is capable of amendment, which should take the form of strengthening
rather than weakening its provisions ".

2. Methods aiming at strengthening, interpreting or reinforcing the Covenant without amending it.

The Estonian Government, having observed that there is no need to amend the Covenant,
adds: " The wide experience already gained may help to place upon a clearer and more definite
basis the application of certain articles and the obligations they involve ".

The Finnish Government is in favour of " interpreting the provisions of the Covenant in a
practical manner which would render them easier to apply ".

The French delegation says that " it is ready to propose or to accept any method of inter­
pretation and adaptation which would increase the practical effectiveness of the Covenant ".2

The methods suggested by Governments to attain the end in view—supplementing, interpret­
ating or reinforcing the Covenant—are four in number:

(a) Accessory Agreements.

In connection with Article 16, the French Government proposes regional agreements carrying
military sanctions (see Chapter IX).

The Lithuanian Government expresses the hope " that the measures to be adopted to improve
the application of the principles (of the Covenant) shall be embodied in a separate instrument ".

The Government of the Union of Soviet Socialist Republics observes that its proposals
in the sphere of collective security might " be adopted either in the form of an Assembly resolution
or by way of a protocol open for signature by Members of the League ".

(b) Assembly Resolutions.

The French Government says:3 " One important result would be achieved if the Assembly
in September were able to adopt resolutions enabling every State to know more exactly on what
support it might count from the collectivity of nations ".

The Danish and Swedish Governments reproduce the above-mentioned declaration by the
Foreign Ministers of seven countries, which contains the following sentence: " We think that,
unless any unforeseen contingency presents itself, it would be better to adhere to a procedure
whereby the Assembly would lay down rules for the application of the Covenant ".

As stated above under (a), the Government of the Union of Soviet Socialist Republics suggests
two methods—that of a resolution and that of a protocol.

The Uruguayan Government, on the other hand, expresses its disapproval of " mere
interpretative statements ". It says: " If it is considered that the time has come for an
examination of the basic system of the League, a frank debate should be opened at which the
different points of view already insistently expressed by international public opinion could be
thoroughly discussed. In many cases, the drawback to the system of interpretations is that the
meaning of the principles becomes obscured by subtleties and that an atmosphere of uncertainty
is created round the guarantees which are provided and the obligations assumed by every country ".

(c) Interpretation of the Covenant by the Permanent Court of International Justice.

The Colombian Government proposes that " any doubts as to the interpretation of the
Covenant " should be settled by the Permanent Court.

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1 See, for example, paragraphs 3 and 4 of the Colombian communication: " 3. The reference in Article 21 of the
Covenant to the Monroe Doctrine as a regional agreement would be replaced by recognition of the regional or continental
agreements which would be established.

4. The Council of the League would be composed of representatives of the Members of the League, elected by
the Assembly from candidates submitted by the regional or continental associations.

2 M. Blum's speech in the Assembly on July 1st, to which the French communication refers.

3 M. Delbos' speech in the Assembly on July 3rd, 1936, to which the French communication refers.
The New Zealand Government proposes that all the Members of the League should hold a national plebiscite on the application of Article 16. Apparently, the object of this plebiscite would be to ascertain the opinion of the peoples on Article 16 as it now stands, and on the proposed changes in it.

CHAPTER II. — UNIVERSALITY.

SECTION I. — PARTICIPATION OF ALL STATES IN THE LEAGUE.

The majority of the Governments in their replies express the keen desire that the League of Nations should become universal in actual fact. One Government, without contradicting this point of view, expresses a different one, and would like the conditions of admission to the League of Nations and of resignation therefrom to be made stricter.

1. The Aspiration to Universality.

Eleven Governments—those of the Argentine, Denmark, Estonia, Finland, Iraq, Latvia, Lithuania, New Zealand, Norway, Sweden and Switzerland—refer to the League's lack of universality as a circumstance which renders the performance of its tasks more difficult, or express the desire, often in categorical terms, that the League of Nations should be made universal.

As regards the means proposed to achieve this end, the following suggestions and proposals may be noted:

The Latvian Government asks that "all countries which are still outside" the League should be asked "to become members".

The Lithuanian Government says: "The League of Nations should again invite all States now absent to become members".

Finland and Norway ask that the problem should be studied. The Finnish Government says: "It is highly desirable to consider without delay the possibilities of securing the accession of States which are not yet members of the League, and the best means of doing so".

The Norwegian Government states that "immediate attention will have to be given to the question of what must be done to induce non-member States to join the League".

The Swedish Government "expresses the hope that negotiations will be undertaken with the countries which have left the League".

The Danish Government suggests that "the Assembly should ask the Council to enquire (perhaps through a special Committee) into the possibility of opening negotiations with those States which hold aloof from the League with a view to bringing them into it, and the best moment for doing so, and also any measures that may make it easier for non-member States to join the League".

The Iraqi Government simply says that "every effort should be made to induce States not now members to enter or re-enter the League".

The New Zealand Government says that every proper effort should be made to that end.

The Argentine Government wishes to ensure the universality of the League "by means of formulae permitting the adherence or return of all the countries outside it".

The Swiss Government thinks that the entry of absent States into the League might be made easier by lightening the obligations of the Covenant. It says: "Universality, which was looked upon from the outset as an essential condition of its success, should, we think, be one of the objectives of any future reform. Consequently, such changes as may be made should render it easier for countries which are not yet members of the League to join it, and for those which have left it to return. This aim in itself is deserving of every effort and would justify changes which to some may appear in the light of sacrifices, though they are not in reality so. What the Covenant would lose in juridical substance it would gain in moral force".

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(d) Plebiscite.

1 "(10) We consider that there can be no certainty of the complete and automatic operation of the Covenant unless the Governments of all Members of the League are supported, in their determination to apply it, by the declared approval of their peoples.

2 (11) We propose, therefore, that all the Members of the League, and as many non-members as may be persuaded to adopt this course, should hold immediately a national plebiscite with the object of taking the opinion of their peoples on the following points:

1. Whether they are prepared to join automatically and immediately in the sanctions contemplated by Article 16 of the Covenant against any aggressor nation nominated as such by the Council of the Assembly.

2. Whether, in such case the armed forces of their country (or such proportion as may previously have been fixed by the League) should be immediately and automatically placed at the complete disposal of the League for that purpose."

The Swiss Government adds another consideration: "It must also be remembered", it says, "that a League that is not universal is not merely a weaker and less effective institution, but an institution whose character is liable to deteriorate. It may change from a worldwide association for the development and defence of international law—which is what it always ought to have been—into an association of States likely in the nature of things to find itself at odds with countries that do not belong to it."
The Estonian Government expresses a different opinion. It says: "While no effort should be spared to make the League more comprehensive, care should be taken to avoid any such compromise as might reduce the power of the League and weaken its influence".

2. The Terms of Admission to, and Withdrawal from, the League.

A. Admission (Article 1, Paragraph 2, of the Covenant).

The Peruvian Government says: "The admission of a political entity to the League of Nations entails enquiry into whether it fulfills the following conditions:

"(a) It must be capable of keeping its international engagements; this capacity is distinct from its intention to keep them and depends largely on the degree of advancement of the legal system of the community in question. In that sense, this condition is linked with the stage of civilisation that the community has reached as reflected in its legislative system and its customs, more especially in regard to the protection of the rights of foreigners.

(b) Admission must not be granted conditionally—that is to say, a country cannot be admitted to membership of the League on condition that it makes certain specified reforms in its administrative and legal systems. It would clearly be difficult to ascertain afterwards whether such reforms had been carried out, and if they had not been carried out it would be still more difficult politically to secure the expulsion of the neglectful member.

(c) It is necessary to establish clearly whether the admission of an entity to the League is equivalent to international recognition. If so, admission carries with it the right to diplomatic intercourse and trade. If not, the paradoxical situation is that a State can only maintain relations with another State through the League organisations. The former solution seems the more satisfactory, provided always that membership of an international organisation does not restrict the freedom of States to establish or continue bilateral relations between themselves.

(d) It is also necessary to consider the problem of the status of Governments, a problem which directly affects their representation in the League. If the League admits representatives of de facto Governments and if they enter into relations—possibly with juridical consequences—with the representatives appointed by Governments which have not recognised their Governments, the situation is complicated and a further reservation is necessary."

B. Withdrawal (Article 1, Paragraph 3).

The Peruvian Government says further: "Resignation has been employed by Members of the League as a political means of evading the international obligations imposed by the League. No coercive measures have been agreed upon for such cases. Obviously, however, it is not proper that a State should withdraw from the League when the League's action is opposed to that State's idea of its own interest at a given moment. Obviously, also, the attitude adopted by the bureaucratic organs of the League in such a case is influenced by the desire to secure the return of the withdrawing State to the League, and that desire makes it difficult to maintain the decisions reached."

SECTION II. — CO-OPERATION BETWEEN THE LEAGUE AND NON-MEMBER STATES.

The majority of the Governments which declared in favour of the universality of the League of Nations had in mind at the same time organised and regular co-operation with the States remaining outside the League of Nations. Statements to this effect were made by the Governments of the Argentine, Denmark, Finland, Iraq, New Zealand, Norway and Sweden. The Finnish Government considers it desirable "to establish or intensify co-operation in many forms with such countries as are not yet prepared to join the League".

The Iraqi Government says that the Assembly should invite any State which finds it impracticable to join the League of Nations "to participate as fully as it can in the work of the League, particularly in the immediate future ".

The New Zealand Government urges co-operation with non-member States chiefly in connection with collective security. It says: "We should wish also to see all the nations of the world, whether members of the League or not, invited to take part in the consideration of the terms and the application of the Covenant, or of any other universal method of collective security that may be proposed in its stead ".

Denmark and Norway state that this co-operation should be mainly directed towards the prevention of war. The Danish Government suggests that the Assembly should ask the Council to enquire into "the possible forms in which countries that have not so far seen their way to join the League could co-operate in any measures that might be taken to prevent war, and in which they could take a more active and extensive part in the League's work in the economic, moral, technical and humanitarian spheres ".

The Norwegian Government says, speaking of the States which do not belong to the League of Nations: "Some of them are co-operating with the League in various ways, and it is to be
hoped that they will be prepared to co-operate in the most important work of all—namely, the prevention of war ".

