

## LEAGUE OF NATIONS

Geneva, July 16th, 1923.

### AMENDMENT TO ARTICLE 10 OF THE COVENANT PROPOSED BY THE CANADIAN DELEGATION TO THE THIRD ASSEMBLY.

#### *Note by the Secretary-General :*

In accordance with a resolution taken by the Council on July 4th, 1923, during its twenty-fifth session, the Secretary-General has the honour to place before the Assembly the replies from the following Governments, which have been received up to this date, to his note of February 22nd, 1923, by which he invited the States Members of the League to transmit to him for the information of the Council all remarks which they might wish to make on the subject of the amendment proposed by the Canadian Government (C. L. 17) :

ALBANIA, AUSTRIA, BELGIUM, BOLIVIA, BULGARIA, CANADA, CHINA, FRANCE, GREECE, HUNGARY, ITALY, JAPAN, NETHERLANDS, PERSIA, POLAND, PORTUGAL, ROUMANIA, SIAM, SPAIN, SWEDEN.

#### 1. Reply from Albania (June 28th, 1923).

##### [Translation.]

In reply to your circular letter of February 22nd, 1923 (C. L. 17, 1923, V), with regard to the Canadian proposal for the amendment of Article 10 of the Covenant, the Albanian Government has the honour to make the following statement.

According to general opinion, Article 10 constitutes the corner-stone of the Covenant and the very foundation of the League. Therefore, any modification in the direction indicated by the Canadian proposal would be regarded as weakening the guarantee of peace provided by the Covenant. This applies in particular to the second paragraph, which it is desired to add to Article 10. In these circumstances, to make compliance with the advice of the Council dependent upon the wish which Members might have to entertain it and upon their desire to conform to it would be to render such advice too ineffective.

The Albanian Government, however, considers that the disadvantages found to exist in the proposed amendment would be greatly mitigated if the proposed Treaty of Mutual Guarantee, which is at present being examined by the competent organisations of the League, were to become a reality.

For that reason, the Albanian Government considers that it would be desirable to postpone, for the moment, the consideration of the Canadian proposal.

(Signed) PANDELI EVANGHELI.

#### 2. Reply from Austria (May 5th, 1923).

##### [Translation.]

I have the honour to inform you that the Austrian Government, while reserving its final decision in the event of the Fourth Assembly accepting the proposed amendment, agrees in principle with the Canadian proposal, since the effect of the proposal would be to elucidate the text of Article 10 of the Covenant.

(Signed) . . . . .

#### 3. Reply from Belgium (May 28th, 1923).

##### [Translation.]

The Belgian Government notes with keen satisfaction that the Canadian Delegation to the Third Assembly has not only withdrawn its demand that Article 10 should be omitted from the Covenant, but has formally recognised the value of the arguments brought forward in favour of its retention. The Delegation now merely asks that this provision, the meaning of which appears to have been rendered obscure through various, and often contradictory, interpretations of the text, shall be modified by an amendment in which it shall be laid down that the "advice" to be given by the Council in the eventuality provided for by Article 10 cannot oblige a Member of the League of Nations "to engage in any act of war without the consent of its Parliament, Legislature or other representative body".

The discussions which took place in the Committees and Commissions during the Session of the Assembly and at other times have clearly shown that the Canadian Government's main objection to Article 10, which led it to ask that this article should be omitted, was not

justified as regards the interpretation given to this provision by the Members of the League of Nations.

The object of the collective guarantee contained in this article is not to perpetuate the political or territorial *status quo*; its aim is simply to ensure that States which are victims of external aggression shall obtain the assistance of the other Members of the League in order to maintain or restore the state of affairs threatened or subverted by armed force, without in any way prejudging the fundamental legality of territorial claims, and leaving every avenue open for resort to such pacific procedure as may lead to a solution.

