

1947
NEW ZEALAND

THE
CONFERENCE OF
PARIS

REPORT OF THE NEW ZEALAND DELEGATION ON
THE CONFERENCE HELD TO CONSIDER THE
TREATIES OF PEACE WITH ITALY, ROUMANIA,
BULGARIA, HUNGARY, AND FINLAND

PARIS, 29 JULY - 15 OCTOBER 1946

Presented to both Houses of the General Assembly by Leave

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INTRODUCTION

I. GENERAL VIEW OF THE CONFERENCE

THE Conference of Paris opened on 29 July, 1946, and closed on 15 October, 1946. Its purpose was to consider the treaties of peace with Italy, Roumania, Bulgaria, Hungary, and Finland, using as the central point of discussion the draft treaties prepared by the Council of Foreign Ministers. All meetings of the Plenary Conference and of the Commissions were held at the Palais du Luxembourg.

Twenty-one States fulfilled the requirement for full membership laid down in the Moscow communique, that "The Conference will consist of the five members of the Council of Foreign Ministers, together with all members of the United Nations which actively waged war with substantial military force against European enemy States—namely, U.S.S.R., United Kingdom, United States of America, China, France, Australia, Belgium, Byelo-Russian S.S.R., Brazil, Canada, Czechoslovakia, Ethiopia, Greece, India, the Netherlands, New Zealand, Norway, Poland, Union of South Africa, Yugoslavia, and Ukrainian S.S.R."

The delegation of New Zealand was composed as follows :—

Delegates—

The Hon. H. G. R. Mason, K.C., M.P., Attorney-General and Minister of Education.

The Rt Hon. W. J. Jordan, P.C., High Commissioner for New Zealand in the United Kingdom.

Alternate Delegates—

Mr A. D. McIntosh, Secretary of External Affairs.

Mr R. M. Campbell, Official Secretary, N.Z. High Commissioner's Office, London (first part of Conference).

Advisers—

Brigadier R. S. Park, C.B.E., N.Z. Military Liaison Officer, London.

Professor A. G. B. Fisher.

Mr D. P. Costello, New Zealand Legation, U.S.S.R.

Mr F. H. Corner, Department of External Affairs.

A committee of the whole to consider the rules of procedure of the Conference was set up at the first Plenary Session on 29 July, commenced work on 30 July, and presented its report to the Plenary Conference on 8 August.

Meantime, but at different hours, the Plenary Conference has heard general opening statements by the leaders of the twenty-one member States⁽¹⁾ at six meetings between 29 July and 3 August, and stood adjourned until the Procedural Committee's report was received. This report was then discussed and finally adopted on 12 August⁽²⁾.

At the invitation of the Conference, Italy stated her case on 10 August, Roumania on 13 August, Bulgaria and Hungary on 14 August, and Finland on 15 August⁽³⁾. Each statement was followed by a general discussion by members of the Conference, after which the relevant Commission was constituted. Work in the Commissions, however, did not commence in earnest until 26 August in view of the delay in receiving and distributing the amendments to the draft treaties put forward by various delegations.

At its meeting on 12 August the Plenary Conference decided to invite certain of the United Nations who had applied unsuccessfully for full membership of the Conference to state their views at plenary meetings and in Commissions concerned with drafting those sections of the Italian treaty in which they were specially interested. The States concerned were Albania, Mexico, Cuba, and Egypt. On 17 August the Conference decided to invite Iran to state its views on the treaties, and to invite Austria to comment on the section of the Italian treaty which specially concerned her. Long debate took place before it was decided to issue the invitations to Albania and Austria; Austria's case for a hearing was advocated by the so-called Western group, Albania's by the Eastern⁽⁴⁾.

Representatives of Albania, Mexico, Egypt, Cuba, and Austria spoke before the Plenary Conference on 21 August. The following two days were occupied with debate on these speeches. A representative of Iran spoke briefly on 21 August, but the main comments of that country upon the draft treaties were made on 30 August.

On 30 August the Plenary Conference approved the application of the Government of Iraq to be admitted to the Peace Conference in order to state its views upon the treaty with Italy, and a representative of that country spoke on 6 September.

In order to give some direction to the Conference, which had no steering committee and was making little progress, the four Foreign Ministers (of the United Kingdom, United States, Soviet Union, and France) met on 29 August and instructed their deputies to go through the various amendments to the draft treaties put forward not only by members of the Conference, but also by allied and ex-enemy States in order to discover which, if any, should command their general support.

⁽¹⁾ The speech of the Leader of the New Zealand delegation (Hon. H. G. R. Mason) is attached as Appendix I.

⁽²⁾ See Sections II and III of this introduction for a discussion of the procedure of the Conference.

⁽³⁾ The proceedings of all plenary sessions were recorded verbatim.

⁽⁴⁾ The voting in the former case was the figure of 15 to 6, which characterized the Conference.

Meetings of the Deputies were held fairly regularly from this date, and the Council of Foreign Ministers came to adopt a joint policy towards most of the amendments. In general, if one member of the Council opposed an amendment submitted by a non-Council member, all four rejected it.

