

Geneva, June 1st, 1931.

LEAGUE OF NATIONS

**AMENDMENT OF THE COVENANT OF THE
LEAGUE OF NATIONS IN ORDER TO BRING IT INTO HARMONY
WITH THE PACT OF PARIS**

OBSERVATIONS SUBMITTED BY GOVERNMENTS

Series No. 1.

Note by the Secretary-General.

In execution of a resolution adopted by the Assembly on October 4th, 1930, relating to the question of the amendment of the Covenant in order to bring it into harmony with the Pact of Paris, the Secretary-General, by a letter dated November 20th, 1930 (C.L.304.1930.V), submitted to the Members of the League the report of the Committee of Eleven and that of the First Committee of the Eleventh Assembly (both of which are reprinted in document C.623.M.245.1930.V), asking them to be so good as to formulate any observations they might desire to make thereon before June 1st, 1931, the date fixed by the Assembly for this purpose.

The present document contains the following replies from Governments which had been received by the above-mentioned date :

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Australia.

LETTER DATED FEBRUARY 27TH, 1931.

The view of the Commonwealth Government is and always has been that the Covenant of the League should be brought into harmony with the Treaty for the Renunciation of War. Accordingly, after very careful consideration the Commonwealth Government decided, prior to the last Assembly, to accept the amendments proposed by the Committee of Eleven subject to certain minor modifications. They now consider that the texts submitted by the Sub-Committee of the First Committee of the Assembly are an improvement on the texts proposed by the Committee of Eleven, and they therefore propose to support the amendments in this form, and hope they will be adopted by the next Assembly. It must be understood that ratification of the amendments by the Commonwealth of Australia will be dependent upon the entry into force of a general treaty for the reduction and limitation of armaments.

Series of League of Nations Publications

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Bulgaria.

LETTER OF MAY 30TH, 1931.

[*Translation.*]

In faithful pursuance of its peaceful policy, my Government is ready to accept any amendment of the Covenant which might be necessary in order to incorporate therein the general prohibition of recourse to war and the principle that the settlement of international disputes and conflicts may never be sought except by pacific means.

The idea of bringing the Covenant of the League of Nations into harmony with the Pact of Paris has, therefore, the full approval of the Bulgarian Government.

China.

LETTER DATED MAY 14TH, 1931.

I am instructed by the Ministry of Foreign Affairs, Nanking, to inform you that the Chinese Government is in favour of the amendments proposed by the First Committee of the last Assembly, which, in its opinion, are more clearly worded and are also in their meaning in the text more in accordance with the aim of harmonising than those proposed by the Committee of Eleven, although there is no essential difference between the sense of the texts of the two Committees.

The Chinese Government further considers that in international disputes one nation has sometimes attempted to menace another by taking military action against it, and has thus in fact created a state of war, whilst avoiding any legal recognition of war. Such aggression in the international field is obviously opposed to the aims both of the Covenant of the League of Nations and of the Pact of Paris. The Chinese Government, therefore, thinks it would be advisable if some effective measures could also be provided for in the Covenant to prevent this danger.

Finland.

LETTER OF MAY 30TH, 1931.

[*Translation.*]

While maintaining in principle the observations which it made in its letter of February 7th, 1930,¹ and in the various Committees of the Eleventh Assembly on the subject of the contemplated amendments, the Finnish Government is anxious to contribute to a solution the provisions of which would really be of a nature to satisfy all the States concerned. Confining itself as far as possible to the texts drawn up respectively by the Committee of Eleven and the Sub-Committee of the First Committee, it ventures to raise for discussion the following points :

Article 12.

The Finnish Government has drawn attention to the risks involved in inserting the fundamental principles of the Pact of Paris in the Covenant of the League of Nations merely in the form of a simple prohibition of resort to war. It is necessary to prevent any interpretation capable of leading to the conclusion that it is only war which is contrary to the pacific methods through which the solution of international disputes ought to be sought. There are forms of recourse to armed force, measures of coercion, which although not considered as amounting to war, must be regarded as in essence non-pacific methods. By combining in the same sentence the prohibition of recourse to war and the invitation to employ pacific methods the draft adopted by the Sub-Committee in itself tends to remove the contradiction which in this connection is apparent in the text of the Committee of Eleven. The amendment annexed to the present letter constitutes a further improvement although it certainly does not entirely satisfy the Finnish point of view. The amendment is also one which strictly follows the present text of the Covenant.