The Swedish Government advocates co-operation on the basis of Article 11 and draws attention to the part which might be played by the Pact of Paris in such co-operation. It says: "The Swedish Government suggests that the Council, in examining on the basis of Article 11 of the Covenant any disputes of a general political nature which may arise, should regularly endeavour to ensure the co-operation of non-member States. On the model of the procedure applied in the Sino-Japanese dispute concerning Manchuria, when a representative of the United States of America was invited to attend the meetings of the Council, non-member States might be regularly invited to send delegates to sessions of the Council when their co-operation in the examination of such disputes appears desirable. Their presence must not, of course, affect the Council's legal situation as constituting in its ordinary composition an organ of the League of Nations, and the conditions of the participation of those Powers in the Council's discussions should be determined by agreements which should be concluded on the subject."

"The Swedish Government wishes to draw attention in this connection to the fact that such more regular co-operation between the Council and the non-member countries would form a natural amplification of the Pact of Paris, the provisions of which must be considered as based on the idea of a consultation between the signatory Powers when faced with a threat of a breach of this pact or when a breach has already been committed. But in spheres other than that of international politics, the League should endeavour, in future as heretofore, to ensure the universal co-operation of States and thus to combat the spirit of mistrust and anxiety which is once more threatening to divide nations, with fatal consequences."

The Argentine Government asks that "formule should be sought for ensuring the co-operation of these countries (the non-member States) in efforts aimed at the maintenance of peace ". It suggests two methods of facilitating co-operation between the League of Nations and the non-Member States. First, there is the Argentine Pact of Non-aggression and Conciliation signed on October 10th, 1933, at Rio de Janeiro. We read in the preface by M. Saavedra Lamas to a work 1 to which the Argentine Government's communication refers: "The Argentine Pact does not claim to replace the system set up under Articles 10 and 16 of the Covenant of the League of Nations. It is offered here in the hope that it may serve as a link between the States Members of the League and those which are not members. Further on, the Minister for Foreign Affairs of the Argentine Republic stresses the fact that the United States of America has acceded to the (Argentine) Pact and that it was unanimously ratified by the Senate. He adds: "It should be pointed out that the Members of the League of Nations, by acceding to this Pact, would immediately create a juridical link between the League and the non-member States in any effort to maintain peace ". He concludes by saying: "It is necessary to bear in mind the fact, perhaps insufficiently appreciated in Europe, that the American nation made no objection to subscribing to the obligations embodied in the Argentine Pact. Consequently, this instrument proposed for universal adoption enables each acceding State to rely, for the high purpose of conciliation and harmony, on the invaluable co-operation of the great nation to which the Geneva institution indirectly owes its creation."

The second method proposed by the Argentine Government is the generalisation of the provisions of Article 4 of the draft Treaty for the Maintenance of Peace submitted by the Argentine Republic to the Inter-American Conference, which will meet next December at Buenos Aires on the initiative of President Roosevelt. This article reads as follows: "(a) The Contracting States which are Members of the League of Nations and signatories of the Pact of Paris or the Saavedra Lamas Pact, or of both at the same time, may jointly or separately request the Contracting States which are not members of the League but are signatories of the above-mentioned pacts, to lend their co-operation in the anti-war measures or in the sanctions which the League of Nations may counsel be adopted against its Member States which have broken its Covenant; (b) the States so requested shall examine, each one through its competent agencies, whether the collaboration requested corresponds to the obligations derived from the Pact of Paris or the Saavedra Lamas Pact or whether it is called for by the spirit of the said pacts or by the dictates of international morality; in the affirmative case, they shall give their co-operation jointly or through unilateral acts of assistance; (c) in case of violation of the Pact of Paris or the Saavedra Lamas Pact by any of the High Contracting Parties which is a Member of the League of Nations, without prejudice to the sanctions prescribed by the Saavedra Lamas Pact, the other Contracting States which are likewise Members of the said institution may denounce to the latter the violation which has been committed. If the States which are not members of the League of Nations are summoned to apply measures or sanctions counselled by the said entity, they shall proceed in the manner agreed upon in paragraph (b) of this article."

SECTION III. — CONTINENTAL OR REGIONAL ORGANISATION OF THE LEAGUE.

In Chapter III (Composition of the Council), Chapter IX (Article 16) and Chapter XI (Regional Agreements), proposals or arguments will be found for the creation of special prerogatives or obligations applicable to a particular region, leaving the fundamental structure of the League of Nations unchanged.

1 "The Argentine Pact of Non-aggression and Conciliation ", published by the Ministry for Foreign Affairs of the Argentine Republic.
Here we only deal with proposals aiming at the creation of regional or continental unions to be substituted to a greater or lesser extent for the League of Nations in the fulfilment of the functions provided for in the Covenant.

1. The Colombian Government makes the following proposals:

"(1) Decentralisation in the working of the League by the establishment of regional or continental associations or agreements—as, for example, the European Union, the Association of American Nations, etc.

"(2) The regional or continental associations would deal with problems of an exclusively regional or continental nature, and the procedure applied by them will, in the first instance, be that provided for in Article 15 if there arises between the States Members of these associations a dispute which is likely to lead to a rupture. The associations would also be instructed to take steps to maintain peace in case of a local war or threat of war.""

The Government of Uruguay states its position as follows:

"The Uruguayan Government wishes to support a solution embodying the principle of a limited or regional organisation. The time has come to consider setting up such organisations entrusted, not only with executive functions, but also with the duty of examining and deciding how the principles of the Covenant are to be applied when controversies arise. Thus, when a conflict breaks out, the countries situated in the zone affected or those most directly interested in the consequences of the crisis will have to assume corresponding obligations, while all the other nations will subordinate themselves to the action of these countries. All this will be without prejudice to the universal character of the League, whose governing organs will always have the last word in case of serious differences."

The Uruguayan Government is careful to state that its intention is not to detract from the universal character of the League. ¹

2. The French Government opposes any proposals which might compromise the universality of the League of Nations.

"It would be a serious mistake," says M. Delbos, "to compromise this principle of universality. Though the interests and aspirations peculiar to each continent must be taken into account, nothing could be more unwise than to separate them. Each of them may, moreover, consider its own particular task through organs such as the Commission for European Union or the Pan-American Union, but without breaking the ties that should unite the community of peoples." ²

CHAPTER III. — COMPOSITION AND FUNCTIONS OF THE ORGANS OF THE LEAGUE.

The Argentine Government has made the following general proposal which applies to the League's organs as a whole: "The principle of the equality of all sovereign States as regards their participation in the activities of the organs of the League should be respected ".

SECTION I. — THE COUNCIL.

Some Governments propose that the system of permanent seats should be changed. The Argentine Government proposes that "the Council should be democratised both in its composition and operation ".

In the preface to the book referred to in the communication from the Argentine Government, M. Saavedra Lamas states that: "Since 1920, the Argentine Government has formulated and reiterated the principle that the idea of a permanent Council should be ruled out and that, without sanctioning contractual inequalities, the League should merely take into consideration the positive influence exerted by the great Powers over other States ".

The Colombian Government is in favour of abolishing the permanent seats and of organising the election of the Members of the Council on a regional or continental basis. It has made the following suggestion:

"The Council of the League would be composed of representatives of the Members of the League, elected by the Assembly from candidates submitted by the regional or continental

¹ In the Uruguayan Government's communication, the passage we have just quoted is preceded by the following remark:

"The universal character of the League, as of the whole system of international law, must be maintained, as it is an essential condition of attaining the highest ideal of justice. Without departing from this universality, experience shows the necessity of organising limited groups, whether continental or regional, which can avert the serious conflicts that have made the full application of the provisions of the Covenant impossible, a circumstance which the Assembly recognised in paragraph 3 of its recommendation of July 4th last. This distinction in no way signifies a contradiction. Limited or regional agreements within the framework of the Covenant cannot be regarded as an innovation for which the time is not yet ripe. Since the inception of the League, they have been a subject of study, and in the development of the valuable technical work which the Geneva institution has carried on for the benefit of all nations, much important research has been done on the lines indicated. In 1921, Czechoslovakia expressed a favourable view of this idea, although the Assembly did not accept the amendment to Article 21 which was proposed. Later, the Treaty of Mutual Assistance Prepared in 1923 showed a definite tendency towards an organisation on regional lines; subsequent studies led, however, to a diametrically opposite system with the Geneva Protocol, but, in the case of the latter, greater difficulties were encountered in achieving practical results. To-day, in the light of experience, conditions have changed. It seems necessary to lay greater stress on the importance of the preventive function assigned to the League, and to give more prominence to the conciliation provided for in Article 11 of the Covenant, a legal principle which has found a fertile soil in America."

² Speech made in the Assembly on July 3rd, 1936, to which the French Government's communication refers.
The Peruvian Government states (Article 6) that: "For reasons similar to those mentioned in connection with Article 5, it is necessary to introduce into the organisation of the League Secretariat the principle of the proportional representation of continental groups, so that there shall no longer be in practice a monopoly of certain appointments for nationals of European Powers."

CHAPTER IV. — THE UNANIMITY RULE (ARTICLE 5).

SECTION I. — THE GENERAL PRINCIPLE OF UNANIMITY.

The general unanimity rule as embodied in Article 5 has given rise to little comment.

1. The Uruguayan Government declares itself in favour of this rule: "The unanimity rule at present laid down also calls for consideration in connection with reform schemes. The Uruguayan Government thinks it desirable to retain this rule as an effective guarantee afforded to all nations."

The Peruvian Government, after a critical examination of this rule, declares itself to be

1 See Chapter IV.

2 "Article 5, paragraph 1."
in favour of its maintenance, though it proposes that it be set aside in the case of Article
5. 

2. The Norwegian Government, on the other hand, states that: "A drawback which has
made itself felt . . . is that the rule of Article 5 regarding the unanimity of decisions has
been maintained in too mechanical a manner."

It mentions several cases (Articles 11 to 14) to which, in its opinion, the unanimity rule should
not apply. It adds that, should it be impossible to secure the adoption of an Assembly resolution
laying it down that a majority of the votes would be sufficient for the application of Article 11
with a view to conciliation, it proposes that the following clause be inserted in Article 5: "Unanimity
is not required for mere mediation or conciliation in disputes between two or more States, nor for
friendly action with a view to averting the risk of international conflicts".