The new Canadian proposals still show a tendency to exaggerate the scope of the obligations arising out of Article 10. In pointing out to the Council that it should take the political and geographical circumstances of each State into special account, and in emphasising the fact that the advice it might give concerning the method of giving effect to the collective guarantee should not have the force of an obligation for the various States, the Canadian amendment merely brings out certain aspects of the present text which all the delegates were unanimous in recognising.

It may therefore be asked whether such considerations can appropriately be cast in the form of an amendment. Such a form presents the considerable drawback of leading people to suppose that the meaning of the article has been modified. Public opinion throughout the world would consider — though wrongly, no doubt — that such an amendment constituted a weakening of Article 10, which is generally regarded as the keystone of the Covenant. The proposed amendment would, moreover, be subjected to all the uncertainties and delays inherent in the procedure of ratification provided for in the Covenant, and would leave the present text unaltered for a period which might be considerable. It would consequently become far more difficult in the meantime to interpret it in the sense which the Canadian Delegation desires. It would therefore appear to be more desirable, and more in conformity with the Canadian Government's object, to dispel any apprehension it may still feel concerning the present text of Article 10 by the adoption of an interpretative resolution.

Regarding the actual text of the proposed addition, the Belgian Government is of opinion — as, of course, the States Members of the League alone possess the right to take a final decision — that it would be superfluous to lay down, in the form of an amendment to Article 10, that a State cannot be obliged to “engage in any act of war without the consent of its Parliament, Legislature or other representative body”. This is obviously a question purely of a domestic order, and no regulations on the subject could be conveniently embodied in a provision of the Covenant.

Subject to this reservation, the Belgian Government would be willing to agree to any interpretative resolutions affirming the freedom of action which all Members of the League of Nations possess with regard to any advice or recommendation addressed to them by the Council concerning the carrying out of the guarantee provided for in Article 10.

When interpreted in this way, Article 10 constitutes for the Belgian Government one of the most valuable achievements of the new international order created by the institution of the League of Nations. Belgium, which in the aggression of 1914 witnessed the collapse of the system of neutrality based on a Convention and a special guarantee, would experience considerable misgiving if any modification were made in a text which places her political independence and the integrity of her territory under the protection of all the Members of the League.

The Belgian Government noted with considerable apprehension that, during the discussions raised by the Canadian proposals, certain delegates to the Assembly or Members of Commissions defended interpretations of Article 10 which would have the effect of reducing the force of this article to a far greater extent than is demanded by the Canadian Government to-day.

According to their point of view, the “*external aggression*” which would bring into play the guarantee of independence and integrity to be afforded to all the Members could be nothing but the unlawful resort to war for which provision is made in Article 16. The effect of this would be to reduce Article 10 to a mere vague statement of the principle which is developed in Articles 15, 16 and 17, regulating the way in which the League shall intervene in the case of unlawful wars.

There is no doubt that the scope of Article 10 is far wider than this. Any act of war on the part of a foreign State constitutes external aggression, excepting such acts as may be in execution of a judgment pronounced by the Permanent Court of International Justice or are the result of an unanimous recommendation of the Council. The aim in view is to render it impossible for the States to increase their territory by acts of *violence*, and to remove all incentives to do so. They must not be authorised to commit such acts, merely because they have resorted to mediation by the Council in connection with some dispute, and have then made this a pretext for war, when efforts at mediation have failed.

The Belgian Government is strengthened in its opinion that such is the real object of this provision in the Covenant by the fact that, when the matter was being discussed in the League of Nations Committee at the Peace Conference, M. Hymans, the Belgian delegate, formally proposed that the guarantee given under Article 10 should be extended to include the *inviolability* of States. This proposal was not adopted. The explanations submitted on this occasion showed that it was intended to guarantee the inviolability of States Members only in the case of unlawful aggression, as provided for in Article 15 *et seq*; their integrity, on the other hand, was to be protected in all cases of external aggression.

The Belgian Government is glad to note that the Canadian delegates have never at the Sessions of the Assembly departed from such an interpretation, which has also received the very authoritative approval of Professor Struycken.

(Signed) RAMAIX.



4. Reply from Bolivia (April 5th, 1923).

[Translation.]