The new texts on which observations are invited are open to the criticism that, if taken literally, they appear to adjourn methods of pacific procedure in the strict sense (arbitration, judicial settlement, examination by the Council) until after other pacific methods have already proved ineffective. This is not the meaning of the Covenant, for by Article 12 of the Covenant the Members of the League agree that they will submit disputes likely to lead to a rupture to one or other of the methods of procedure indicated in the article.

The preceding observation is the more deserving of attention in that it may perhaps be necessary to reckon with views in favour of bringing, at least under certain conditions, coercive measures such as pacific blockade or armed occupation within the category of pacific methods. The principle which at present is dominant in the Covenant — namely, that of the pre-eminence of purely pacific methods — must therefore be maintained.

¹ See document A.8.1930.V (Legal 1930.V.2.), page 18.

There is, moreover, a slip in the Sub-Committee's text in the phrase, " Si le différend n'a pu être réglé ". Account has not been taken of the fact that the same expression : " Si le différend n'a pu se régler " is used in Article 15, paragraph 4, of the Covenant with reference to a different case.¹

Article 13, Paragraph 4.

It appears desirable not to abandon the idea at present expressed by the words " will not resort to war against a Member of the League which complies therewith ". Combination of this idea as expressed in the amended draft drawn up by the Committee of Eleven with the prohibition proposed by the Sub-Committee (" . . . in no way to support . . . ") would exactly express what the legal position ought to be.

Article 15, Paragraphs 6 and 7.

The Finnish Government urges that the proposals of the Committee of Eleven are to be preferred. It further ventures to draw attention to the alternative draft which it suggested in its letter of February 7th, 1930.² Careful examination of the Sub-Committee's text reveals a tautology the object of which is to conceal the absence of any real substance. Article 15, paragraph 4, already implies that a report adopted by the Council either unanimously or by a majority must recommend a solution appropriate to the circumstances. Why then proceed to a recommendation which is inherent in the recommendation already made ?

Paragraphs 6 and 7 as they appear in the Sub-Committee's draft merely repeat in somewhat different language (paragraph 6 : " the Council shall invite the parties to comply with the recommendations of the report " : paragraph 7 : " it shall examine the procedure . . . and recommend it to the parties ") the proposition that only a recommendation is in question. It all comes to the same thing and proves to be no more than a formula which evades the problem to be solved.

If one is determined neither to recognise the recommendations of the report as binding nor to compel the dissatisfied party to submit the dispute to some other procedure, one might nevertheless insist that the party which complies with the recommendations of the report may make this a ground for claiming a settlement of the dispute in accordance with the Council's recommendations. It is to be anticipated that a recommendation not unanimously adopted by the Council will not be accepted by the parties themselves. It is therefore desirable that the Council should in such case recommend to them some further procedure for reaching a solution of their dispute. The text could thus be drawn up in such a way as to bring out the different cases which may arise.

A draft which takes account of the above observations is annexed.

Annex.

TEXT PROPOSED BY THE GOVERNMENT OF FINLAND.

Preamble.

(Follows the amendment proposed by the Committee of Eleven.)

Article 12.

1. The Members of the League agree that, if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or judicial settlement or to enquiry by the Council. They agree in no case to resort to war for the settlement of their disputes and to employ only pacific means to attain such settlement.

2. (Follows the proposal of the Sub-Committee.)

Article 13, Paragraph 4.

The Members of the League agree that they will carry out in full good faith any award or decision that may be rendered and will in no way support a State in refusal to carry out such award or decision. It is understood that a Member of the League will not take any action against any Member which complies with such award or decision.

(The last paragraph is to follow the text of the Sub-Committee.)