SECTION II. — APPLICATION OF THE UNANIMITY RULE IN PARTICULAR CASES.

It has been variously proposed that in stated cases the unanimity rule should be interpreted
in a particular way (for example, that in counting the votes those of the parties to a dispute
should not be taken into account), that it should be agreed not to apply this rule or that it should,
by some means or other, be waived.

These proposals, which relate in the main to Articles 10, 11, 14, 15 and 19, will be described
in the chapters dealing with those articles.

CHAPTER V. — THE REDUCTION AND LIMITATION OF ARMAMENTS (ARTICLE 8).

In this chapter, we do not propose to mention the statements by various Governments
relating to the general position occupied by disarmament in the system of the League, or the
relations between Article 8 and Article 16 of the Covenant.

SECTION I. — PROPOSALS AIMING AT A SETTLEMENT OF THE QUESTION.

I. Necessity for reopening the Question.

The Governments of Denmark, Finland, France, Iraq, Norway and Sweden express the
opinion that the question should be taken up again with a view to its settlement.

The Danish Government places the following proposal at the head of its observations regarding
the League's activities:

"At the September session, the Assembly will resume consideration of the armament
question, with a view to bringing the present competition in armaments to a standstill as soon
as circumstances permit."

The Finnish Government "regards the setting of a limit to the competition in armaments
which is now taking place, more especially among the great Powers, and the strict application
of the principles laid down in Article 8 as one of the League's most urgent duties".

The French Government, as represented by M. Blum, urges the necessity of solving
simultaneously the two problems of collective security and disarmament.

The Government of Iraq says: "It is an urgent need that the question of disarmament
should be re-examined".

The Norwegian Government states: "No one can fail to be aware of the terrible danger
presented by the tremendous armaments which are being built up in the majority of countries.
The Covenant of the League of Nations in Article 8 drew attention to the fact that ' the maintenance
of peace requires the reduction of national armaments ', and experience has shown only too
clearly that armaments themselves create a growing distrust between States, thus sowing the
seed of discord and conflict. It must therefore be the duty of the Members of the League of
Nations to renew their efforts to advance the cause of disarmament, and to conduct this task
to a successful issue they must seek the co-operation of the States not members of the League ".

1 See Chapter VIII, Section III.
2 See Chapters VI and VIII.
3 See Chapter I, Section I.
4 See Chapter IX.
5 Speech in the Assembly on July 1st, 1936.
The Swedish Government "wishes to emphasise the importance it attaches to the League of Nations making a fresh examination of the possibility of a general reduction of armaments".

2. Institution of a Permanent Disarmament Commission.

Three Governments make a suggestion on this subject.

The Danish Government states: "Consideration will naturally be given, in accordance with the projects of the Conference for the Reduction and Limitation of Armaments, to the appointment of a Permanent Commission, consisting of one representative of each State, for the purpose of collecting the necessary information from Governments, as soon as political conditions are favourable, in order to lay before the Council plans of the kind contemplated in Article 8 of the Covenant, which can be submitted to the various Governments for their consideration and decision. It is understood that any country may make its acceptance of such plans conditional upon their acceptance by certain other countries and upon the observance of the agreed provisions by those countries".

The Finnish Government says: "To this end, it seems necessary to re-open the already carefully considered question of setting up a Permanent Disarmament Commission on which all countries would be represented".

The Norwegian Government submits an alternative: either a Permanent Conference or a Permanent Commission. It says: "If it is desired to achieve anything practical in the matter of disarmament, it will certainly be necessary either to adopt the proposal of the Union of Soviet Socialist Republics to make of the Conference for the Reduction and Limitation of Armaments a permanent institution, continually dealing with the question involved here, or to establish a new Permanent Commission consisting of a representative of each country to discuss these questions. My Government desires that this idea should be carried into effect as soon as possible, and presumes that States not belonging to the League of Nations will be invited to participate".


Four Governments who ask that the question of disarmament should be re-examined consider that one of the first duties will be to conclude a convention on the manufacture of and trade in arms.

The Danish Government makes the following proposal:

"The report of the Committee for the Regulation of the Trade in and Manufacture of Arms and Implements of War, dated April 13th, 1935 (document Conf. D. 168), will be studied by the Assembly with a view to the preparation of a draft convention, which can be adopted on the understanding that States shall be entitled to make their acceptance conditional upon the acceptance of other States named."

The Finnish Government observes that the Permanent Disarmament Commission "could most appropriately inaugurate its work by endeavouring to secure the adoption of the existing projects for a Convention providing for the supervision of the manufacture of and trade in arms and implements of war".

The Norwegian Government desires to point out "how necessary it is to render effective the plan for the supervision of the manufacture of and trade in arms".

The Swedish Government asks that the League of Nations should "endeavour to secure, as an important part of a plan of disarmament, the application of an international Convention on the supervision of the manufacture of and trade in arms and implements of war".


The New Zealand Government states: "We are prepared to agree to the institution of an international force under the control of the League or to the allocation to the League of a definite proportion of the armed forces of its Members to the extent, if desired, of the whole of those forces—land, sea and air".

SECTION II. — PROPOSAL TO RETAIN ONLY PARAGRAPH 1 OF ARTICLE 8.

The Peruvian Government makes the following proposal for omitting paragraphs 2 et seq. of Article 8:

"Events have shown that the League is powerless to carry through a reduction of national armaments. The long and barren history of the preparatory Committees and the Disarmament Conference demonstrate that such a serious and complicated problem cannot be solved by academic formulæ. The only effective steps that have been taken in the matter of disarmament since the great war are international acts that have been accomplished outside the League's sphere of influence. It would be more honest to admit this and to cut out of the Covenant
any suggestion of the method to be followed in order to achieve disarmament or perpetuate it
and all references to the exchange of information about armaments, and only to retain the
declaration of principle in paragraph 1”.

CHAPTER VI. — THE PREVENTION OF WAR BY MEANS OF ARTICLE II.

SECTION I. — APPLICATION OF ARTICLE II.

1. Reinforcement of the League's Preventive Action.

The Government of Uruguay states: “It seems necessary to lay greater stress on the
importance of the preventive function assigned to the League, and to give more prominence to
the conciliation provided for in Article II of the Covenant”.

2. League Intervention at an Early Stage.

The Norwegian Government considers it to be “of primary importance to reinforce the
League of Nations power to intervene in any matter liable to create dangerous conflicts or to lead
to war—to intervene in good time before even the thought of war has arisen”.

The Swedish Government says: “Experience shows that the League of Nations should
intervene at as early a stage as possible of the dispute, and should endeavour, by its mediating
action and the organisation of effective measures, to avoid an aggravation of the dispute and to
prevent the latter from leading to a rupture”.

The Swiss Government is prepared to give “its most sympathetic consideration” to proposals
made “for the prompter and more effective application of Article II”.

3. Votes taken under Article II.

Some Governments suggest either that the votes of the parties concerned should not count,
or that the rule of unanimity should be abolished.

A. The Votes of the Parties to be ignored in reckoning Unanimity.

The Colombian Government makes this suggestion: "The votes to be taken under Articles 10
and 11 of the Covenant would not include the votes of the aggressor States or of the States
constituting a danger of war”.

The Estonian Government says: “Apart from the question of non-aggression, the preventive
measures contemplated in the Covenant should be extended. With reference more particularly
to Article II, paragraph 1, consideration should be given to the advisability of not allowing the
contending parties to vote on the question of taking preventive measures to avert a conflict or
discontinuing any coercive measures”.

With regard to Article II, the Finnish Government observes: “To facilitate the application
of that and certain other articles, it should be agreed that, in cases where the Covenant requires
unanimity, the votes of the contending parties should not be counted”.

As regards this article, the French Government desires “to prevent abuse of the unanimity
rule”. Its views are expressed in the speech by M. Delbos 2 to which the French Government’s
communication refers: “Let us first take Article II. The Covenant places upon the Council,
in the event of a threat of war, the duty of taking any action that may be deemed wise and effectual
to safeguard the peace of nations. But the legal practice in virtue of which any decision taken
must—apart from specified exceptions—be unanimous has here led to the most singular consequences.
For any State threatening peace can by its vote hold up all pacific action. That is a paradox,
an absurdity that has long ago been denounced and to which more than a year ago a Committee
of the Council vainly sought to put an end.

The French Government, however, does not attack the unanimity rule in general; it
does not forget that the League of Nations respects the sovereignty of States. Moreover, the
assent of those concerned is essential when there is a proposal to take measures which have to be
applied upon their own territory or which, in any case, call for their collaboration. But, if efforts
at conciliation should fail, the pacific action of the Council must not be paralysed by the attitude
of the one already contemplating aggression. It is important that the Council should be able to
place every obstacle in the way of the impending war, and its action should not be made subject

to the vote of the State that wishes to provoke war.

The French Government refuses to believe that an over-formalism should have the effect
of depriving Article II of all real efficacy.”

The Swedish Government says: “As different opinions exist concerning the interpretation
of the unanimity rule contained in Article 5 of the Covenant in regard to decisions to be taken
under Article II, the Swedish Government is prepared to give its assistance in defining the scope

1 We have already seen that some Governments have laid stress on the importance of the preventive function of
the League of Nations (Chapter I, Section 1, paragraph 2).
2 Speech made before the Assembly on July 3rd, 1936.
of this rule. The Swedish Government would be glad if it could be expressly laid down that the votes of the parties should not count in reckoning unanimity when the Council, on the basis of Article II, recommends measures to prevent the aggravation of a dispute.

The Danish Government suggests that the votes of the parties should not be counted, but seems to have in mind a special case when it asks that, “in the voting on invitations to the parties, where the present rules would require unanimity, the votes of the parties themselves shall not be reckoned in determining unanimity.”

B. Abolition of the Unanimity Rule in respect of the Application of Article II.

Latvia and Norway propose this. The Latvian Government says: “Consideration should be given to the question of the more effective application of paragraph I of Article II of the Covenant, and the possibility of omitting the unanimity rule should be examined.”

The Norwegian Government, with regard to a possible method of applying Article II, says that it “does not see the necessity of asking for a unanimous decision in cases in which the Council or Assembly may take the initiative of reconciliation or mediation under Article II”. It adds: “It would perhaps be well for the Assembly to adopt a special resolution stating that a simple majority of votes would be sufficient in that case, since there would be no ‘decision’ of the nature provided for in Article 5”.

