

refractory State defying the Council, it may, in given circumstances, result in the atrophy of the Council's authority. It possesses the drawback, moreover, that it depends on the goodwill of the parties.

It is this drawback that the Convention is designed to remedy. The States accepting the Convention undertake voluntarily in advance to comply with the unanimous recommendations of the Council acting in virtue of the provisions of Article 11 of the Covenant.

The idea of such a previous undertaking originated in 1928, when, at the suggestion of Germany, the Committee on Arbitration and Security prepared a draft treaty that might serve as a model for bilateral engagements. This was approved by the Assembly which expressed the hope that it might be taken as a basis by States desirous of negotiating regional agreements. In 1929, on the proposal of Great Britain, the Assembly instructed the Committee to examine the possibility of transforming this model treaty into a general convention. In 1930, the Committee submitted to the Assembly a preliminary draft which, on essential points, contained two alternative texts. The Assembly succeeded in reconciling various points of view, but found it impossible to reach an agreement on the draft as a whole. For that reason a Special Committee was appointed in 1930 to reconsider the question. The Committee succeeded in framing a single text, and it was this text that the Third Committee of the Twelfth Assembly had before it and to which, with certain amendments, it gave its approval.

The most important of these amendments consists in separating more clearly the provisions relating to a threat of war from those relating to incidents whose nature it is more difficult to define *a priori*. This amendment met the Polish delegation's objection that the original text might imply that all cases of invasion would *a priori* be regarded as mere threats of war, when treaties already existed which considered invasions as acts of war. A Convention designed to prevent war could not be applicable when war had broken out. For that case, other measures and sanctions were provided by the Covenant.

The question of the moment at which war actually breaks out of course gives rise to difficulties of a theoretical and practical nature. It did not seem to the Third Committee that any more valuable guide in this important matter could be given than the Brouckere report to the Council (1926) defining the conditions which may be regarded as establishing "resort to war."

Another amendment specifies that there shall be equivalent treatment for land, naval and air forces as regards both preventive measures of the first class (evacuation) and measures of the second class (fixing of lines not to be passed by troops). As States regard their territorial waters as part of their territory, those waters must be evacuated by any forces that may have entered them or may be flying over them, just as the territory itself must be evacuated.

Certain doubts were expressed as to the possibility of ensuring in practice equality of treatment between air forces and the other forces, as regards measures of the first category, since the mobility of aircraft renders it easy to fly back over foreign territory during or after evacuation. In this connection, the Third Committee calls attention in its report to the provision according to which the contracting parties agree to give strict orders to the commanders of their forces, if the Council so recommends, to take all necessary precautions to avoid incidents. It is obvious that the latter provision will enable the Council to recommend particularly that the order not to fly over the territory or territorial waters of one party should be given to the air forces of the other party. Moreover, any raids by aircraft would, like those by land or sea forces, if necessary be verified or reported to the Council by the Commissioners which it had sent to the spot.