The Plenary Conference met on 30 August, when the Greek delegation asked for leave to present on a later day a motion asking the Conference to suggest that the Council of Foreign Ministers should consider its boundary dispute with Albania (specifically Northern Epirus). After an acrimonious debate the Conference agreed by 12 votes to 7 (U.S.S.R., Ukraine, Byelo-Russia, Yugoslavia, Poland, Czechoslovakia, France), with 2 abstentions (Belgium and Norway), to discuss the Greek-Albanian frontier at its next meeting. The decision was not implemented at the next meeting of the Plenary Conference on 6 September, nor did the agenda for the next meeting (not held until 26 September and called for the purpose of considering means of speeding up the work of the Conference) make reference to Greek-Albanian territorial questions. When this discrepancy was pointed out by the delegate of Yugoslavia, the Greek delegation announced that it did not wish the matter to remain upon the agenda of the Conference, but reserved the right to raise the question before the Council of Foreign Ministers.

At a meeting on 8 September, after the Conference had been in session six weeks without achieving any very tangible results, the Council of Foreign Ministers decided to recommend that, in view of the lack of technical staff and experts to staff the national and international secretariats of two full-scale conferences, the meeting of the General Assembly of the United Nations should be postponed from 23 September to 23 October. The other United Nations agreed to this date, which naturally set a time-limit to the Paris Conference. On 12 September the General Secretariat informed the delegations that the work of the Commissions should be completed by 5 October in order to allow ten days of Plenary Sessions before the Conference concluded on 15 October. As a result, the Chairmen of some Commissions endeavoured to secure agreement to the enforcement of a time-table of work and curtailment of speeches, some of which were taking as long as three hours (including translation time).

At this stage, with only three weeks of Commission work remaining, 30 out of the 78 articles of the Italian treaty had been approved, and 70 of the 92 amendments remained to be considered; 22 of the 38 articles of the Roumanian treaty had been approved and 8 of 15 amendments disposed of; only the Preamble of the Bulgarian treaty and the Preamble and part of the first article of the Hungarian treaty had been approved; and 15 of the 34 articles of the Finnish treaty had been approved.

The Council of Foreign Ministers met again on 24 and 25 September, and on 26 September the Plenary Conference approved their suggestions that the Commissions should adopt programmes of work and of voting

which would enable them to submit their reports on each of the treaties to the Plenary Conference by, at latest, 5 October ; that the Plenary Conference should consider the reports of Commissions from 5 October and take a vote on all questions submitted to it by 15 October ; and that, if necessary, the length and number of speeches should be curtailed and the rule of closure should be allowed to be applied to the discussion of any question. With the authority of the Conference the General Secretariat implemented these decisions by ruling, first, that no delegation might make more than two speeches upon any question, one of ten minutes and one of five minutes ; second, that speeches on procedural questions should be limited to three minutes ; and, third, that the Chairman had power to close a debate and call for a vote whenever it appeared that a Commission was falling behind its schedule. Any delegation which was unable to make its case within the allotted fifteen minutes was to be permitted to include additional observations in the written records. These rules naturally prevented adequate discussion of, or search for, compromise solutions before many of the important questions which were dealt with by the Commissions after 26 September were put summarily to the vote.

On 6 October the Plenary Conference approved the rules of procedure to govern the final Plenary Sessions. The treaties were to be considered in turn, each as a whole, and after general speeches (no delegation was to be allowed more than thirty minutes on each treaty) the Conference was to proceed to vote clause by clause upon the treaty under consideration. No further amendments were to be tabled and no delegation was to be permitted during the voting to explain the reasons for its vote. Under these rules the final discussion and voting on the treaties took place as follows : Italy, on 7, 8, and 9 October ; Roumania, on 10 October ; Bulgaria, on 11 October ; Hungary, on 12 October ; and Finland, on 13 October. New Zealand spoke only on the Italian treaty (Mr Mason's speech of 9 October appears as Appendix 2).

The Conference of Paris concluded with a formal Plenary Session of 15 October, when the members of the Council of Foreign Ministers made valedictory speeches. The Yugoslav delegation did not attend this final session, in protest against the refusal of the Conference to recognize Yugoslavia's claims to Trieste.

II. THE NATURE AND PROCEDURE OF THE CONFERENCE

For at least two years before the Paris Conference the allied States had expressed divergent views upon the composition of the peace-making body. These views persisted at the Conference.

The most influential group argued that the peace treaties should be made by the Four Great Powers, because they furnished the main mass of men and war material and because they are the real upholders of

peace. Others maintained that all the active belligerents who had shown responsibility by making sacrifices proportionate to those of the Great Powers should share the responsibility for making the peace. Within this second group one section argued that only the countries which had been actively at war with a particular enemy should make the peace treaty with that enemy, while others held that, since the war was one war and since it was largely geographical accidents which determined whether an ally fought in one theatre rather than another, all the peace treaties should be considered by all the countries who had been actively at war with any one of the enemies. A third and small group believed that all 50-odd members of the United Nations should be associated with the peace settlements because the treaties would set the framework of peace which all the United Nations would have to uphold.