I have the honour to state that my Government has no observations to make on this question.  
(Signed) R. PAZ.

5. Reply from Bulgaria (May 25th, 1923).

[Translation.]

Those who criticise Article 10 of the Covenant are actuated by the consideration that this article imposes an obligation on every Member of the League of Nations to defend "against external aggression the territorial integrity and existing political independence of all Members of the League", which, in accordance with the text, constitutes an unlimited obligation and may, in theory, oblige a State to send its army to the defence of a distant country at the other end of the world. This leads them to fear that they may become involved in actual warfare.

But if the high ideals of the League of Nations are to be attained, there must be an article of guarantee, and consequently the omission of Article 10 would weaken the very foundations of the League of Nations.

The idea has therefore arisen of submitting certain amendments, to define more clearly the obligations assumed by the different States, and to limit the risks by fixing the exact meaning of certain points. Amendments having this object in view cannot be otherwise than welcome, if the obligation provided for in Article 10 is preserved.

The opinion of the Bulgarian Government concerning the amendments which have been submitted by the Canadian Delegation is as follows :

The first amendment is intrinsically right. The question is one of finding the best formula, but we think that all States should not be placed on the same footing, and that circumstances should be taken into account.

The second amendment entirely respects the sovereignty of the different nations so long as no true international sovereignty and force exist, and various constitutions, such as that of the French Republic, lay down that war cannot be declared without the approval of the representative body. "An act of war" is so important a matter and may have such terrible consequences that we consider very legitimate the desire to preserve for each nation the right only to engage in war of its own free will and after consideration of the circumstances. This is a principle which the new democratic Bulgaria also admits.

(Signed) H. STAMBOULISKY.

6. Reply from Canada (April 26th, 1923).

The Canadian Government approves of the stand taken by its members at the last Assembly of the League of Nations in so far as Article 10 is concerned.

(Signed) N. S. MACKENZIE KING.

7. Reply from China (May 10th, 1923).

[Translation.]

The Chinese Government is in favour of maintaining this article exactly as it stands. It does not think it will be desirable to modify it in any way unless, in the supreme interests of the League, such modifications may be rendered necessary in the future by the urgency of events.

(Signed) E. F. TANG.

8. Reply from France. (June 12th, 1923).

[Translation.]

The Canadian Government proposes to insert certain words at the end of the second sentence of Article 10 and also to add a new paragraph. The text of Article 10 would therefore read as follows :

*Former Text.*

The Members of the League undertake to respect and preserve, as against external aggression, the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

*New Text.*

The Members of the League undertake to respect and preserve, as against external aggression, the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled, taking into account the political and geographical circumstances of each State.

The opinion given by the Council in such cases shall be regarded as a matter of the highest importance, and shall be taken into consideration by all Members of the League, which shall use their utmost endeavours to conform to the conclusions of the Council, but no Member shall be under the obligation to engage in any act of war without the consent of its Parliament, legislature or other representative body.

It appears desirable to discuss the passage which it is proposed to insert at the end of the second sentence of the article and the additional paragraph separately.

I.

According to the present wording of Article 10, the Council has to “advise upon the means by which this obligation shall be fulfilled” — the obligation being the one referred to in the first sentence. The Council is perfectly free to prescribe the means which it thinks best adapted to attain the required object; it will doubtless take account, in particular, of the geographical and political circumstances of each State. The recommendations which it makes will be the more readily accepted in proportion as they are framed with regard to the national circumstances of the several States. But it is desirable that the powers assigned to the Council should not be restricted by the insertion of any formula in Article 10. The Council must be free to take account of all the special circumstances of any State, not only of its political and geographical circumstances, but also of its economic or other circumstances. The Council must even be able, in certain cases, to look beyond the considerations which are peculiar to certain States and to be guided solely by the higher considerations of the interest of the world's peace in the recommendations which it makes with a view to securing respect for, and preservation of, the territorial integrity and political independence of the States Members of the League as against any aggression — and also, as against the threat or danger of such aggression.