¹ The words used in the English text of the Sub-Committee's proposal for Article 12 are : " If the dispute cannot be otherwise settled " and those employed in the English text of Article 15, paragraph 4, of the Covenant are " If the dispute is not thus settled ".

² " If a report by the Council is unanimously agreed to by the members thereof other than the representatives of one or more of the parties to the dispute, and if the parties declare themselves ready to accept the report, the recommendations of the report shall have the same force and effect as an arbitral award. Should the report not be accepted by all the parties, any party shall, at the request of any other party, be bound to submit the dispute either to proceedings for judicial or arbitral settlement or to a conciliation commission, of which the composition shall be determined by the Council acting by a majority vote of its members other than the parties to the dispute. In case the dispute should fail to be settled within a reasonable period after the Council has made its report, the Council shall resume examination of the case, on the understanding that any party which refuses to comply with a unanimous decision of the Council shall be regarded as menacing by its attitude the maintenance of peace and good understanding between nations.

" If the Council fails to reach a report which is unanimously agreed to by the members thereof, other than the representatives of one or more of the parties to the dispute, the recommendations of the report shall have the force of a recommendation capable of being taken into consideration by all the Members of the League and by any tribunal before which the dispute may be brought."

Article 15, Paragraphs 6 and 7.

(If the guiding idea of the Sub-Committee is adopted, and accordingly the recommendations of the report are not recognised to have any obligatory force, the following text is proposed :)

6. If the report of the Council is unanimously agreed to by the members thereof other than the representatives of one or more of the parties to the dispute, the party which complies with the recommendations of the report may make this a ground for claiming a settlement of the dispute in accordance with the Council's recommendations. The Members of the League undertake in no way to support any party in a refusal to comply with such recommendations.

7. If the Council fails to reach unanimity as defined in the previous paragraph and the parties do not accept the recommendations made by the majority, the Council shall make recommendations as to the best procedure to be followed subsequently by the parties for the settlement of their dispute.

Article 16, Paragraph 1.

(The text proposed by the Sub-Committee.)

France.

LETTER OF MAY 2ND, 1931.

[*Translation.*]

In a letter of November 20th last you were good enough to draw my special attention to the proposed amendments to the Covenant of the League of Nations prepared by the Committee of Jurists in March 1930, and by the First Committee of the Assembly, with a view to bringing the Covenant into harmony with the Pact of Paris. You reminded me on that occasion of the desire expressed by the Assembly to receive by its next session the views of the Members of the League of Nations on these two documents.

At the outset of the work, the results of which are contained in the reports in question, I took the opportunity of explaining to the Council of the League of Nations my views as to the bringing into harmony of the two instruments. Expressing my agreement with the words just spoken by Mr. Henderson as to the necessity of this task, I indicated the spirit in which I considered it should be undertaken. I emphasised that it was not a question of transferring from one instrument to the other the principle of prohibiting recourse to war, a principle henceforth universally accepted, but of adapting this general principle to the positive, concrete and legal provisions of the organic regulations constituted by the Covenant, which binds together the Members of the League. "The members of the Committee", I said in this connection, "will again have not only to study methods by which war can be condemned in future, but also to consider means, other than words, for dealing with this terrible scourge."

I will not examine in detail to what extent the work of the Committee of Jurists and of the First Committee of the Assembly has fulfilled this promise, and to what extent the Covenant of the League of Nations, amended according to their proposals, would retain "that organic structure" which, as the German Government rightly pointed out, must, throughout its development, be safeguarded. Such as these amendments are, they were accepted by the French Government through their representative on the First Committee, on the ground that that Government should not prevent the attainment of unanimity in favour of the introduction into the Covenant of the League of Nations of the principle of prohibition of war, even if this principle were not for the moment to lead to such consequences as in the French Government's view logically follow from it.

My Government can therefore only note with regret that the unanimity in favour of which they had provisionally sacrificed certain of their views has not been obtained ; but they have not been unduly surprised to observe a certain hesitation which, in their opinion, has its origin in the omissions in the system proposed.