In fact, the bodies which drafted the treaties were not organized according to any logical pattern, though the arguments of the first group, tempered by those of the first section of the second group, generally prevailed.

The procedure agreed upon by the Council of Foreign Ministers at Moscow (December, 1945), and quoted in the invitations sent to the other States, envisaged three stages in the preparation of the peace treaties—first, preparation of the drafts by the Council of Foreign Ministers ; second, consideration of the drafts by a conference of 21 ; third, final drafting by the Council of Foreign Ministers.

The draft treaties presented to the Conference seem to have been prepared in this way :—

- (i) *The Italian treaty* was drafted by the U.K., U.S.S.R., U.S.A., and France, who in London in September, 1945, heard oral statements from Australia, New Zealand, South Africa, and Yugoslavia on two topics (the Italo-Yugoslav frontier and the question of Trieste) and invited countries who had been at war with Italy to submit their views in writing on aspects of the peace settlement that were of interest to them :
- (ii) In the case of *the Roumanian, Bulgarian, and Hungarian treaties* the drafts of the political and territorial clauses were prepared by the U.K., U.S.A., and U.S.S.R. (in the presence of France), and the economic, naval, military and air clauses by U.K., U.S.A., U.S.S.R., and France.
- (iii) In the case of *the Finnish treaty* the political and territorial clauses were drafted by U.K. and U.S.S.R. (in the presence of U.S.A. and France), and the economic, naval, military, and air clauses by U.K., U.S.S.R., U.S.A., and France.

The concern of the Dominions at the limitations of the Moscow procedure was expressed in their statement of 20 September, 1945 :—

“ . . . either the active belligerents . . . must be given the right of participation on a footing of equality with the representatives of the five Powers, or it must be clearly understood that conclusions reached by the Council as to the terms of the peace settlements shall be submitted to a conference in which all the active belligerents will take part and at which it will be agreed that the draft terms of the settlement shall be opened to full and free discussion and amendment.”

It was always recognized by the New Zealand Government that the Great Powers were entitled to assume leadership, and that their preliminary consideration of the peace treaties was a proper incident of such leadership, provided their decisions were not final and could be revised by a conference of those Powers who had played a full and honourable part in the war. It was assumed that the Berlin and Moscow communiques⁽¹⁾ would be interpreted to mean that the draft treaties would be regarded as “ annotated agendas ” for the convenience of the Conference, rather than as final decisions. In practice, however, the Paris Conference had no power to change the agreed clauses prepared by the Council of Foreign Ministers, and, even if it had, the membership and voting procedure was such that it was extremely difficult to get a majority vote against any agreed clause. The agreed clauses numbered 196 ; the unsettled clauses 35.

The main function of the Conference was, therefore, to allow the seventeen nations not members of the Council of Foreign Ministers⁽²⁾ to express their views upon the draft treaties, and thus to give the Council of Foreign Ministers an indication of the size and composition of the opposition to drafts. It is worth recording that Mr Molotov, before the Plenary Conference on 31 July, said :—

“ Here every one of us has the opportunity to state his views freely . . . Such views will be heard with due respect and may be of considerable value in the final consideration of the draft treaties.”

Mr Bidault (France), before the Plenary Conference on 29 July, stated :—

“ Ample assurances have been given that the discussion would be as broad and as thorough as possible and that the peace treaties would be finally drafted only after your recommendations had received full and complete consideration.”

⁽¹⁾ *Report of Berlin Conference*, 2 August, 1945 : “ . . . the Council shall be authorized to draw up, with a view to their submission to the United Nations . . . ”

Moscow communique, 28 December, 1945 : “ . . . when the preparation of all these drafts has been completed, the Council of Foreign Ministers will convoke a conference for the purpose of considering treaties of peace with Italy, Roumania, Bulgaria, Hungary, and Finland.”

⁽²⁾ China was associated with the other four members of the Council of Foreign Ministers in the issue of invitations, but had taken no part in the drafting of the treaties.

Any countries who might have had objections to this limitation of the Peace Conference evidently decided that it would serve no practical purpose to challenge the Council of Foreign Ministers.

The Peace Conference of Paris had no powers of final decision. It was presented with the draft peace treaties drawn up by the Great Powers, and, according to the Moscow arrangement, was to do no more than "make recommendations to the Council of Foreign Ministers, who, in drawing up the final texts of the treaties, will take these recommendations into account." The fact that the Conference (unlike the San Francisco Conference, which drafted the final text of the United Nations Charter) was able to do no more than make recommendations to the Council of Foreign Ministers, and the balance of membership which made it almost impossible for the smaller Powers to recommend any important alteration to agreed clauses of the draft treaties, or for the "Slav" Powers to secure acceptance of any of their major proposals, gave the Conference an air of unreality.