II.

The paragraph which it is proposed to add gives rise to the following observations :

(a) The word “opinion” given in the text does not correctly interpret the nature of the decision which has to be taken by the Council in accordance with the second sentence of Article 10. The words “the Council shall advise upon the means...” mean that “the Council takes all necessary steps...”. Moreover, its decision will ordinarily take the form of a recommendation addressed to the different States. Therefore there is no question of an “opinion” but of “recommendations” or of “measures advocated”.

(b) It cannot be doubted that the States Members will give most serious consideration to these recommendations and will “use their utmost endeavours to conform” to them. Such an attitude would be in conformity with the spirit of Article 10, the first sentence of which lays a certain obligation upon the States, while the second sentence merely instructs the Council to advise upon the means by which this obligation shall be fulfilled. Thus, the first portion of the paragraph proposed by the Canadian Government merely expresses in a new form the general intention of this article.

(c) In the second portion of the additional paragraph, we read : “no Member shall be under the obligation to engage in any act of war without the consent of its Parliament, legislature or other representative body”. Although Article 10 of the Covenant imposes an obligation on the States Members to respect and preserve as against external aggression the territorial integrity and political independence of other Members, it is obvious that effect can only be given to this obligation in conformity with the constitutional rules of the respective States. The approval given to the Covenant, and consequently to Article 10, at the time of its ratification by a Parliament, legislature or other representative body could not, it appears, be considered as implying a permanent mandate to the Government — in case of aggression, or threat or danger of aggression, against a State Member to take measures which would ordinarily require the authorisation of the said Parliament, legislature or other representative body. It may, however, be pointed out that, if the machinery for affording mutual aid in certain hypothetical cases of aggression were specially instituted by partial agreements between certain States, these partial agreements would become operative within the general limits of Article 10.

(d) In conclusion, the French Government is of opinion that the procedure for amendments, being protracted and complicated, should only be resorted to for the purpose of making substantial alterations in the Covenant; and it therefore considers that the Canadian proposals contained in the additional paragraph, which gives special expression to general principles, are not sufficient grounds for setting in motion the machinery for amendments.

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9. Reply from Greece (April 26th, 1923).

[Translation.]

The Greek Government considers that Article 10 of the Covenant is one of the foundations of the League of Nations and constitutes one of the most essential guarantees for world peace; it therefore considers that this article is of the highest importance and that any proposal tending to abolish this guarantee would be a heavy blow to the prestige of the League of Nations, would deprive it of an essential source of strength and would subsequently render it practically, if not absolutely, impotent. The principle laid down in Article 10, of providing a guarantee for the States Members “to preserve their territorial integrity or political independence as against all external aggression”, could not, in the opinion of the Greek Government, be weakened without very seriously affecting the whole fabric of the League of Nations.

It is true that the interpretation of Article 10, particularly in its relations with Article 12 *et seqq.* of the Covenant, presents serious difficulties, which it would doubtless be desirable to overcome by rendering the text of the article clearer or by an authoritative interpretation,



but it is equally evident that the object of Article 10 is to prevent territorial changes as a result of war. According to Article 10, the territorial *status quo* should only be altered by peaceful methods. It seems that only by rendering the application of Article 10 effective can wars of aggression for the purpose of bringing about territorial aggrandisement be avoided in the future.

Moreover, no limitation of armaments, which still constitute a burden upon the nations, can be carried out without the guarantee provided by Article 10.

As regards the two Canadian proposals in particular, the Greek Government would offer the following observations :

These two proposals do not refer to the guarantee itself, which remains in full force, but to the method of its application in case of aggression in the circumstances referred to in Article 10. As regards the method of applying this guarantee, two cases must be distinguished : (a) the war may be a war undertaken in defiance of Articles 12 *et seqq.* of the Covenant, and in this case the provisions of Article 16 must be applied, and it seems that they are sufficiently elastic, particularly if the amendments adopted by the Second Assembly come into force, to satisfy the wishes of the Canadian Delegation; (b) it may be a war undertaken in accordance with the provisions of the Covenant (which, as we know, does not forbid all war), and in this case the Council of the League of Nations must “ advise upon the means ” by which the guarantee contained in Article 10 shall be put into effect.