The French representatives have often pointed out to the League of Nations that it would be very difficult to reach a final settlement of the question of sanctions, which is to some extent the frame of the edifice of security, if that edifice was not built upon solid foundations. If all disputes brought before the Council of the League of Nations were not assured of a final settlement, a way would be left open to wars which would break out without there being any objective evidence for determining the aggressor and would impose on each State the responsibility of deciding, on incomplete and in any case subjective evidence, the manner in which it should fulfil the imperative duty laid on it by Article 16 of the Covenant. I do not think I am misinterpreting the facts when I state that the fear that, owing to this uncertainty there may be a renewal of wars similar in their character to the "private wars" known to history, was the chief cause of the difficulties which the Committee of Jurists encountered in attaining unanimity without reservations, and by which in its turn the First Committee was constantly impeded.

The French Government have no desire to disregard the risk involved by the insertion in the Covenant of a principle such as that of compulsory arbitration, if such principle were

to be considered too far in advance of public opinion and if, after its adoption by the Assembly, it were not to receive the ratifications required by the Covenant for the coming into force of the amendments. It is in reality the opinions of Governments and public opinion in general that must be prepared for the idea of compulsory arbitration; for this purpose the League of Nations has created an instrument open to the free accession of Government: the General Act of Arbitration. And since the situation of the problem before us in regard to the amendments to the Covenant is such at the present time that in no case could these amendments come into force before the completion of the work of the Disarmament Conference, the French Government wonder whether the delay imposed by circumstances on the League of Nations could not be profitably used by the League and by its Members in making a genuine effort for speeding up accessions to the General Act. The extension of the General Act of Arbitration would in itself involve the disappearance of the main difficulty encountered by the Committee of Jurists and the First Committee of the Assembly, a difficulty whose persistence prevents their work from being harmonious. It is quite clear that, if compulsory arbitration as a final means of the settlement of international disputes were accepted by a large number of States, the incorporation of such an obligation in Article 15 of the Covenant would then become merely a formal question.

On this subject the French Government desire to make a practical suggestion which in their opinion will help to co-ordinate the efforts now being pursued concurrently by the League of Nations. They do not intend to return to the arguments which led the Assembly, in drawing up the Act of Arbitration in 1928, to set aside deliberately any reference to proceedings under the Covenant in order to make this Act equally accessible to States non-members and to States Members of the League. But as regards the Members of the League of Nations whose ordinary organ for political disputes is the Council, a question of jurisdiction arises. Several Governments, and in particular the French Government, in acceding to the General Act, have emphasised by a reservation that, in the case of political disputes, arbitration as provided for under that Act did not form a jurisdiction concurrent with that of the Council, but a subsidiary one, a tribunal so to speak of second degree, intended to fill up the gap in Article 15 (paragraph 7). It would seem that some formula reconciling the two procedures and based on the regulations outlined in the accessions of certain States might well be considered by the League of Nations and proposed to Member Governments. The French Government would see several advantages in this: accessions to the General Act would be made easier for States desirous that procedure before the Council should not be eliminated; the obligations of Members of the League of Nations under the General Act would be made clearer; and a solution would be given to a problem which, in its other aspect, the League of Nations will have to face when it has to take the Covenant as a point of departure and consider the methods of completing the procedures laid down in Article 15.

The above suggestions are not extensive; they do not form an outline for a perfect and final work, but a programme for gradual development, based on the lessons of experience and on respect for national opinion whose support is indispensable for the drafting of an organic charter of peace. The progress of the idea of compulsory arbitration, especially since last Assembly, gives grounds for hope that before the expiration of the period fixed for the coming into force of the amendments, the League of Nations may be in a position finally to adapt the Covenant to the legal situation created by the Pact of Paris.

United Kingdom of Great Britain and Northern Ireland.

LETTER DATED FEBRUARY 17TH, 1931.

1. His Majesty's Government in the United Kingdom continue to support wholeheartedly the principle involved in the proposal to bring the Covenant of the League into harmony with the Pact of Paris.