This being so, it was suggested privately by some delegates that no purpose would be served at the Conference by taking votes; the expression of views by delegations would be sufficient to guide the Council of Foreign Ministers in the preparation of the final drafts. The Rules of Procedure laid it down, however, that the Conference was to submit "recommendations" to the Council of Foreign Ministers, and since the Conference was nothing if not literal in interpreting its mandate it became necessary to decide what vote was necessary to create a "recommendation." It was this question which occupied the Committee of Procedure in barren and often bitter and irrelevant argument for two weeks, while the prestige of the Conference declined and its real work was delayed.

The Conference, once started on the procedural way of thinking, never escaped from the unfortunate groove, and in all Commissions of the Conference as much if not more time was spent in discussing procedure as in dealing with matters of substance. This proved doubly unfortunate, because the time-table of other international meetings made it necessary on 26 September to impose on the Conference a time-limit of nine days for the completion of the work of Commissions, and on 6 October a time-limit of less than ten days for the decisions of the Plenary Conference. Since, as a result of the Conference's absorption in procedure, most of the Commissions were still considering Articles 1 or 2 of the treaties the remainder of their work was rushed; new amendments were poorly drafted, votes were taken without proper discussion or without the exploration of compromise solutions, and many worth-while proposals were rejected almost out of hand. The Plenary Conference itself was little more than a voting-machine. This was certainly not an atmosphere likely to lead to the patient negotiation of just peace treaties, with the best possible prospect of enduring.

The question naturally arises, Why should so much importance be attached to matters of procedure and matters of voting when the Conference had only the power of recommendation, not of decision, and when each member of the Council of Foreign Ministers would have the power in the final drafting stage to veto any proposal of which it disapproved? The answer is that the power of recommendation was by no means unimportant. A recommendation favourable to the proposal of one of the Four Powers would strengthen that Power's position when presenting that proposal to the Council of Foreign Ministers, all the more so because the world publicity centred on recommendations of the Conference would react unfavourably upon any one of the Big Powers which might be so "undemocratic" as to use its veto to prevent the will of a majority of the belligerent nations from finding expression in the peace treaties. In these circumstances it is understandable that the Four Powers, who, after ten months of strained negotiation, had reached a series of compromises on draft peace treaties which delicately balanced their conflicting interests, were not anxious to adopt any procedure which would make it possible for any one of the Four to upset that compromise and secure more favourable terms at the final drafting session of the Council of Foreign Ministers.

The composition of the Conference of twenty-one, moreover, was such that any changing of the compromise would be disadvantageous to the U.S.S.R. It became abundantly clear in the course of the Conference, which was held at a time when international relations were tense, that a "Slav" or "Eastern" Bloc existed. Probably because of the identity of their views and interests, this group of six States (U.S.S.R., Ukraine, Byelo-Russia, Yugoslavia, Poland, and Czechoslovakia) almost invariably voted together. But the Eastern Bloc of six was outnumbered by a larger group of thirteen (the so-called "Western Bloc"—U.S.A., United Kingdom, China, Canada, Australia, New Zealand, South Africa, India, Netherlands, Greece, Brazil, and usually France and Ethiopia), not rigidly bound, but sharing similar standards and interests and on the most important issues voting the same way. Belgium and Norway adhered consistently to neither "bloc," but cast more votes on the "Western" side. Field Marshal Smuts put the matter squarely before the Plenary Conference on 7 October :—

"In debate and outlook a cleavage has been revealed which, if not cleared up and removed, may bode ill for the future of this Conference, and of world peace. Those who examine the debates and votes will be struck by the constancy with which those whom I may call the Slav Group on the one hand, and the Western Group on the other, have voted against each other. It has been the revelation of this Conference. In importance it may yet come to overshadow the Conference itself. I therefore think it right to stress this so that it should not be overlooked or hushed up, but openly discussed and ventilated before this Conference."

Mr Byrnes, in the Commission on Procedure on 6 August, stated :—

“ Ever since the Potsdam Agreement we have encountered at every step Soviet determination to restrict the right to make peace to the fewest possible number of Great Powers. At London in September the issue was the Soviet desire to exclude France and China from any part in drafting the Balkan treaties. At Moscow the Soviet Government fought stubbornly for the smallest number of participants in this Conference. The struggle then moved on to fixing the powers of the Conference and its procedure, culminating in this effort, while the Conference is in session, to have the Council meet to dictate even the officials of the Conference.”

Thus the U.S.S.R. clearly had little reason to believe that the Conference would make positive recommendations which would advance her interests and, having failed to convince the U.S. and the U.K. that the non-Big-Four nations at the Conference should do no more than state their views, the Soviet Union naturally concentrated on preserving the gains she had already secured in the Council of Foreign Ministers by making it as difficult as possible for the Conference to pass a recommendation.