In the second case, it appears that the Council has not only to advise, but also to reach a decision regarding the steps to be taken to safeguard the territorial integrity and political independence of the State Member concerned (*cf.* Article 11 of the Covenant); this decision must be a unanimous one (Articles 5 and 1). If a unanimous decision cannot be reached, each State is still under the absolute obligation to oppose, by such means as it may consider advisable, a territorial change which would be contrary to the Covenant, and in any case it must not recognise such a change. It therefore follows from the above that no basic objection can be raised to the first Canadian proposal, which is intended to guide the Council in reaching a decision, although the proposal may be considered superfluous and axiomatic.

On the other hand, the second proposal, that advice given by the Council shall not place Members of the League under an obligation unless it is ratified in every instance by the national legislature, appears to be unacceptable; its effect would be to render the carrying out of Article 10 problematic in every concrete case and it would always be a question whether Article 10 would be applied or not.

The importance of Article 10 consists above all in its preventive effect, and it would cease to produce this effect if, every time sanctions were to be enforced, the participation of States Members remained an uncertain factor.

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#### 10. Reply from Hungary (May 25th, 1923).

[Translation.]

After having considered the question in all its aspects, the Royal Hungarian Government has the honour to inform you that it desires to support the Canadian proposal.

In the view of the Royal Hungarian Government, the Canadian proposal contains a valuable idea, which it appreciates all the more because Article 10, in the form proposed, would be in closer conformity with the Hungarian Constitution, which lays down that the assent of Parliament is required before the Hungarian army may be employed outside the frontiers of the State.

Article 10 secures States against forcible external aggression.

The article as at present worded states that : “ in case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled ”. It is clear that, if the Council could not maintain peace by other means, it would have to demand the armed intervention of all the Members of the League against the Covenant-breaking State.

In the view of the Royal Hungarian Government, the obligation to employ the armed forces of the nation outside the country, without having obtained previous authorisation from Parliament, lays so grave a responsibility on the respective Governments, and particularly on those of the Powers not represented on the Council, that the Government of a constitutional country could not assume it without the greatest difficulty.

(Signed) GEZÁ DE DARUVÁRY.

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#### 11. Reply from Italy (June 18th, 1923).

[Translation.]

After examining the draft, the Royal Government is of opinion that no discussion of the Canadian proposal could lead to practical and tangible results until the negotiations have been concluded which are now in progress with regard to the questions of the Treaty of Mutual Guarantee and the reduction of armaments, with which such a proposal is intimately connected.

The Royal Government therefore considers that the amendment to Article 10 of the Covenant proposed by Canada could only be examined, if at all, when decisions have been taken respecting the two afore-mentioned problems.

(Signed) MUSSOLINI.

12. Reply from Japan (May 30th, 1923).

[Translation.]

I have the honour to inform you that I have received from my Government a telegram concerning the Canadian proposal stating that it would be preferable to wait until a definite solution has been given to the question of a Treaty of Guarantee, which is still pending, before offering any observations, seeing that this proposal is closely connected with the Treaty of Guarantee which the Temporary Mixed Commission has under consideration.

(Signed) M. MATSUDA.

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13. Reply from the Netherlands (July 5th, 1923).

[Translation.]

In reply to the letter dated February 22nd last (C.L. 17) from the Secretary-General of the League of Nations, the Netherlands Government has the honour to inform the Secretary-General that the amendment, proposed by the Canadian Delegation, to Article 10 of the Covenant calls for the following observations on its part :

*Re 1.* As it is understood, and is a matter of course, that the Council of the League of Nations will have to take count of the political and geographical circumstances of every State when giving its advice, as laid down in Article 10, the Royal Government considers that it is unnecessary to insert in the Covenant an explicit mention of this obligation. Moreover, as such a mention might give rise to the impression that the Council would not need to take count of other circumstances — *e.g.*, economic circumstances — the desirability of the amendment appears open to question.