C. Majority Decision as to the League of Nations’ Intervention in a Conflict.

The Finnish Government makes a proposal that seems to be connected with Article II—namely, the previous question whether the League should deal with a given dispute. The Finnish Government thinks that: “For a decision that the League shall intervene in a dispute, a simple majority should suffice, at all events as a general rule.”

In this connection, the Swedish Government observes: “It should be remembered that, according to the provisions of Article 5, paragraph 2, unanimity is not required for a decision of the Council to take cognisance of a dispute.”

4. Rules for the Application of Article II.

The Danish Government proposes the setting-up of a “committee to frame rules for the operation of Article II, in order to facilitate its application at an early stage if a dangerous situation should develop.”

The Finnish Government suggests that “steps should be taken forthwith to frame more detailed rules for the application of Article II of the Covenant, so that disputes of the kind to which it refers can be settled at an early stage on the basis of that article.”

The Swedish Government mentions the 1927 resolution and the report to which this resolution refers: “Many proposals have been laid before the Assembly for strengthening the powers of the Council, acting on the basis of Article II, in preventing open disputes. Mention may be made of the resolution adopted by the Assembly in 1927, recommending to the Council, as a valuable guide for the application of Article II, to adopt a report approved by the Council Committee on the method or rules suitable for accelerating the framing of the decisions to be taken by the Council in order to fulfil the obligations of the Covenant.”

5. Replacement of Rapporteurs.

The Government of Iraq suggests, with a view to improving the application of the principles of the Covenant, that the question should be discussed of “replacing, in the proceedings of the Council and the Assembly, a rapporteur who fails within a given time to bring disputing Members to agreement.”

SECTION II. — THE CONVENTION OF SEPTEMBER 26TH, 1931, TO IMPROVE THE MEANS OF PREVENTING WAR.

Several Governments feel that this Convention should be the complement of Article II; though it has not yet come into force, it has received numerous accessions.

The Danish Government suggests that the Council should appeal to the Members of the League to ratify this Convention within six months and should endeavour to obtain the accession of non-member States.

The Finnish Government considers that the Convention of September 26th, 1931, “though in appearance perhaps less categorical on the subject of violations of another State’s territory, it would nevertheless help to reduce the danger of war if it were fairly applied, and that, in these

1 We have seen that the Norwegian Government proposes a modification of Article 5 if the Assembly is not prepared to adopt this suggestion.
circumstances, States should be asked to ratify or accede to it, at all events provided that they are assured of the accession of all their immediate neighbours”.

The Norwegian Minister for Foreign Affairs says: “In order to prevent conflicts from degenerating into open war, States should, I think, agree to adopt the General Convention to improve the Means of preventing War, signed at Geneva on September 26th, 1931. Norway ratified this Convention in 1932, and my Government would be glad to see a greater number of States accede to it.”

The Swedish Government thinks that, if the Convention “secured general acceptance, an important step forward would be made”.

CHAPTER VII. — CO-ORDINATION OF THE COVENANT OF THE LEAGUE OF NATIONS WITH OTHER PACTS.

SECTION I. — THE PACT OF PARIS—ARTICLE 12 OF THE COVENANT OF THE LEAGUE OF NATIONS.


The Argentine Government suggests that the Covenant of the League of Nations be co-ordinated with the Pact of Paris and indicates the reasons for such action, together with the procedure to be adopted (see Section II).

The Estonian Government says that “the best way of enforcing the principle of non-aggression would be to bring the Covenant and the Paris Pact into harmony”.

2. The Peruvian Government makes the following observation regarding Article 12 of the Covenant:

“Paragraph 1 of this article admits in a negative form of the possibility that a Member of the League may resort to war after an award or decision given by the Council on a dispute referred to it for settlement. Such a provision is incompatible with the Paris Pact and with the general system of outlawing war represented by the Covenant.

“Articles 12 and 13 should be supplemented by a clause laying down that, failing an agreement between the parties to a dispute as to its political or legal character, the Council shall decide what kind of procedure is to be followed. This is the only way to ensure that conflicts shall be settled by peaceful means.”

SECTION II. — THE ARGENTINE PACT OF OCTOBER 10TH, 1933.

The Argentine Government suggests that the Covenant of the League of Nations should be co-ordinated with both the Pact of Paris and the Argentine Pact of Non-aggression and Conciliation. For this purpose, it advocates “full independence being conferred on the Committee appointed to study this question, instead of making its work dependent on the problem of disarmament.” It adds: “Such co-ordination will make it possible to unify the world’s pacific efforts owing to the fortunate fact that the Pact of Paris has had the approval of nearly every country and that the Argentine Pact has been approved by the whole American continent, including the Senate of the United States and the Brazilian Parliament, and that in Europe numerous countries have acceded to it.”

(See Chapter II, Section II, on the collaboration of the League of Nations with States non-members, where this question has already been dealt with.)

CHAPTER VIII. — PACIFIC SETTLEMENT OF DISPUTES.

Note. — Special chapters are devoted to Article 11, which provides for the settlement of international disputes through conciliatory action by the Council, and Article 19, which lays down a special procedure for a certain type of dispute (see Article 11, Chapter VI; Article 19, Chapter X).

(See also Chapter I, Section I. — The Rôle of the League, (2) Prevention of War.)

SECTION I. — GENERAL METHODS FOR THE PACIFIC SETTLEMENT OF DISPUTES.

1. Two Governments are in favour of developing the methods of conciliation and arbitration. The Estonian Government says: “It would be desirable to find methods of generalising and further defining the procedure of conciliation and arbitration . . .”

The Latvian Government points out that “the possibility of making the procedure of conciliation and arbitration more and more general still exists, although political disputes cannot always be settled by that means.”
2. The Swiss Government states that "there is room for improvement in the methods of pacific settlement (the methods of the Covenant), especially those designed to appease political conflicts ".

3. The New Zealand Government believes it "improper to enforce a system of preventing war without at the same time setting up adequate machinery for the ventilation and, if possible, rectification of international grievances ", and would support "the establishment of an acceptable tribunal for that purpose ".

4. The Government of Iraq would wish to see discussed "the question of a fuller application of Article 13 of the Covenant, especially to disputes of the kind mentioned in paragraph 2 of that Article ".

SECTION II. — THE PERMANENT COURT OF INTERNATIONAL JUSTICE.

1. Organisation of the Court (Article 14).

The Peruvian Government is in favour of deleting the first part of this article, which has become superfluous, and to introduce other provisions. It says: "The first part of this article, which refers to plans for the establishment of a Permanent Court of International Justice, is now superfluous. In the redrafting of the article, it would be desirable to add a statement of the fundamental principles underlying the organisation of the Court—namely: (a) Its elective character; (b) Proportional representation of continental groups, without prejudice to the proportional representation of different legal systems or to the personal and non-political qualification of the judges; (c) Compatibility between the League Court and any other regional or continental court that may be established ".

2. Requests to the Court for Advisory Opinions (Article 14).

The Governments of Denmark, Finland, Norway and Sweden recommend that decisions to ask the Court for an advisory opinion should be taken by a majority vote.

The Finnish Government says: "At all events as a general rule, a simple majority should suffice for a decision that the . . . Permanent Court of International Justice shall be asked for an advisory opinion ".

The Norwegian Government states that there is no reasonable justification "for applying the rule of unanimity in this case ".

SECTION III. — PROCEDURE UNDER ARTICLE 15.

The Peruvian Government says: "It has been suggested in connection with Article 15 that the Council's decision under paragraph 4 of this article should be taken by a two-thirds majority in order to prevent the dissent of a single Member of the Council, not being one of the parties, from holding up the entire system of international co-operation provided for by the Covenant ".

CHAPTER IX. — OBLIGATIONS UNDER ARTICLES 10 AND 16.

SECTION I. — ARTICLE 10.

1. Relations between Article 10 and Article 16.

The Argentine Government suggests that "the necessary correspondence should be established between the measures of Article 10 and the sanctions laid down in Article 16 of the Covenant ".

2. The Unanimity Rule.

The Government of Colombia urges that "the votes to be taken under Articles 10 and 11 of the Covenant " should "not include the votes of the aggressor States or of the States constituting a danger of war ".

The Lithuanian Government "thinks that it is desirable to examine the possibility of enabling decisions to be taken more easily under Articles 10 and 16 of the Covenant by modifying the rule of unanimity ".

3. The Practical Consequences of Article 10.

The Government of Peru desires that the present wording of Article 10 be amplified by a condemnation of wars of aggression and a refusal to recognise territorial acquisitions brought about by force (American Declaration of August 3rd, 1932), and in order to give practical effect

1 This paragraph relates to disputes which are generally suitable for submission to arbitration or judicial settlement.
to the latter principle, "the League and its subordinate bodies should be prohibited from considering any questions arising out of the exercise of unlawful territorial jurisdiction ".

4. Treaties of Non-Aggression.

The Estonian Government states that "it would be desirable to find methods of generalising and further defining . . . the system of treaties of non-aggression, both bilateral and collective ".

SECTION II. — Article 16.

I. The Attitude of Governments to Article 16.

1. Several Governments have confirmed or shown by their declarations or proposals that, in their view, collective security was the essential element, or one of the most important elements, in the Covenant. This is true of Estonia, France, Iraq, Latvia, Lithuania and the Union of Soviet Socialist Republics (see Chapter I, Section I, 1).

Some of the above-mentioned Governments state that, if the guarantees under Article 16 are to be effective, it is essential that their application should be ensured in advance.

The Estonian Government declares: "As for the punitive powers of the League under Article 16, it would seem that their future place in the general system of the Covenant depends upon the manner in which they would be used. This is a very serious question, calling for special study. The safeguards represented by the existence of those powers cannot be valid and effective unless the general application of the measures involved is assured in advance ".

The Government of Iraq states: " It is . . . essential that Members of the League should know in advance, in as much detail as possible, what assistance may be expected by them from their fellow-Members in case of aggression ".

The Government of Latvia declares: " The repressive measures that can be employed by the League are of a political, economic and military nature, and it is only when their effective application is assured in advance that the League's guarantees of security can be regarded as real, because, on the one hand, if States know for certain beforehand that repressive measures will be employed, this will add considerably to the value of the various preventive measures, and, on the other hand, in extreme cases, due respect for the League's authority can only be ensured by the application of all the repressive measures available."