The Soviet diplomats, forced against their will into a twenty-one-nation conference at which they were certain to be outvoted, prepared their position before the Conference opened. They won their first victory when their three colleagues agreed that the Conference should be a body with power only to recommend changes in the draft treaties for the consideration of the Council of Foreign Ministers, not to prepare and decide upon the final texts. They won their second victory when it was agreed that none of the Big Four should submit amendments at the Conference to the agreed clauses of the draft treaties. They won their third victory when they secured agreement that all the Four Powers should support the agreed clauses during the Conference, and that all should vote against any proposal to amend the agreed clauses of the draft treaties if any *one* of the Four disapproved of that amendment. This was a central point in the dispute over voting procedure. For, when agreed clauses were considered by the full Conference, the votes of four of the twenty-one were committed in advance. Had it not been for this prior commitment of the Four Powers a two-thirds majority procedure would have been more acceptable to the small powers.

The arrangement meant, in effect, that any amendment to an agreed clause put forward by the “ Western ” Powers was automatically opposed by at least nine votes (U.S.S.R., U.K., U.S.A., France, Ukraine, Byelo-Russia, Yugoslavia, Poland, Czechoslovakia)—that is, sufficient to prevent it securing a two-thirds majority. The position of any amendments to agreed clauses put forward by the “ Eastern Bloc ” was even more hopeless. In this way, therefore, the Peace Conference of the twenty-one belligerent nations was assured of near-impotence before it opened because the agreed clauses covered most of the important questions.

Assurance was to be made doubly sure by the voting procedure provided in Rules of Procedure suggested by the Big Four by which questions of procedure should be decided by majority vote, but decisions on all other questions and recommendations should be decided by a two-thirds majority. A two-thirds majority on any question of substance was obtainable only by the Western Powers, and for them only if the proposal did not affect an agreed clause, and was supported by at least two of the Great Powers. This became clear during the final voting sessions of the Plenary Conference. Almost all the proposals of substance which were approved by a simple or two-thirds majority concerned clauses on which the Foreign Ministers had not reached agreement and where the alternative drafts of individual members of the Council of Foreign Ministers had been presented to the Conference. In these cases the U.K. or the U.S.A. proposal was accepted, while that of the U.S.S.R. secured only the usual 6 or 7 votes.

Some of the smaller "Western" powers had independent proposals to advance which ran counter to the agreed clauses. They saw that even under a simple majority rule these proposals would have little chance of acceptance, but under a two-thirds majority they would have none. It was the attempt of some of these seventeen non-Big-Four Powers to secure a simple rather than a two-thirds majority that precipitated the first procedural battle. (The "Eastern" smaller powers also had independent proposals, but no system of voting except "unanimity" could carry these against opposition.)

After two weeks of strained tempers and recriminations a compromise was reached under which the Council of Foreign Ministers agreed to "consider" two types of recommendations—those adopted by a majority of two-thirds, and those adopted by a simple majority. It was implied that the former would have more weight than the latter. This victory, won at the price of some embitterment among the Allies gathered together to write the peace (made possible by their co-operation in the war), was a victory within a restricted battleground, because it still gave the Conference no power of decision, and it did not alter the fact that at the very minimum nine votes would be opposed in the Plenary Conference, the Military Commission, and the Legal and Drafting Commission to any proposal to recommend a change to any agreed clause of the draft treaties (and eleven opposing votes would prevent a simple majority); in the Political and the Economic Commissions for Italy, where ten contrary votes would prevent a simple majority, the same minimum of nine contrary votes was assured in advance; in the Roumanian and Finnish Commissions the six votes necessary to prevent a simple majority were already guaranteed, as was also the case in the Bulgarian, Hungarian, and Balkans Economic Commissions, where eight certain contrary votes met the negative requirement of seven in the first and eight in the last two.

The counting of votes is in itself a confession of partial failure. If the peace aims of the twenty-one Powers (and of the Great Powers especially) had been as simple and as easily reconcilable as their war aims, and if the negotiators at Paris had been under instructions to sacrifice as much for the maintenance of peace as their compatriots had for its achievement, there would have been no need to count votes. In fact, their peace aims, as indicated by their uncompromising claims at the Conference, were not reconcilable.

This being so, it was made clear that, whatever might be the voting practice in national Parliaments or in some international bodies, Great Powers will not allow themselves to be outvoted by simple or even two-thirds majorities at Conferences which, by redrawing boundaries and redistributing zones of influence, set the framework within which international relations will be conducted for the next generation. None of the Great Powers would accept even a two-thirds or any other majority vote in favour of any solution which it believed to be opposed to its vital interest⁽¹⁾. It had taken the Great Powers ten months to reach the mutual accommodation represented by the draft treaties. For the Conference to make an alteration of the bargain (an alteration which would necessarily favour one of the Powers) would be to throw the whole settlement into the melting-pot. For instance, the Council of Foreign Ministers had settled the following vital issues as one interlocking bargain: Trieste, Italian colonies, Italian reparations. When this settlement was reached, and when the rules of procedure had been settled, but not until then, would the Council of Foreign Ministers permit the issue of invitations to the Peace Conference.