*Re 2.* The paragraph which it is proposed to add to Article 10 would have the advantage of emphasising the purely advisory character of the recommendation made by the Council by virtue of this article. However, the Government of the Netherlands doubts whether it is desirable to make distinctions, from the point of view of their importance, between the various forms of advice given by the Council. Further, Her Majesty's Government does not feel able to agree with the latter portion of the proposed paragraph. The relation between Governments and their parliaments is entirely a matter of domestic concern, and could not be regulated or settled by the Covenant. Moreover, the words employed are open to the interpretation that there are no other grounds which might justify a Government in deciding not to give effect to the advice of the Council.

In these circumstances the Royal Government does not feel able to recommend the adoption of the amendment.

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14. Reply from Persia (June 8th, 1923).

[Translation.]

The People and Government of Persia cannot in any way agree to an *amendment* modifying the spirit of Article 10 of the Covenant, nor can they adhere to any provision which would lessen the efficacy of this article.

(Signed) EMIR ZOKA-ED-DOWLEH.

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15. Reply from the Polish Government (July 2nd, 1923).

The Polish Government is of opinion that, for the reasons given below, it would be advisable, under the present circumstances, to retain Article 10 as it stands.

If, as it would appear, the first proposal introduces no new factor into the provisions of Article 10, it offers no advantages. Indeed, it is difficult to see how the Council of the League of Nations could "advise upon the means" which it might consider necessary for respecting and preserving the territorial integrity and political independence of a Member of the League which was attacked, without seriously taking into account the political and geographical circumstances, both of the State attacked and of all States which would be obliged to assist it. If, however, the first Canadian proposal tended in any way to lessen the efficacy of the guarantees provided under Article 10, the Polish Government would feel all the more bound to oppose the adoption of the amendment.

The second proposal would tend to nullify the value of the guarantees laid down in Article 10, as it would make the taking of any action in support of a State attacked — and this action could only be effective if it were certain and immediate — conditional upon the approval of the representative bodies of each State Member of the League of Nations.

From the legal point of view, this proposal gives rise to very grave objections as it completely transforms Article 10. In ratifying the Covenant of the League of Nations, each Parliament, legislature or representative body explicitly gave its approval in advance to the enforcement of measures which are the logical consequence of the obligations entered into by the Members of the League of Nations. It would therefore appear obvious that acceptance of the Canadian Delegation's second amendment would be tantamount to the unconditional abolition of Article 10, as previously proposed by that Delegation. In view of these considerations, the Polish Government thinks it desirable to state its point of view with regard to the problem raised by Article 10 in its present aspect. The Polish Government



considers that the terms of Article 10 constitute one of the fundamental principles of the Covenant of the League of Nations as at present constituted, and further, that the undertaking entered into mutually by all Members of the League of Nations to respect and preserve their territorial integrity and political independence is one of the corner-stones on which the whole organisation of the League of Nations rests. Indeed, on all occasions on which the question of creating a society of States, such as the League of Nations, has been considered, the principle of the mutual and collective guarantee of territorial integrity and political independence has always been regarded either as the aim and object of such a society or as one of the essential conditions for its formation. It should also be pointed out that, whenever public opinion has had an opportunity of expressing its views in support of the idea of the League of Nations, it has always closely associated the principle of guarantees with the question of the usefulness of an international organisation of this type.

Further, it is necessary again to draw attention to a point which has repeatedly been emphasised, *i.e.*, that Article 10 in no way excludes the possibility of territorial changes, but that its sole object is to prevent such changes being brought about by foreign aggression. Under these conditions, the mutual and collective guarantee given under the provisions of Article 10 would appear to be a logical consequence of, and an essential factor in, the system upon which the League of Nations is at present organised. The effect of abolishing stipulations of this type and scope would be completely to transform the character of the League and the outcome would be the revision of the entire Covenant, seeing that its various clauses are so closely related one to another that it is impossible to modify the bearing of one without coincidentally changing the bearing of another. Accordingly, if we adopted the Canadian proposals, we should be obliged to revise all the provisions in the Covenant defining the objects of the League of Nations in addition to those which refer to the rights and obligations of the States Members of the League.