2. Several Governments make the application of Article 16 contingent on certain conditions.

(a) The Government of Peru declares: " If it were possible to separate the conflict—almost in the nature of a world-wide conflagration—that developed in consequence of the action taken by the League in regard to the Italo-Ethiopian dispute and the peculiar character of that dispute from a bilateral and regional standpoint, we should have to admit that there was an obvious disproportion between the two. If, after a reform of the Covenant, the necessary conditions for the admission of countries to the League and the obligations resulting from their admission were clearly determined, it would be possible to eliminate a new disproportion due principally, not to any difference in the degree or type of civilisation, but to the contrast between a definite organised civilisation and a shapeless community still plunged in barbarism."

" Not until the legal equality provided for by the Covenant is reinforced by an equal fitness to elaborate and enforce the law will breaches of international duties established by the Covenant entail for all Members of the League consequences identical from the legal standpoint, however much they may differ in power and geographical position ".

(b) The Hungarian Government, as we have seen (Chapter I, Section I, 2), wishes the "punitive clauses of the Covenant to be brought into equilibrium with the provisions of Articles 17, 13 and 19 ".

(c) The Governments of Denmark, Finland, Norway and Sweden discern a close connection between Article 16 and Article 8 on armaments and consider that failure to apply Article 8 cannot but react on the application of Article 16.

The four Governments refer to the declaration of the Foreign Ministers of seven countries, dated July 1st, 1936, in which it is stated:

" We do not think it right that certain articles of the Covenant, especially the article dealing with the reduction of armaments, should remain a dead letter, while other articles are enforced . . . .

1 The Peruvian Government's statement reads as follows:

" Article 16. — The existing formula should be retained, because it is the corner-stone of the juridical organisation of the League. The Council's duty of advising upon the means by which the obligation embodied in this article shall be fulfilled is sufficiently elastic to allow of those means being limited to diplomatic and political action, without the compulsory measures which have been shown by certain circumstances to be incapable of universal application."

" But that formula, however, there should be added another formula condemning wars of aggression, as in the Paris Pact of 1928, and refusing to recognise territorial acquisitions brought about by force, as in the American Declaration of August 3rd, 1932."

Since such non-recognition may also prove inoperative in the face of the indifference of conquering States to the legal attitude of the other Members of the League, provision should be made for an effective sanction in that the League and all its subordinate bodies should be prohibited from considering any questions arising out of the exercise of unlawful territorial jurisdiction or any problems directly relating in any way to the conquered territory ".

2 Denmark, Finland, Netherlands, Norway, Spain, Sweden, Switzerland.
"Though not forgetting that rules for the application of Article 16 were adopted in 1921, we would place it on record that, so long as the Covenant as a whole is applied only incompletely and inconsistently, we are obliged to bear that fact in mind in connection with the application of Article 16." 1

3. Three Governments—Argentina, Peru, Switzerland—throw doubts on the principle of collective security and the practical value of its application under existing conditions.

In the opinion of the Argentine Government "it should be considered what provisions of the Covenant have been shown by experience to be no longer in keeping with the realities of international life, and these provisions should be given an optional character instead of the character of strict obligations." 2

The Government of Peru expresses a similar view in the following passage: "It should also be borne in mind, that in the case of a conflict in which a country has no direct practical interest, public opinion in that country is apt to object to being obliged to take part in collective action which it does not regard as having any political utility or any moral necessity superior to its own necessity of self-preservation in all its various aspects." 3

The Swiss Government’s objection is that, in its view, the sanctions system creates inequalities, inasmuch as sanctions cannot be applied in all cases, and because the risks entailed by sanctions are not identical for every Power. It says: "The sanctions instituted by Article 16 have given rise to objections in many countries, and to objections that were perfectly justified. They have been applied in some cases and not in others, and there are clear cases in which they never could be applied. Hence they create inequalities that are only too marked. Although the obligations assumed by each party are theoretically identical, their effects differ greatly according to whether they apply to a great Power or to a country with more limited resources. It seems to us essential that a fairer balance should be established between the risks incurred by the former and by the latter. For a small country, the application of Article 16 may be a matter of life or death. Consideration ought therefore to be given to the idea of recasting that article; it would be better to have while to pursue the enquiries undertaken by the International Blockade Commission in 1921." 4

The Swiss Government, in conclusion, declares that "Switzerland cannot be held to sanctions which, in their nature and through their effects, would seriously endanger her neutrality." 5

II. ECONOMIC AND FINANCIAL SANCTIONS (ARTICLE 16, PARAGRAPH 1).

1. General Observation by the Swedish Government.

The Swedish Government considers that the application of economic and financial sanctions depends on general political factors. It states: "In accordance with Article 16 of the Covenant, the Members of the League undertook, in the case of a war covered by that article, to participate in economic and financial sanctions. As stated above and as indicated in the Assembly’s recommendation, the provisions concerning economic and financial sanctions have never actually

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1 The communication from the Finnish Government contains the following statement: "Some of its articles (the Covenant), such as Article 16, may be difficult to put into effect until certain other articles, such as Article 8, have been adequately applied".

2 The following is taken from M. Saavedra Lamas’ preface to the book referred to in the communication from the Argentine Government:

"Recent events have confirmed the view that the League of Nations is not and cannot be a super-State capable of imposing its will on the Member States. Although the obligations laid down in the Covenant are definite; some States instinctively object to the obligation to use their own resources and armed forces in disputes in which they are not implicated or only indirectly concerned. Similarly, though the countries asked to sign it accused to the Covenant without reservations, experience has shown that the joint application of certain measures of coercion designed to guarantee peace runs counter to the deeply ingrained feeling of sovereignty. This is probably the reason why it has been impossible fully to apply sanctions or the procedure laid down in Articles 10 and 16 of the Covenant, though they certainly contain definite and very clearly worded provisions. Possibly the failure to give universal effect to the sanctions laid down in Article 16 is one of the reasons why they have proved ineffective, but the fact that they are rigorous and comprehensive is also a reason why States not implicated in a dispute feed unable to give them full effect."

3 The communication from the Swiss Government states: "If, notwithstanding the criticisms it incurs, Article 16 should be retained substantially in its present form, or if the present form is still greater, Switzerland would be obliged to call attention once again to her peculiar position, which the Council of the League, in the Declaration of London of February 13th, 1920, described as unique. The Federal Council must in any case point out once more that Switzerland cannot be held to sanctions which, in their nature and through their effects, would seriously endanger her neutrality. That perpetual neutrality is established by age-old tradition and all Europe joined in recognising its unquestionable advantages over a hundred years ago."
been applied in full. In certain cases, no sanctions have been enforced against the aggressor. In the only case in which Article 16 was applied, sanctions were only imposed partially and by degrees. Various factors have contributed to this attitude on the part of the League, the chief ones being the tension which prevails in the general political situation, the incompleteness of the League and the continual increase in national armaments.

The Swedish Government does not consider it possible to ensure the effective application of economic and financial sanctions simply by means of the adoption of modified texts. Unless the obstacles in the way of the application of the Covenant referred to above are removed, it is to be feared that, in a future conflict, difficulties will arise regarding the effective application of economic and financial sanctions, notwithstanding the relevant provisions of the Covenant.

2. Preparations for the Application of Economic and Financial Sanctions.

(a) Two Governments advocate the framing of plans for the application of the sanctions to be imposed.

The Estonian Government, referring to economic sanctions, observes: "A detailed plan ought to be prepared beforehand, embodying all the measures and forms of action that States Members should promptly take in order to make sanctions against the covenant-breaking State as effective as possible."

The Latvian Government suggests that "the best course to follow" would be "to draw up beforehand a definite plan predetermining the action of the Members of the League in the event of a violation of the Covenant".

(b) Two Governments urge that the Members of the League of Nations should enact beforehand the legislative provisions required under their Constitutions to enable sanctions to be applied at the proper moment.

The Government of Iraq says: "An attempt should be made by all States Members of the League to adopt a code of economic and financial measures to be taken by them as and when occasion arises. To this end, all Governments should secure power in advance under their respective Constitutions to enforce these measures without delay."

The Government of the Union of Soviet Socialist Republics suggests: "States Members undertake to enact, immediately on the entry into force of the present resolution (of the present Protocol), such provisions as may be necessary under their constitutional laws to ensure in advance the application in good time of any measures which may be decided upon in connection with economic and financial sanctions."


Cross reference. — Sub-section IV of the present section contains proposals regarding the decisions which the Council would be called upon to take in order to make the application of sanctions obligatory.

(a) Automatic Sanctions.

The Government of Colombia proposes: "The economic and financial sanctions referred to in Article 16 would come into force automatically as soon as the competent organs of the League had determined the aggressor and without the need for further decisions by the Governments."

The Estonian Government thinks that the application of sanctions should so far as possible be automatic.

The Government of New Zealand considers the automatic operation of sanctions to be one of the conditions of their effectiveness.

(b) Total or Partial Rupture of Economic, Financial and Other Relations, as provided for in Article 16, Paragraph 1.

The New Zealand Government thinks that, to be effective, sanctions must "take the form of the complete boycott contemplated by Article 16". It says further: "We are prepared to take our collective share in the application, against any future aggressor, of the full economic sanctions contemplated by Article 16."

Other Governments recommend or agree to the more or less gradual application of the measures provided for in Article 16, paragraph 1.

The Latvian Government remarks in this connection: "It is obvious, however, that, until the League has a worldwide membership, very definite limits restricting the real efficacy of these measures have to be observed."

1 The Latvian Government states further: "The immediate cessation of all imports should be provided for in advance, and a list of products, the export of which would at once be prohibited as soon as Article 16 is applied, should also be drawn up beforehand."

2 The question of determining the aggressor will be discussed below (same section, No. V, 2). Though there is no need to consider this question at present, the Colombian Government's proposal means that a State which regards another State as an aggressor must automatically apply sanctions.

3 The New Zealand Government states: "We believe that the sanctions contemplated by the present Covenant will be ineffective in the future as they have been in the past (1) unless they are made immediate and automatic; (a) . . . ."
measures will be set to the application of political and economic sanctions. If, for instance, all relations between the nationals of the Members of the League and those of the covenant-breaking State are prohibited, this measure will be ineffective unless the covenant-breaking State is thereby completely isolated. Similarly, as regards the severance of all financial, commercial and personal relations between the nationals of the covenant-breaking State and those of any other State, the actual possibilities and the practical incidence of such measures must be considered.