2. As the Members of the League are already aware, His Majesty's Government in the United Kingdom were in favour of the proposals made by the Committee of Eleven and were ready to accept them, subject to certain minor modifications, at the recent Assembly. They fully recognise, however, the value of the work done during the Assembly by the First Committee, and they are of opinion that the texts contained in the Report of the First Committee are an improvement on the original proposals of the Committee of Eleven. In particular, they are of opinion that the text proposed by the First Committee for Article 13, paragraph 4, while carrying out the intention of the Committee of Eleven, is free from certain ambiguities which existed in the text proposed by the latter and which might have rendered its acceptance difficult for certain Members of the League. Again, while they were themselves prepared to accept the text proposed by the Committee of Eleven for Article 15, paragraph 6, they consider that, in view of the discussions in the First Committee and of the provisions of other articles of the Covenant, the text proposed by the First Committee is preferable; and they are therefore ready to join with the other Members of the League in accepting it. His Majesty's Government in the United Kingdom are accordingly of opinion that the amendments proposed by the First Committee are best fitted to attain the object of incorporating in the Covenant the general prohibition of resort to war and the principle that the settlement of international disputes should never be sought except by pacific means, and they hope that the amendments in question will be adopted by the Assembly of 1931. They wish, however, to repeat that ratification of these amendments on behalf of the United

Kingdom will be made dependent upon the entry into force of a general treaty for the reduction and limitation of armaments.

3. The attention of His Majesty's Government in the United Kingdom has been called to two minor points of form in the texts proposed by the First Committee, which might be considered when the amendments again come before the Assembly. In the first place it has been suggested that in Article 12, paragraph 2, the word "or" should be substituted for the word "and". Secondly, His Majesty's Government in the United Kingdom consider that in Article 13, paragraph 4, the word "judicial" should be inserted before the word "decision" wherever the latter word occurs.

India.

LETTER DATED FEBRUARY 13TH, 1931.

The Government of India state that they have no observations to offer.

Italy.

LETTER OF APRIL 16TH, 1931.

[*Translation.*]

Since the majority of the Members of the League of Nations have acceded to the Pact of Paris, the Italian Government considers, as a matter of principle, that it is desirable to embody in the Covenant of the League of Nations a clause forbidding resort to war. For this reason the Italian Government endorsed the proposal made by the British delegation to the 1929 Assembly with a view to bringing the Covenant and Pact into harmony.

The Italian Government considers, however, that the pursuit of this object should be abandoned unless it were likely to result in a real improvement in the working of the system established by the Covenant of the League of Nations for the pacific settlement of disputes. There is no objection to the application of both Covenant and Pact between the States which are bound by both of them; the mere fact that one of these agreements still admits the possibility of war in certain cases, while the other has eliminated this possibility, does not appear to create practical drawbacks sufficiently serious to call for the amendment of the Covenant, especially as there is no hope of really perfecting it.

The Italian Government considers that, as a whole, the proposals of the eleven jurists represented not only an adaptation of the Covenant of the League to the new principle introduced into international law by the Pact of Paris, but an effective improvement in the Covenant in that the Eleven were endeavouring to find more efficacious methods for the pacific settlement of disputes as a counterpart to the diminution of all possibility of resort to war.

For this reason the Italian Government is of opinion that the amendments proposed by the Eleven to Article 15 of the Covenant should be adopted in preference to those proposed by the Sub-Committee, which have a much more limited scope.

* * *

After this statement of principle, the Italian Government is prepared to admit that the texts proposed by the Sub-Committee for Articles 12 and 13 (the preamble proposed by the Eleven has been retained by the Sub-Committee) seem from the technical point of view to be drafted with more precision than the corresponding texts drawn up by the Eleven.

The negative undertaking in Article 13 of the Covenant, not to resort to war against any Member of the League which complies with an award or decision rendered, becomes in the text submitted by the Eleven a rather vague undertaking not to "take any action against any Member of the League which complies therewith". On the other hand, the wording proposed by the Sub-Committee, by which the undertaking is in no way to support a State in refusal to carry out an award or decision, seems sufficiently clear to avoid ambiguity as to the acts prohibited.