It is indisputable that the Covenant of the League of Nations imposes upon its Members certain obligations which *de facto* constitute important restrictions upon the exercise of their sovereign rights. The States Members have declared their willingness to submit to the control of the League of Nations, not only in regard to their foreign relations, but also, to a certain extent, in regard to matters of a domestic nature; they have agreed to accept the interference of the League in all matters in which its intervention might be required, owing to apprehension of any danger to peace (*e.g.*, Articles 11 and 19 of the Covenant).

The States which constitute the League of Nations would probably never have consented to all these restrictions if they had not believed that they would find a compensation and a makeweight in the mutual guarantee of their territorial integrity and political independence. In consequence, if the obligation imposed by the mutual guarantee is to be cut out from the Covenant of the League of Nations, we shall be obliged to take into account the possibility of revising all clauses in virtue of which the League of Nations has the right to intervene in the foreign relations between States Members and sometimes in their home affairs.

One of the most important duties assumed by the Members of the League of Nations is the realisation of the reduction of armaments (Article 8). The undertakings in this matter are logically bound up with the guarantees provided in Article 10, since States could not be required seriously to contemplate the question of the reduction of armaments unless they were assured of their territorial integrity and political independence. Even within the limits of Article 8 as it stands, any scheme for such reduction must be compatible with the national safety of each State. Were the guarantees withdrawn, it would be necessary to leave each State free to decide what armaments were necessary to its safety, and, as the League of Nations could offer its Members no effective guarantee, it would no longer have any authority in the matter. Accordingly, the effect of cancelling Article 10 might well be the abandonment of the scheme for the reduction of armaments, the more so since it might be interpreted as proof that the territorial integrity of the Members of the League of Nations cannot or need not necessarily be preserved.

The outcome might be that international relations, which are not yet by any means peaceful and give no assurance of the safety required by all States, might be further disturbed by a lack of confidence, the effect of which would certainly not tend towards the realisation of the reduction of armaments.

The guarantees provided in Article 10 are of especial importance to the small States, whilst the burdens would for the most part be supported by the Great Powers. In spite of this, it cannot be presumed that the annulment of Article 10 would be in the interest of the Great Powers. Their heavy burdens are counterbalanced by their privileged situation, which is guaranteed by the Covenant and constitutes an exception to the general principle of equality amongst all States. This special position, which ensures to them greater importance and predominant influence in the League of Nations, is based on the principle, admitted by all States, that the burdens and the responsibilities for the maintenance of peace must be proportionate to the privileges enjoyed. If this argument were not borne out by the actual state of affairs, it would be difficult, if not impossible, to maintain the special position held by the Great Powers in the League of Nations.

It should be carefully noted that, in the opinion of the Polish Government, the stipulation contained in Article 10 could not be replaced by a guarantee given by the Great Powers to all weaker States, or merely to certain of them, as such a measure would give rise to an inequality in law, which the weaker States would certainly regard as incompatible with their dignity. Further, it would be impossible to substitute for the article in question any separate treaty of guarantee, even if concluded under the auspices of the League.

In view of the foregoing arguments, and seeing that the abolition of Article 10 or the acceptance of amendments equivalent to abolition, might re-open the question of the under-

taking entered into by the Members of the League, more especially in regard to Articles 11 and 19, Articles 8 and 9 on the reduction of armaments and Article 12 on abstention from resort to war, the Polish Government states that it opposes the acceptance of the two amendments proposed as above by the Canadian Delegation, and moves that Article 10 be retained as it stands to-day.

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16. Reply from Portugal (May 17th, 1923).

[Translation.]