The Government of Peru observes: "The enumeration of the sanctions provided for in Article 16 should be clear and their application gradual. There will then be no need to argue about the advisability of certain measures, and they can be applied separately according to circumstances".

The Government of the Union of Soviet Socialist Republics contemplates the possibility of a gradual application of Article 16, paragraph 1, when it suggests that "... the Council shall decide, by the majority indicated in paragraph II, as to the application of the measures contemplated in Article 16, paragraphs 1 and 3, of the Covenant, and as to their extent and their execution".

(c) Differentiation between States in the Application of Sanctions.

The Government of Peru suggests that the application of sanctions be recommended "only to such States as can put them into effective operation. It is absurd and harmful to international relations to insist on sanctions being applied by States which, owing to the small extent of their trade or financial relations with the covenant-breaking State or to their geographical remoteness, cannot cause it any trouble, but whose attitude can provoke an undesirable moral tension".

The Government of the Union of Soviet Socialist Republics makes the following proposal: "The Council may, should this be necessary in order to secure the plan of concerted action or to reduce the losses it would entail for certain Members of the League, postpone wholly or in part, in respect of certain States, the entry into operation of the measures contemplated in Article 16, paragraph 1, of the Covenant".

(d) Measures to be taken against a Member of the League of Nations failing to impose the Sanctions laid down in Article 16, Paragraph 1.

The Government of the Union of Soviet Socialist Republics suggests that "any Member of the League who fails to participate in economic and financial sanctions may be subjected to measures of Customs and trade discrimination on the part of the other States Members".

(e) Observation on the Trade in Arms.

The Government of Peru remarks: "It is also essential that the prohibition to sell arms to the covenant-breaking belligerent should not affect only such countries as are mere transit countries while the countries manufacturing or actually supplying the arms can draw profits from the trade, leaving to the other countries the responsibility of stopping or preventing it".

III. Direct Non-military Assistance to the Victim of Aggression.


The communication of the Lithuanian Government contains the following remark: "The Lithuanian Government is of opinion that the universal assistance to be afforded to a victim of aggression, in the political, economic and financial fields, should not be limited to negative acts against the covenant-breaking State. It should also be positive in the form of political, financial and economic assistance to be granted to the victim of aggression. The Lithuanian Government desires, in this connection, to refer to the principles embodied in the Convention on Financial Assistance to be afforded to the victim of aggression".


The Danish Government makes the following proposal: "The Council will appeal to all those States Members which have not ratified the Convention of October 2nd, 1930, for Financial Assistance".

The Estonian Government observes: "The Financial Assistance Convention might prove most valuable in the event of a breach of the Covenant, and those of its clauses which delay its entry into force should therefore be promptly reviewed".

The Finnish Government observes: "In order to increase the guarantees of security, the Council might ask those States which have signed the Financial Assistance Convention of October 2nd, 1930, to agree to the deletion of Article 35, so that the Convention can be put into force independently of the hoped-for Disarmament Convention. The Council might then request
all States which have not ratified the Financial Assistance Convention, or have not even acceded to it, to do so as quickly as possible”.

The Latvian Government observes: “Another possible means of rendering collective action more effective in the event of a violation of the Covenant would be to bring about the entry into force of the Convention on Financial Assistance; the conditions to which the entry into force of that Convention is at present subject might be re-examined and further steps taken to hasten its ratification”.

The Swedish Government comments as follows on the Convention of October 2nd, 1930, for Financial Assistance and the Convention of September 26th, 1931, to strengthen the Means of preventing War: “These texts contain valuable ideas by which the Council might be guided in its action for the prevention of war and, if the above-mentioned Conventions secured general acceptance, an important step forward would be made”.

IV. MILITARY SANCTIONS.


A. The View that these Sanctions should not be Obligatory.

Most of the Governments which have expressed an opinion categorically reject the idea of inserting the obligation of military sanctions in the Covenant or state that the Covenant in its present form represents the maximum obligations which they accept or admit that the universal obligation of sanctions is at present impracticable. Consequently, the countries taking this view propose the conclusion of treaties of mutual assistance in addition to the Covenant.

(a) The Argentine Government considers that “it should be understood that the latter (military measures) will not be binding on Members not implicated in the dispute, or only having an indirect interest therein”.

(b) The Governments of Denmark, Norway and Sweden state that they are not prepared to assume any commitments other than those at present contained in the Covenant. 1

The Swedish Government makes the following observations: “As regards the guarantee of security provided for in Article 16, paragraph 2, of the Covenant relating to military sanctions . . . the Swedish Government is unable to draw from the lessons taught by recent experience the conclusion that the provisions in question should be tightened up by making the application of military sanctions on the part of the Members of the League compulsory in the event of an act of aggression committed against one of them. It need only point out that, in the case of the conflicts which have broken out during the last years, the Members of the League were not even prepared to apply in full the economic and financial sanctions which are at present compulsory”.

(c) The Estonian Government says: “As regards military sanctions, it seems doubtful whether military aid can be secured on worldwide lines”.

It therefore proposes a regional organisation of collective security. The French Government takes the same view when it emphasises “the necessity of making a new arrangement in regard to the Covenant by restricting to the Powers which are nearest, geographically or politically, to the Power that is attacked the risk involved by any military assistance rendered to a State that is a victim of aggression”, while the Government of the Union of Soviet Socialist Republics submits a system of pacts of mutual assistance.

B. The View that Military Sanctions should be Universally Obligatory.

The New Zealand Government says: “We are prepared, to the extent of our power, to join in the collective application of force against any future aggressor”. In referring to general sanctions, it further states that they will be ineffective “unless any sanctions that may be applied are supported by the certainty that the Members of the League applying these sanctions are able and, if necessary, prepared to use force against force”.

C. The View that Military Sanctions should be Continentally Obligatory.

The Colombian Government states: “The military sanctions would be obligatory only for the States situated in the same continent as the aggressor”.

D. Proposal to substitute Authorisations for the Recommendations provided for in Article 16, Paragraph 2.

The Peruvian Government writes: “As regards military sanctions, the Council’s power to recommend to the Governments concerned what effective military force they shall contribute to

1 The Danish Government states: “It is improbable that the Danish Government will see its way to assume any commitments, whether general or regionally limited, other than those which, in our view, are contained in the Covenant”.

The Norwegian Government states: “The Northern countries are already regularly exchanging views on questions relating to the League, but they do not feel it necessary to convert this collaboration into a regional pact, and I am quite sure that, in the present state of the world, there is not one of them which would be prepared to undertake obligations going beyond those already resulting from the Covenant”.

The Swedish Government writes: “As for the idea of strengthening the League’s system of security by concluding regional agreements relating to military sanctions, the Swedish Government—without expressing any opinion as to the value of the conclusion between other countries of regional agreements of this kind from the point of view of safeguarding peace—simply wishes to state that for its part it is not prepared to undertake obligations other than those at present laid down in the Covenant, even if those obligations are confined to a specific regional zone.”
any coercive action should be struck out of the Covenant. It might be replaced by the power to authorise the use of military force by a State applying for such authorisation for the purpose of protecting the covenants of the League. This would increase the sense of direct responsibility in such countries, and it would not be possible for them to desire to set collective action in motion for the benefit of private interests.”

2. Regional Pacts of Mutual Assistance.

A. The System.

The French Government expounds the principle of the system which consists in strengthening the Covenant by means of optional agreements and averting the risk that economic sanctions may be applied in vain.

It states that: “As regards Article 16, it is a question of bringing about a closer relationship between measures of economic and financial pressure and the application of military measures, while giving full value to the system of regional understandings.”

Military action is to be taken only by those “Powers which are nearest geographically or politically to the Power which is attacked” and “the risk involved by any military assistance rendered to a State that is a victim of aggression” will thus be restricted to those Powers alone.

In the French Government’s view, the term “regional understanding” should be taken to mean “any group of Powers whose union is based upon geographical situation or upon a community of interests.”

B. The Positions adopted by Governments.

(a) A number of Governments are in favour of regional pacts of assistance.

The Estonian Government states that: “It seems doubtful whether military aid can be secured on world-wide lines. That being so, it is essential that collective security should be organised regionally.”

The Iraqi Government states that: “It appears to the Royal Iraqi Government that the recent failure of the principle of collective security was due in great part to the absence of any agreement upon military measures to be taken in aid of a Member attacked, and that this absence of agreement was due in turn to the remoteness of many Members from the scene of conflict. It is therefore proposed that while obligations to enforce economic and financial measures should remain worldwide, the obligations to take military measures should be regional in scope and agreed upon in advance among States whose geographical position gives each an immediate and overwhelming interest in the fate of any of the others. These regional agreements would specify the military measures each party would be prepared to take to assist another party the victim of aggression, and they would contain an undertaking in any event to comply immediately with any recommendations of the Council under Articles 10 and 16 of the Covenant.”

This Government proposes that such regional agreements should be open to the accession of Members of the League which are geographically remote: “The more powerful Members of the League would consider how far, in view of their territorial or political interests, they could participate in such regional agreements in remote parts of the world.”

The Latvian Government states that: “As regards the application of military sanctions, the incompleteness of the League is a less weighty factor than in the case of the adoption of political and economic measures. Political and geographical conditions are what matter most here: the former are important in that the indivisibility of certain political problems, a threat to any of the separate elements of which is sufficient to endanger general peace, must be borne in mind; the importance of geographical conditions, from the point of view of the application of military measures, is self evident and needs no comment.”

The Lithuanian Government appears to be in favour of regional understandings, as it states that: “They should merely supplement the general obligations arising under the Covenant in order to make these general obligations more effective.”

The Government of the Union of Soviet Socialist Republics has submitted a number of proposals concerning the application of Article 16, with a view to incorporating mutual assistance agreements within the framework of the Covenant. These agreements are mentioned in paragraphs IV, V, VI, VII, XI of the Soviet communication. Paragraph XI states that: “Mutual assistance agreements between States concerned in the maintenance of security in specific areas shall be recognised as constituting a supplementary guarantee of security within the framework of the Covenant.”