As regards Article 15, the Italian Government has already stated that for general reasons it prefers the wording proposed by the Eleven. It wishes to add, however, that it is deeply appreciative of the effort made by the Eleven to lighten the Council's task of reaching a solution in any dispute by making compulsory all its recommendations if adopted unanimously, and by allowing it the right always to ask the Permanent Court of International Justice for an opinion, a unanimous vote to this effect not being necessary.

The objections which have been raised to these proposals do not seem sufficiently serious to justify their abandonment.

If all possibility of resort to arms is eliminated, it becomes increasingly necessary that disputes arising between States should not be allowed to continue unsettled. The Italian Government agrees with the Committee of Eleven that the accession of all the Members of

the League to the General Act of Conciliation and Arbitration of 1928 is a logical corollary of the prohibition of war ; Italy has decided to accede to the Act.

Meanwhile, all States should agree to the proposals drawn up by the Eleven with a view to strengthening the means for the pacific settlement of disputes.

It is worth while to add that the power, given to the Council to consult the Permanent Court by a majority decision only, in no way prejudices the working of the Covenant. However the general rule in Article 15, paragraph 1, of the Covenant may be applied in the different cases in which the last sentence of Article 14 may be operative, it is certain that the special scope of Article 15 is based on the urgent need to eliminate any dispute likely to lead to a rupture, if the parties concerned do not seek settlement of their difference by arbitration or legal means. The case is therefore sufficiently serious to authorise, on a majority vote only, the taking of steps, not to settle the question entirely, but merely to consult a non-political institution of the highest authority.

Lastly, as regards Article 16, the Italian Government accepts the amendment proposed by the Sub-Committee, which is purely consequential upon the amendments proposed to Articles 12, 13 and 15.

* * *

The Italian Government realises the difficulties with which the Committee of Eleven, and later the Sub-Committee, were faced in reconciling the need for amendment of the Covenant with the point of view of some States which were anxious not to find themselves in a situation more difficult than before if other States failed to discharge their obligations.

It recognises the force of the argument that the sanctions under Article 16 will be applied, as soon as resort to war is completely forbidden, in cases not formerly covered. The Italian Government considers that, if the Governments which have stated that they are unwilling to undertake wider obligations continue to maintain their attitude, this might be met by adopting the proposal submitted to the Sub-Committee, to insert after the first paragraph of Article 16 the following clause :

“ . . . Provided always that in the case dealt with in Article 16, paragraph 7, the Members of the League may make their action subject to the condition that the Council is unanimous either in proposing provisional measures intended to re-establish peace or in declaring which is the Covenant-breaking State.”

Actually, any extension of the application of sanctions is only conceivable where the Council's decision on the crux of the question is not arrived at unanimously ; in such a case, under the present terms of the Covenant, the Members of the League have the right to take such action as they shall consider necessary for the maintenance of right and justice. It is obvious, therefore, that in this case, unless the Council unanimously informs it which is the Covenant-breaking State and if the question has not been settled otherwise, a Member of the League can at least ask not to be forced to apply sanctions.

* * *

Another apprehension was expressed in the Sub-Committee which the Italian Government considers legitimate but easy to dispel.

Some Members of the League of Nations are not signatories of the Pact of Paris. It would not be in accordance with the mutual understanding which should exist between associated countries if such Members were indirectly forced to accept the said Pact in the form of an amendment to the Covenant of the League.

The Italian Government therefore endorses the proposal that the Pact of Paris should not be mentioned even in the title given to the amendments to the Covenant, in order that it may be perfectly clear that there is no legal connection between the two instruments, and that the object of the amendments is to voice in the Covenant the idea of forbidding resort to war, as a purely objective idea and without reference to any other text.

* * *

It has been pointed out that some States, when signing or acceding to the Pact of Paris, did so subject to special interpretations of its terms.

The Italian Government does not think it possible to take these declarations into consideration in an instrument such as the Covenant of the League of Nations, which could obviously not admit of reservations or limited accessions.