This situation underlay the rejection by Russia of the "democratic procedure" advocated by New Zealand, Australia, Brazil, and the Netherlands, as it did her insistence first on two-thirds majorities (*i.e.*, the right of obstruction by 8 out of 21) and later, when the simple and two-thirds majorities had been established by two-thirds vote, her insistence on "unanimity" (*i.e.*, the right of obstruction by 1 out of 21). Just what "unanimity" means in practice when the Big Powers have conflicting interests, and just how it was used to shape the peace treaties which the smaller Powers had little choice but to accept, was revealed when Mr Byrnes declared to the Plenary Conference on 9 August, during a stage of the Conference when tempers were running high:—

"I would be less than frank if I did not say that those who have insisted most loudly on unanimity here have not shown quite the same desire to achieve unanimity.

(1) Mr Molotov made it clear to the Plenary Conference on 14 October that the Soviet Union would use its veto in the Council of Foreign Ministers to prevent the adoption of recommendations (such as that concerning International Control of the Danube, or that concerning the Greco-Bulgarian frontier) on which the "Slav" States had been outvoted by the "Western" powers.

In our efforts during the past year to make peace, and to make peace secure, we have found, time and again, the rule of unanimity insisted upon, not to secure unanimity, not to secure agreement, but to block action. Time and again we have found the rule of unanimity insisted upon to compel the majority to yield to a minority which was unwilling, on its part, to make the concessions necessary to make common understanding possible."

Dr Evatt had made the point in another way on 8 August :—

"A peace treaty must be agreed to unanimously, but the method of getting unanimity is just as important. You can get unanimity by dictation, but that is not what we stand for."

Again, those delegations which claimed that equal sacrifice in fighting the war won them the right of equal participation in writing the peace were not allowed to forget that the forces of the Four, not of the twenty-one, were in occupation of the ex-enemy countries, and that the seal of the Four Powers on the peace treaties was needed (and was sufficient) to make operative their most important clauses⁽¹⁾.

The attitude of the Great Powers made clear their opinion that in a power-operated world due weight must be given to power. In such a context, they maintained in effect that the idea of "international democracy" is irrelevant ; that international society is not organized on a democratic basis, but on an artificial basis (the sovereign equality of all states) which, if it were allowed to operate "democratically" would give to the vote of 1½ million people (with a small army) the same value as the vote of 350 million people (with a very large army). The idea of democracy in international relations would only become relevant were a democratic world government to be established. In the meantime the best that could be done was for the Great Powers to temper their exercise of power by listening not only to their own consciences, but also to the "conscience of mankind," in so far as it might be expressed by the representatives of the smaller sovereign and equal States.

This was the background to the discussion on voting in the Plenary Conference and in the Procedural Commission which is summarized in the section of this report dealing with procedure.

III. RULES OF PROCEDURE

The Plenary Conference at its opening session on 29 July set up a Committee of the Whole to consider the Rules of Procedure suggested to the Conference by the Council of Foreign Ministers. The rules of procedure, which were to determine the very nature of the Conference, were adopted only after more than two weeks of discussion. The summary given below indicates the trend of the discussion and the rules as they were finally approved by the Plenary Conference.

⁽¹⁾ Mr Byrnes, for instance, stated in the Plenary Session on 29 July: "But peace treaties which determine boundaries and the disposition of colonies and territories cannot be made practically effective if they are not accepted by the principal allied and associated Powers."

ELECTION OF CHAIRMAN OF PROCEDURAL COMMISSION

Dr Evatt (Australia) nominated Mr Paul Henri Spaak, Foreign Minister of Belgium, "who had presided with success over the General Assembly of the United Nations." His proposal was seconded by the representatives of Greece, the Netherlands, and the United Kingdom. Mr Molotov, who maintained that the question of the chairmanship was political rather than technical, and that respect should be paid to a people who had taken an active part in the war, proposed Dr Edouard Kardelj, Vice Premier of Yugoslavia. This nomination was seconded by the representative of the Ukraine.

After a three-hour debate a secret ballot resulted in the election of Mr Spaak as President, with 13 votes, and Dr Kardelj as Vice-President with 7 votes.

ORDER OF REFERENCE OF THE CONFERENCE

The sixteen States not members of the Council of Foreign Ministers were invited "to participate in the examination of the treaties of peace" with Italy, Roumania, Bulgaria, Hungary, and Finland. A rule of procedure suggested to the Conference by the Council read—

"The draft treaties prepared by the Council of Foreign Ministers will be submitted to the Plenary Conference composed of all member States represented by the heads of their delegations. The Conference will refer them to Commissions for study, the various sections of the treaties being referred to the competent Commissions.

"The Plenary Conference shall receive reports drawn up by Commissions, discuss and adopt all recommendations it deems appropriate."

It could be argued from this that the Conference must confine itself within the clauses of the draft treaties. These, however, did not cover certain questions which some delegations thought should appear in the final treaties. Greece, for instance, wished to raise its claim to Northern Epirus. The treaty did not mention this territory specifically, but implied that it should be part of the reconstituted Albania. The Greek delegation therefore proposed that the Plenary Conference should consider not only the draft treaties, but also—

"Any related question which it might decide by a simple majority to place on the agenda at the request of one or more delegations."