(b) The New Zealand Government, after observing that it does not “accept the desirability of regional pacts”, adds that it is prepared to support them, stating that: “We do not accept the desirability of regional pacts, but, if Members of the League generally approve of such pacts, 1

1 In his speech before the Assembly, referred to in the communication from the French Government, M. Delbos stated that: “Our urgent duty is, therefore, to seek the methods best calculated to bring into closer relationship within the application of the Covenant those measures which are intended for the exertion of economic and financial pressure and those which are devoted to the use of military means. In our view, it is in the organisation of new regional understandings or in the tightening-up of those which already exist, that a solution may be found.”

“With such a system, nations will know exactly on what support they can count in all cases—regional support made definite and strengthened, to which there would be superimposed the obligations of the international community as defined by the Covenant.”
we should be prepared to support a collective system in which all Members of the League, while accepting the immediate and universal application of the economic sanctions contemplated by Article 16, nevertheless, if they desired to do so, restricted to defined areas their undertaking to use force.

"In such a case we consider that the question of the use of force in defined areas should also be made the subject of national plebiscites."

(c) Other States, such as Denmark, Norway and Sweden, which for their part are not prepared to assume obligations going further than those laid down in the Covenant in its present form, are willing to accept mutual assistance pacts under certain conditions referred to below.

C. Conditions to be fulfilled by Regional Pacts of Assistance.

Governments which are in favour of regional pacts, like those which are willing to accept them without proposing to participate in them usually stipulate that these pacts shall satisfy certain conditions.

(a) Open Accession. — The Iraqi Government observes that: "These agreements as initially concluded should be open to accession by other States."

(b) Conclusion of Pacts under the Auspices of the League or Supervision of their Execution by the League.

The Danish Government states that: "As regards the idea of regional pacts, we would urge that they should conform to the principles of the Covenant and should be under the control of the League."

The Estonian Government states that: "It is essential that collective security should be organised regionally, but always in the spirit of the League and under its aegis. As parts of a coherent system, and as stating more precisely the general obligations of the League, such agreements would make it far more effective in practice."

The Finnish Government states that: "As to the possibilities offered by regional associations, it need hardly be pointed out that such associations could only be formed in accordance with the principles of the Covenant and could only operate under League control."

The Norwegian Government states that: "It should be stipulated as a condition sine qua non that they actually constitute part of the League's activities—in other words, States which bind themselves to mutual assistance in that way must not usurp the right to decide for themselves whether action should be taken under Article 16, and should not take measures against an aggressor State unless authorised to do so by the Council."

The Government of the Union of Soviet Socialist Republics proposes that "the following agreements which have been, or may in future be, concluded between two or more States should be recognised as constituting a supplementary guarantee of security within the framework of the Covenant:

1. "(1) Agreements which embody an undertaking to assist any signatory only when the latter is the victim of aggression;
   "(2) Agreements which make assistance obligatory in the same cases in which the Covenant itself acknowledges the right to furnish assistance;
   "(3) Agreements which are registered and published in conformity with Article 18 of the Covenant."

2. Regional Pacts should be complementary, not substitutive. — The Latvian Government states that: "In any case it should be emphasised that regional obligations should merely supplement the general obligations resulting from the Covenant, with a view to making the latter more effective; the activities of regional pacts should be substituted for general obligations can in no case be accepted. The effect would be to create an artificial policy of alliances and groups which might prove a greater danger to peace than present circumstances.

"For these reasons, the Latvian Government is of opinion that the obligations resulting from Article 16 should be maintained in full, and that the efficacy of this article can only be increased by means of additional or supplementary contractual undertakings on the part of the Members of the League."

The Lithuanian Government states that: "In connection with the principle of the universality of the League, the Lithuanian Government considers that the help to be given to a Member victim of an aggression should also be of a universal nature. Regional obligations should therefore merely supplement the general obligations arising under the Covenant in order to make these general obligations more effective."

D. Application of Regional Pacts.

(See same section, IV.)

1 This passage in the Norwegian communication is preceded by the following:

"I have already laid stress on the necessity of strengthening the preventive activities of the League. If this were done, the coercive measures provided for under Article 16 of the Covenant might even be dispensed with. Those activities are, in any case, essential to that end. I agree, however, that it would be a good thing to discuss how the measures in question could be made effective. It has been suggested in various quarters that the general provisions of Article 16 should be superseded by separate regional pacts of mutual assistance against States which resort to war. On July 3rd last, in the Assembly, I expressed some doubt as to the advisability of such pacts, as I feared that they might lead only too easily to alliances such as those with which we were familiar before the war, in which case the pacts would increase rather than avert the risk of war. I understand, however, the grounds on which these regional pacts were proposed, and do not deny their possible utility."

...
V. Application of Article 16 and of the Pacts of Mutual Assistance.


Several Governments mention two points: the rapidity with which the Council is called upon to intervene and the conditions of voting by the Council.

(a) Time-limits.

The Iraqi Government says, as regards regional agreements: "These regional agreements should provide for active co-operation between the parties with a view to the Council's recommendation being made in the shortest possible time."

The Lithuanian Government says: "Noting also that the efficacy of the help afforded to a Member attacked by a covenant-breaking State will depend in most cases on the promptness with which it is rendered, the Lithuanian Government believes that it is necessary to lay down that the duration of the procedure previous to the actual coming into play of the safeguards of the Covenant shall be reduced to a strict minimum."

The Government of the Union of Soviet Socialist Republics proposes that:

"I. In the event of a war against a Member of the League, the Council shall be summoned not later than three days after the notification thereof to the Secretary-General.

"II. Within three days of its convocation, the Council shall reach a decision as to the existence of circumstances calling for the application of Article 16 of the Covenant."

(b) Conditions of Voting.

Several Governments propose that the Council's decision need not be taken unanimously. The Estonian Government says: "Since those safeguards must operate as automatically as possible, consideration should be given to the advisability of abandoning the principle of unanimity in decisions reached under Article 16."

The Lithuanian Government considers "that it is desirable to examine the possibility of enabling decisions to be taken more easily under Articles 10 and 16 of the Covenant by modifying the rule of unanimity."

The Government of the Union of Soviet Socialist Republics makes the following proposal: "Such decision (by the Council) shall be recognised to have been taken if at least three quarters of the members present (not including the representatives of the attacked State and the State denounced) vote in favour of it."

Another Government, the Latvian Government, simply proposes that the votes of the parties should not be counted in reckoning unanimity. It says: "... Any reform of the Covenant must centre round the provisions relating to repressive measures—that is to say, the question of Article 16... It would appear necessary to provide that, in the case of decisions taken under this article, the votes of the parties to the dispute should not be counted for the unanimous vote."

2. Rules to be followed and Definitions to be applied.

(a) Rules.

The Lithuanian Government thinks that: "The procedure for deciding that an aggression has been committed should be improved by making it speedy and by providing clear and quite unmistakable definitions and injunctions."

The Swedish Government says: "... It should be emphasised... that the resolutions adopted by the Assembly in 1921 lay down the guiding principles concerning the powers of supervision belonging to the Council with regard to the loyal application of Article 16."

(b) Definitions.

Several Governments refer to the definition of the aggressor. The Estonian Government says: "Special attention ought... to be paid to defining aggression and determining the aggressor; if such definitions could be more generally applied, the League's collective action might be considerably strengthened."

The Iraqi Government says: "The Royal Iraqi Government would welcome any agreed definition of such terms as 'aggression' and 'resort to war'..."

The Latvian Government says: "The obligations relating to non-aggression embodied not only in the League Covenant but also in many bilateral treaties and in certain important collective instruments might be developed and made still more definite. In this connection, special importance attaches to the definition of aggression and the aggressor, the adoption of which would facilitate and justify collective action, both preventive and repressive, on the part of the League."

The Government of the Union of Soviet Socialist Republics concludes its communication as follows: "I think I should add that, in the opinion of the Government of the Union of Soviet Socialist Republics, the putting into operation of these principles would be facilitated if it were also stipulated that, for the purpose of the application of Article 16 of the Covenant, any State which has committed any act coming within the categories specified in the report on the definition of aggression submitted on May 24th, 1933, by the Committee on Security of the Conference for the Reduction and Limitation of Armaments shall be regarded as having resorted to war."
The Argentine Government seems to express a point of view differing from that of the above-mentioned Governments when it says that "the previous determination of the aggressor in each case and according to circumstances should be laid down as a condition of all sanctions".


The Government of the Union of Soviet Socialist Republics proposes that the Council's recommendation should have the following effect:

"III. As soon as the Council has established the existence of circumstances calling for the application of Article 16, the State which has resorted to war shall, ipso facto, be deemed to be in a state of war with all the Members of the League, and to be subject to measures (sanctions) intended to enforce the obligations of the League.

"IV. Military sanctions shall be taken by the States parties to the mutual assistance agreements operative in the particular case, and by such States as may choose to conform to the recommendation made by the Council as provided in Article 16, paragraph 2, of the Covenant, by the majority indicated in paragraph II above.

"VII. The States Members undertake not to regard as acts of aggression any military sanctions taken by signatories of the mutual assistance agreements or by other Members of the League in virtue of paragraph IV above.

"VIII. Independently of the question of the application of military sanctions to the aggressor State, the Council shall decide, by the majority indicated in paragraph II, as to the application of the measures contemplated in Article 16, paragraphs 1 and 3, of the Covenant, and as to their extent and their execution, and such decision shall be binding upon all States Members."

4. When the Council makes no Recommendation.

The Iraqi Government says that regional agreements "might provide also for the measures to be taken in case the Council, for whatever reason, issues no recommendation or fails to reach a unanimous decision."

The Government of the Union of Soviet Socialist Republics says:

"V. Failure on the part of the Council to reach a decision as mentioned in paragraph II above shall not prejudice the immediate execution, by the States parties to the mutual assistance agreements, of their obligations to afford assistance under the conditions laid down in those agreements."

5. Effect of the Declaration that a State of War exists.

The Government of the Union of Soviet Socialist Republics proposes that, even before the Council's decision, notice addressed to the Secretary-General that a war has broken out authorises certain preparations. Its proposal reads as follows:

"VI. From the moment at which the Secretary-General is notified, with a view to the summoning of the Council, of a war against a State Member, the States parties to the mutual assistance agreements operative in the particular case shall be entitled to take all necessary steps to prepare their armed forces to furnish assistance under the terms of those agreements."