The Portuguese Government is of opinion that as Article 10 constitutes the most adequate expression of the high ideals which inspired the constitution of the League of Nations and the drawing up of the Covenant, and as it is a fundamental article, it should be preserved in its original form. If, however, the Assembly decides that the objections raised by the Canadian Delegation were sufficiently cogent to render a modification of this article necessary, the Portuguese Government will not raise any objection to the adoption of the two amendments proposed by the Canadian Delegation.

(Signed) HENRIQUE DE VASCONCELOS.

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17. Reply from Roumania (May 19th, 1923).

[Translation.]

In reply to your letters of February 22nd and March 9th last, the first of which related to the proposed amendment to Article 10 of the Covenant of the League of Nations, and the second to Resolution XIV of the Third Assembly concerning a Treaty of Mutual Guarantee, two questions which are fundamentally closely connected, I have the honour, in compliance with your request, to forward to you the following opinion of the Royal Government.

We consider that Article 10 of the Covenant of the League of Nations constitutes the most effective guarantee against all attempts at aggression with the object of modifying the territorial position established under the Treaties of Peace. To suppress the article would be equivalent, therefore, to depriving the Covenant of one of its main attributes; moreover, to lessen its force by means of clauses under which its application would depend on the decision of the Council, called upon to examine "the political and geographical circumstances of each State", would be to weaken the scope and effect of the clause of Mutual Guarantee.

The Royal Government, however, does not raise any objection to the reservation that no Member should be obliged to engage in any act of war without the consent of its Parliament.

Article 10 of the Covenant is merely a defensive agreement between the Members of the League of Nations. It does not appear to us to be possible to effect real disarmament as long as certain important countries remain outside the League, particularly as long as these countries are arming with the object, avowed or otherwise, of changing the existing territorial position.

(Signed) DUCA.

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18. Reply from Siam (April 26th, 1923).

His Siamese Majesty's Minister for Foreign Affairs has the honour to state that the Government of His Majesty the King of Siam deems it inadvisable to amend Article 10 of the Covenant in the manner proposed until a longer experience in the operation of the original article has demonstrated a necessity for the modification of the obligations therein prescribed.

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19. Reply from Spain (July 9th, 1923).

[Translation.]

In conformity with the Resolution adopted by the Council, you were good enough, in your letter (C. L. 17 (a). 1923 /V), dated February 22nd last, to request the Royal Government to forward to you any observations it might wish to submit regarding the proposed amendment to Article 10 of the Covenant.

In accordance with my instructions, I have the honour to inform you that, as the question of the Treaty of Guarantee is now under consideration by the League of Nations, the Royal Government is of opinion that any discussion of the amendment to Article 10 of the Covenant would be premature, since this question is closely allied to that of the Treaty of Guarantee. If effect were given to the idea of the Treaty of Guarantee, this might involve certain modifications in Article 10 of the Covenant, and in that case alone would it be possible, when all the facts are known, for amendments to be proposed and adopted, with a view to bringing out more clearly the true signification of Article 10, having regard, on the one hand, to the effectiveness of the guarantee provided and, on the other hand, to the nature of the obligations imposed by the Treaty of Guarantee.

(Signed) QUIÑONES DE LEÓN.

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20. Reply from Sweden (June 1st, 1923).

[*Translation.*]

The Swedish Government does not share the opinion as to the legal interpretation of Article 10 on which the Canadian proposal is based. In its opinion, no Member of the League of Nations is, at present, obliged to conform to a recommendation of the Council to intervene by force of arms in any conflict, independently of the question whether parliamentary authorisation for such intervention may be necessary under the constitution of the State in question. The obligation of Members of the League to take punitive steps is fully defined in Article 16 of the Covenant. If this point of view is accepted, the Canadian proposal would not constitute any fundamental modification of Article 10.

As the draft Treaty of Mutual Guarantee is at present under consideration by the competent organs of the League of Nations, and the realisation of the idea of such a treaty may render necessary other amendments to Article 10, the Swedish Government considers that it would be preferable to defer consideration of the Canadian proposal until later.

(*Signed*) HEDERSTIERNA.

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