This general principle was approved, and the text finally adopted was—

"At the request of one or more delegations, the Conference may place on its agenda any question connected with the draft treaties."

This provision brought little advantage to Greece. When her delegation raised their claim to Northern Epirus, the Slav nations took advantage of the occasion to brand the Greek Government as unrepresentative and undemocratic, and the acrimonious and irrelevant debate which ensued forced still wider the breach between the Allied Powers.

THE COMMISSIONS

After general discussions by the Plenary Conference the draft treaties were referred to the appropriate Commissions for study. The Plenary Conference then voted article by article upon the draft treaties and upon recommendations made by the Commissions.

In general, the principle was that the treaties should be made by the countries actually at war with the ex-enemy State in question, but this principle was not applied consistently. All the twenty-one members of the Conference (including Norway, who was technically not at war with any of the five ex-enemies) were represented, and had the right to vote in the Plenary Conference, the General Commission, the Military Commission, and the Legal and Drafting Commission.

The following Commissions were established—

1. *General Commission*

Membership : All twenty-one member States.

Functions : To assist the Plenary Conference ; to co-ordinate the work of the various Commissions. (This Commission had only one meeting, at which it elected its officers. Russia, believing that the General Commission, on which she would be outvoted, might be the key body of the Conference, insisted instead that, in so far as the Conference might have a Steering Committee, it should be the General Secretariat.)

2-6. *Five Political and Territorial Commissions—for Italy, Roumania, Bulgaria, Hungary, and Finland*

Membership : Members of the Council of Foreign Ministers and member States at war with the enemy State in question (*i.e.*, Italy : twenty States—all except Norway. *Roumania* : twelve States—U.S.S.R., U.K., U.S.A., France, Australia, Byelo-Russian S.S.R., Canada, Czechoslovakia, India, New Zealand, Ukrainian S.S.R., Union of South Africa. *Bulgaria* : thirteen States—U.S.S.R., U.K., U.S.A., France, Australia, Byelo-Russian S.S.R., Czechoslovakia, Greece, India, New Zealand, Ukrainian S.S.R., Union of South Africa, Yugoslavia. *Hungary* : fourteen States—U.S.S.R., U.K., U.S.A., France, Australia, Byelo-Russian S.S.R., Canada, Czechoslovakia, Greece, India, New Zealand, Ukrainian S.S.R., Union of South Africa, Yugoslavia. *Finland* : twelve States—U.S.S.R., U.K., U.S.A., France, Australia, Byelo-Russian S.S.R., Canada, Czechoslovakia, India, New Zealand, Ukrainian S.S.R., Union of South Africa. (The U.S.A., however, did not attend meetings of the Finnish Commission.)

7. *Economic Commission for Italy*

Membership : States at war with Italy (twenty States—*i.e.*, all except Norway).

Functions : To consider the economic and financial clauses of the treaty with Italy.

8. *Economic Commission for Balkans and Finland*

Membership : Members of the Council of Foreign Ministers and member States at war with any one of the enemy States in question—fourteen States : U.S.S.R., U.K., U.S.A., France, Australia, Byelo-Russian S.S.R., Canada, Czechoslovakia, Greece, India, New Zealand, Ukrainian S.S.R., Union of South Africa, Yugoslavia.

Functions : To consider the economic and financial clauses of the treaties with Roumania, Bulgaria, Hungary, and Finland.

9. *Military Commission*

Membership : All twenty-one member States.

Functions : To consider the military, naval, and air clauses of all five treaties.

10. *Legal and Drafting Commission*

Membership : All twenty-one member States.

Functions : See section of report dealing with this Commission.

MEMBERSHIP OF COMMISSIONS

The Netherlands delegate, who said that all the twenty-one nations had fought in the war and that many nations were not able to make formal declarations of war because of circumstances outside their control, proposed that all members of the Conference should be members of all Commissions.

This proposal was defeated by 11 votes to 9, with 1 abstention. (*For* : China, Canada, Australia, South Africa, Netherlands, Brazil, Greece, Belgium, Ethiopia. *Against* : U.S.S.R., U.K., France, Ukraine, Byelo-Russia, Yugoslavia, Poland, Czechoslovakia, New Zealand, India, Norway. *Abstained* : U.S.A.). New Zealand opposed the Netherlands proposal on the ground that larger Commissions would retard the speed of the Conference, and because delegations not represented on Commissions already had the right to place their views before the Plenary Conference.

A Russian compromise proposal was accepted. This enabled any delegation to take part in the work of any Commission, short of voting, and read :—

“ The representatives of each of the member States at the Conference may state their views to the various Commissions, provided that they notify the Chairman of the Commission concerned.”

THE SECRETARIAT

The *Administrative Secretariat* of the Conference was exclusively French.