The Iraqi Government says that it "would be glad to see a reconsideration of the Protocol for the Pacific Settlement of Disputes, commonly called the Geneva Protocol."

The New Zealand Government says: "We are prepared to accept, in principle, the provisions proposed for the Geneva Protocol of 1924 as one method of strengthening the Covenant as it exists."

CHAPTER X. — REVISION OF TREATIES (ARTICLE 19).

1. General Declarations.

The Argentine Government suggests that "the absolute respect due to international treaties should be reaffirmed, subject to the right of revision laid down in the Covenant itself."

We have seen (Chapter I, Section I) that the Hungarian Government stated, through M. de Velics: "The Hungarian Government would like to bring these punitive provisions (the punitive provisions of the Covenant) into equilibrium with the other provisions of the Covenant, which—in particular Articles 11, 13 and 19—provide pacific and preventive means of settling disputes that may arise between States Members and offer possibilities of remedying situations the maintenance of which might imperil world peace."

The Government of Iraq says: "... No real attempt has been made to discuss effectively those post-war conditions which are regarded as unjust by some States, or to apply in any practical way the principles of equity contained in the Covenant. On the other hand, meetings at Geneva
have been used by some States for partisan ends and not for real deliberation for the purpose of achieving a satisfactory settlement of grievances.”

The New Zealand Government says: “We believe that the Peace Treaties of the Great War carried within themselves the germs of future conflicts. We realise the enormous (but not insuperable) difficulties of reconsidering the status established by those Treaties and for our part we are prepared in the most genuine and broadminded spirit to join in such a reconsideration.”

2. Proposals advanced.

A. Adoption of a Stricter Formula.

The Peruvian Government states: “The Assembly’s power to advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world should be superseded by a more precise formula enabling the Assembly to take action of its own accord or through bodies appointed by it. Otherwise, the principle of rebus sic stantibus, which should be upheld in the interests of peace and international order, cannot operate, because it depends on the unchecked will of a State whose interest it may be to prevent its operation.”

B. The Unanimity Rule.

The Peruvian Government suggests that unanimity should be superseded by a two-thirds majority. “Here again”, it says, “it is desirable that an exception should be made to the unanimity rule and that decisions should be taken by a two-thirds majority.”

The Norwegian Government says: “I should . . . like to point out that Article 19, which simply speaks of ‘advising’ the Members of the League to discuss amicably questions likely to ‘endanger the peace of the world’, and does not confer upon the League the power to take ‘decisions’ suggests a prudent and moderate method of which advantage could be taken without the agreement of all the Members being required.”

C. Participation of Non-Member States in a General Reconsideration of the Peace Treaties.

The New Zealand Government says: “For any general reconsideration of the Peace Treaties, we should wish to see all the nations of the world, whether Members of the League or not, invited to take part.”

CHAPTER XI. — REGIONAL UNDERSTANDINGS (ARTICLE 21).

References. — 1. Chapter II (Universality), Section III (Continental or Regional Organisation of the League of Nations), contained proposals for changing the structure of the League; Chapter IX, Sections II, IV, 2, dealt with the question of regional pacts of mutual assistance.

2. There are two proposals relating to Article 21, one from Colombia and the other from Peru.

The Government of Colombia says: “The reference in Article 21 of the Covenant to the Monroe doctrine as a regional agreement would be replaced by recognition of the regional or continental agreements which would be established.”

The Government of Peru, in the same connection, proposes a substantial modification in Article 21, since “the Monroe doctrine is not a regional understanding but a unilateral rule of the foreign policy of the United States”. It adds: “It (this doctrine) cannot therefore be held up as an example of such understandings. Successive administrations in the United States have always construed it in this sense. Latin America does not recognise it as an international obligation affecting her, and when the question of its enforcement has arisen, the United States has declared that it had the sole right to invoke it and to decide as to the propriety of applying it.”

The Government of Peru desires, in addition, that regional agreements should be declared by the Council to be consistent with the Covenant. It says: “Regional understandings, agreements or pacts are, in principle, to be highly recommended, especially in connection with the possibilities of Article 16, in regard to the application of sanctions, but within a legal system such as that of the League such agreements or understandings should be explicitly declared by the Council to be consistent with the Covenant.”

CHAPTER XII. — COLONIAL MANDATES (ARTICLE 22).

The Government of Iraq says: “There is an urgent need that . . . the possibility of extending the application of the principles of the mandates system should be examined . . . For the examination of these questions, it is desirable to set up commissions to elucidate the facts in each case and to report to the Assembly. There is ample provision in the Covenant for this step.” It adds: “. . . In formulating a plan for the extension of the mandates system, the
continuous development of the peoples under mandate should be provided for in the most explicit and practical manner.

CHAPTER XIII. — FORMS OF INTERNATIONAL CO-OPERATION.

In the statement by the Foreign Ministers of Denmark, Finland, the Netherlands, Norway, Spain, Sweden and Switzerland, published on July 1st, 1936, which is reproduced in the communications from Denmark and Sweden, it is stated that: "The League's activities in all political and economic spheres, which have been partially paralysed by recent crises, must be resumed, and an attempt must be made to progress towards the solution of the main problems of the day."

SECTION I. — CO-OPERATION IN THE ECONOMIC SPHERE.

1. The General Question of International Trade.

The Danish Government, in referring to bilateral commercial agreements, makes the following proposal: "The Assembly will instruct the Economic Committee to prepare a survey showing how far bilateral trade agreements have met the wishes expressed by certain past Assemblies in regard to the expansion of international trade, and, if possible, to base upon that survey proposals for ways and means of taking action on those lines."

The Finnish Government says: "One way to make it easier for countries to supply their own needs within their present frontiers, and so to reduce the number of disputes due to economic circumstances, would seem to be to intensify the League's activities in the direction of facilitating international trade."

The Government of Iraq says: "It is an urgent need that questions of tariffs, quotas and other restrictions on international trade should be examined. For the examination of these questions, it is desirable to set up commissions to elucidate the facts and to report to the Assembly."

The Norwegian Government is in favour of conferences dealing with various economic questions. It says: "It considers that it would be useful, in the first place, to organise international conferences to deal with certain economic questions. The failure of the London Conference of 1933 to achieve positive results was perhaps due in part to the fact that it aimed too high, and there would probably be more chance of success if the League arranged separate conferences to deal with particular economic questions."

The New Zealand Government says: "We realise the important effect of economic conditions on the peace of the world and we should wish, also, that a world-wide survey of such conditions should be undertaken at the same time."

2. Raw Materials.

The Danish Government makes the following proposal: "A committee of experts will be appointed to enquire into the scope of the question of free and equal access to the markets for raw materials from colonial areas and, should this appear necessary, to draft an international convention securing such access."

The Government of Iraq mentions "raw materials" among the questions which should be urgently examined.

The Norwegian Government says: "There is, however, another economic question which brooks no delay, as it is closely bound up with the risk of war. I refer to the question of raw materials for industry, and particularly raw materials coming from colonies. At the Assembly of September 1935, this question was referred to by the first delegate of the United Kingdom, because it was pertinent to the Italo-Ethiopian conflict, and a far-reaching international discussion of it at the earliest possible moment appears to be logical and necessary."


The Government of Iraq mentions these two questions among those which should be urgently examined.

SECTION II. — CO-OPERATION IN THE FINANCIAL SPHERE.

The Danish Government makes the following proposal: "We propose that the question of an agreement on monetary conditions such as may provide a firmer foundation for international trade should be placed on the agenda of the September session of the Assembly. With the backing of the statements that may be made at the Assembly, this problem should be referred to the Financial and Economic Committees, which should have the assistance of representatives of the
Bank for International Settlements at Basle. An attempt should be made to secure the participation of non-member States in the work of these Committees, since their co-operation will be an important factor in the solution of the problem. It should thus be possible to frame a draft Convention which the various countries could accept conditionally upon its acceptance by certain other countries."

The Norwegian Government says: "One of the questions that naturally arise is that of a general stabilisation of currencies, and a successful effort to settle this question would undoubtedly improve international relations. Nevertheless, I am not quite sure that the world situation is as yet sufficiently favourable for a general discussion of this kind."

SECTION III. — CO-OPERATION IN BRINGING ABOUT A CLOSER UNDERSTANDING BETWEEN PEOPLES.

The Governments of Denmark, New Zealand and Norway make various proposals with the same object.

The Danish Government says: "The September Assembly will consider means of:"

(a) Securing the general acceptance of the Convention on the Use of Broadcasting in the Cause of Peace, which will be concluded as the outcome of the Conference called for September 17th, where both Member and non-member States will be represented;

(b) Continuing the work begun at the first two Press Conferences, at Copenhagen in 1932 and at Madrid in 1933 respectively;

(c) Organising propaganda more actively than has yet been done, with the help of literature, the Press, broadcasting, and the cinema, and in conjunction with the private organisations pursuing like aims, in favour of a better mutual understanding between peoples, in order to strengthen the spirit of peace and develop international co-operation."

The New Zealand Government says: "We feel that the peoples of the world, as distinct from their Governments, should be afforded every possible facility for following the transactions of the League, and that all appropriate League discussions and decisions should accordingly be broadcast by short-wave radio."

The Norwegian Government observes: "I should like to allude briefly to the importance of what is known as moral disarmament, which aims at abolishing antagonisms between nations and creating a spirit of good-will among them. For this purpose, the support of the Press, broadcasting, literature, and the schools should be enlisted. I would point out that the Northern countries have already agreed to censor history text-books to ensure that the information they contain is correct and fosters agreement between neighbouring countries. This practical example should be followed by other nations, as it may help to develop the mentality calculated to give life and strength to international institutions working on behalf of peace."

CHAPTER XIV. — SEPARATION OF THE COVENANT FROM THE PEACE TREATIES.

The Government of Iraq says: "The incorporation of the Covenant in the Treaty of Versailles and other treaties concluded after the war of 1914-1918, tends to associate it with advantages gained by the victorious nations at the expense of those which were defeated. The formal connection of the Covenant with these treaties should be ended."

The New Zealand Government says: "We are prepared to agree to a proposal that the Covenant of the League should be separated from these peace treaties."

CHAPTER XV. — INTERPRETATION OF THE COVENANT.

The Colombian Government makes the following proposal: "Any doubts as to the interpretation of the Covenant would be settled, at the request of any Member of the League, by the Permanent Court of International Justice."