One of these interpretations, however — that which excepts from the prohibition a resort to war in self-defence — has been regarded as being based on a general legal principle.

In the opinion of the Italian Government it is not in the least necessary to include in the amendments a clause relating to self-defence, since it is obvious that a State which had

disregarded the clause forbidding war could not demand that the State attacked by it should observe that clause.

If, in spite of the self-evidence of this principle, other Governments think it better to refer to the case in question, the Italian Government offers no objection. A sentence to that effect might be included in the Assembly resolution approving the amendments.

* * *

In conclusion, the Italian Government has the honour to submit the following proposals :

- A. To adopt the text of the preamble drawn up by the Committee of Eleven Jurists and accepted by the Sub-Committee of the First Committee of the Assembly ;
- B. Article 12, paragraph 1 : to adopt the text drafted by the Sub-Committee ;
- C. Article 13, paragraph 4 : to adopt the text drafted by the Sub-Committee ;
- D. Article 15, paragraphs 6, 7 and 7bis : to adopt the texts drafted by the Committee of Eleven ;
- E. Article 16, paragraph 1 : to adopt the text drafted by the Sub-Committee ;
- F. Article 16, to insert immediately after paragraph 1 the following paragraph :

“ Provided always that in the case dealt with in Article 16, paragraph 7, the Members of the League may make their action subject to the condition that the Council is unanimous either in proposing provisional measures intended to re-establish peace or in declaring which is the Covenant-breaking State.”

New Zealand.

LETTER DATED FEBRUARY 12TH, 1931.

His Majesty's Government in New Zealand are prepared to accept the text of the proposed amendments to the Covenant suggested by the First Committee of the Assembly, subject to two minor amendments as follows :

- (1) That in Article 12, paragraph 2, the word “ or ” should be substituted for the word “ and ”, and
- (2) That in Article 13, paragraph 4, the word “ judicial ” should be inserted before the word “ decision ” wherever the latter word occurs.

His Majesty's Government in New Zealand wish, however, to make it plain that their ratification of these amendments will be made dependent upon entry into force of a general treaty for the reduction and limitation of armaments.

Panama.

LETTER DATED JANUARY 7TH, 1931.

[*Translation.*]

The Government of Panama has no observations or proposals to make in regard to the two reports in question ; it considers that the report of the Committee of Eleven is better suited to attain the end in view.

Netherlands.

LETTER OF MAY 15TH, 1931.

[*Translation.*]

In its note dated February 14th, 1930, the Government of the Netherlands has already expressed its sympathy with the idea on which the amendments proposed by the British Delegation at the Tenth Assembly was based — that is to say, the bringing of the Covenant of the League of Nations into harmony with the Pact of Paris. The Government of the Netherlands is fully prepared to assist in devising amendments for the purpose of incorporating in the Covenant the general prohibition of resort to war and the principle that the settlement of international disputes should never be sought except by pacific means.

Although on certain points it would have preferred the wording which was proposed at a previous stage, Her Majesty's Government could accept the texts prepared by the First Committee of the Eleventh Assembly. The delegation of the Netherlands was not among those which drew the attention of that Committee to certain new political aspects of the question which would make further consideration desirable ; the Government of the Netherlands therefore does not feel called upon to express any opinion on this matter. The Government takes the liberty of expressing its hope that those Members who find difficulty in accepting the amendments by reason of these new political considerations will be prepared to indicate more clearly the nature of the said difficulties.

In these circumstances, and pending further explanations that the Governments in question will, we trust, submit, the Government of the Netherlands will confine itself to these brief remarks.

Poland.

LETTER DATED MARCH 28TH, 1931.

[*Translation.*]

The Polish Government have examined with the greatest care document C.623.M.245. 1930.X, communicated to them by the Secretary-General of the League, and have reached the following conclusions :

1. The Polish Government maintain their favourable opinion of the whole of the proposals made by the Committee of Eleven, in accordance with their views which were explained at the last League Assembly by the Minister for Foreign Affairs. The Polish Government consider, however, that the discussions which took place at that Assembly preclude any hope that those proposals will prove acceptable to all the Members of the League. Therefore, they no longer consider it practicable to retain the texts submitted by the Committee of Eleven, although they regard those texts very favourably.

2. The Polish Government consider that it would be easier to obtain the accession of the Twelfth Assembly to the texts drawn up by the Sub-Committee of the First Committee of the Eleventh Assembly. The proposals of that Sub-Committee involve less radical changes in the League Covenant and will doubtless give rise to fewer objections than the proposals of the Committee of Eleven. Moreover, in the Polish Government's opinion, the amendments introduced by the Sub-Committee's text are sufficiently far-reaching to be regarded as meeting the wishes of the Tenth Assembly, which desired to eliminate from the League Covenant any provisions contrary to the letter of the Paris Pact.

3. It might therefore be advisable to take the proposals of the above-mentioned Sub-Committee as a basis for the discussion which will take place at the next Assembly. The Polish Government would be prepared, for their part, to accede in principle to the Sub-Committee's proposals, reserving, however, the right to propose to the Assembly any changes which they might consider expedient after the exchange of views in the First Committee. The Polish Government desire to point out here and now that they consider that it would be more in accordance with the spirit of the Paris Pact to define in the actual text of Articles 13, paragraph 4, and 15, paragraph 6 (Sub-Committee's text), that the obligation not to support in any way the resistance of a recalcitrant State would not apply in cases where such resistance was due to aggression on the part of the other State concerned.

4. Lastly, the Polish Government wish to emphasise that they still consider it necessary to bring the League Covenant into harmony with the Briand-Kellogg Pact, since the constitutional charter of the League should not contain provisions which lag behind the stipulations of another international instrument, likewise of universal scope. However, the Polish Government consider that, apart from the result of the work undertaken with a view to bringing the Covenant and the Pact into harmony, the provisions of the League Covenant which sanction so-called "legitimate" warfare, should be regarded by all Members of the League as inoperative, in view of the general prohibition of war laid down in the Paris Pact. If, contrary to all expectations, the League's work with a view to the bringing into harmony of the Covenant and the Pact should be unsuccessful, this would not, in the Polish Government's opinion, in any way weaken the Paris Pact, which would still constitute the fundamental basis of world peace.

Portugal.

LETTER OF MAY 1ST, 1931.

[*Translation.*]

The Government of the Republic are fully conscious of the merits of the work of the Committee of Jurists and of the First Committee, which have endeavoured so successfully to improve and supplement the methods of safeguarding peace. The Portuguese Government, while fully appreciating the report of the "Committee of Eleven", consider in any case that, generally speaking, the amendments of the First Committee are preferable, for they are more in accordance with the equilibrium to be maintained between legal and political considerations, in order that the Covenant may fulfil its purpose.

My Government hope that the decision of the next Assembly will be given on those lines, save for a few details. Amongst these is the expression "reasonable time" in paragraph 2 of Article 12, which might perhaps be replaced by another which would state the time, fixing a limit considered to be sufficient ; for it does not seem correct to ask the Permanent Court of International Justice to give an opinion or an award "within a reasonable time".

The Portuguese Government see no advantage in the omission of paragraph 7 *bis* of Article 15 ; for it may be desirable that, with a view to facilitating the settlement of a dispute, the Council should have the opinion of the Permanent Court of International Justice on points of law ; moreover, the obtaining of the Court's opinion is provided for in several articles of the Covenant.

This answer will be further developed during the discussion at the next Assembly.

Union of South Africa.

LETTER OF APRIL 13TH, 1931.

The Union Government are of the opinion that the text contained in the Report of the First Committee is preferable to that contained in the Report of the Committee of Eleven and they are prepared to join with other Members of the League in accepting it. While expressing the hope that the proposed amendments will be adopted at the Assembly meeting of 1931, the Union Government desire to state that ratification of these amendments on behalf of the Union Government will be subject to the coming into force of a general treaty for the reduction and limitation of armaments.