The *General Secretariat* was a political body, consisting of representatives of the States members of the Council of Foreign Ministers, and four other members appointed by the Conference (Australia, Brazil, China, and Yugoslavia). This body became the Steering Committee of the Conference.

CHAIRMANSHIP OF THE PLENARY CONFERENCE

The Foreign Ministers proposed that they should preside over the Conference called by them to consider the draft treaties which they had prepared. The suggested rule read :—

“ The chairmanship of the Conference will be held in the first place by the representative of the host Government, and thereafter in turn by each of the Members of the Council of Foreign Ministers⁽¹⁾ in the French alphabetical order, each Chairman holding office for three days.

“ Each Commission will elect a Chairman and a Vice-Chairman respectively and appoint Rapporteurs.”

Some of the smaller Powers, dissatisfied with rules of procedure which gave such preponderance to the Big Powers, opposed this provision. They maintained that it was unsatisfactory, that the Council of Foreign Ministers should draft the treaties, call the smaller Powers into an advisory conference, take the largest share of the discussion, direct the Conference through the General Secretariat, and then, finally, reserve to themselves the chairmanship. New Zealand, the Netherlands, and Brazil proposed amendments of similar intent, which were supported by the United Kingdom, Canada, and Australia. The New Zealand amendment read :—

“ The chairmanship of the Conference will be held by the representative of the host Government.”

The amendment was put forward as being in harmony with diplomatic usage and a mark of courtesy to the host Government, and as having the practical advantage that a single Chairman would be likely to give consistent interpretations of the rules of procedure.

Questions of prestige were involved, and discussion showed that, while the amendment was acceptable to a majority, it would not secure unanimous approval. The French representative thereupon explained that it would be embarrassing for Mr Bidault to accept the chairmanship in those circumstances, and he asked, therefore, that the amendment be withdrawn.

⁽¹⁾ For this purpose, as for the issue of invitations to the Conference (though not for the drafting of the treaties), China was regarded as a member of the Council of Foreign Ministers.

A further proposal, that the Conference should elect its own Chairman, failed to secure acceptance. Thus, the procedure suggested by the Council of Foreign Ministers prevailed.

CHAIRMANSHIP OF THE COMMISSIONS⁽¹⁾

The members of the Council of Foreign Ministers made a concession to small-Power feeling by accepting the United States proposal that they should declare themselves ineligible for the chairmanship of Commissions.

The relevant rules of procedure adopted by the Conference read :—

“ No member of the delegation of any State represented on the Council of Foreign Ministers shall be eligible for election to the chairmanship of any Commission.

“ No member of the delegation of any State having one of its members elected to the chairmanship of any Commission shall be eligible for election to the chairmanship of any other Commission.”

VOTING

The voting procedure suggested by the Council of Foreign Ministers was as follows⁽²⁾ :—

“ Decisions of the Conference on questions of procedure will be adopted by a majority vote. Decisions on all other questions and recommendations will be adopted by a two-thirds majority.”

New Zealand put forward an amendment, which read :—

“ Decisions and recommendations of the Conference will be adopted by a majority vote.”

The New Zealand delegates, Mr Mason and Mr Jordan, stated that the change was desirable because voting procedure should be democratic ; because the Conference had only the power of recommendation, not of decision ; because the prior commitment of the Big Four to agreed clauses made a simple majority of the full Conference equivalent to a two-thirds majority of the uncommitted seventeen ; because the Big Four procedure made it possible for a minority of less than one-third to prevent the will of the Conference being expressed ; and because the small Powers—whose sacrifice in the war had been proportionately as great as that of the Four Powers—should not be restricted to the role of advisers.

(1) The rules of procedure suggested by the Council of Foreign Ministers did not cover this point.

(2) The U.K. and U.S.A. did not consider themselves bound to support the suggested rules of procedure, but maintained that they were free to support any changes proposed by members of the Conference, which should be free to determine its own procedure. The U.S.S.R. insisted that the suggested rules of procedure were on the same basis as agreed articles—*i.e.*, no one of the Four should support a change unless all the Four desired it. The representatives of the U.S.S.R. denounced the U.K. and U.S.A. for breach of good faith when they supported changes of procedure desired by several other delegations.

New Zealand was supported strongly by Brazil and the Netherlands, who had tabled similar amendments, and by Australia. None of the Big Four was in favour of removing the two-thirds rule. After long debate (between 31 July and 6 August) the amendment was defeated by 11 votes to 9, with 1 abstention. (*For*: Canada, Australia, New Zealand, South Africa, India, Netherlands, Brazil, Greece, Belgium, *Abstained*: Ethiopia. *Against*: U.S.A., France, U.K., U.S.S.R., Byelo-Russia, Ukraine, Yugoslavia, Poland, Czechoslovakia, China, Norway.)

Discussions then centred round the United Kingdom compromise proposal, which was finally adopted by a vote of over two-thirds, 15 to 6. (*Against*: U.S.S.R., Byelo-Russia, Ukraine, Yugoslavia, Poland, Czechoslovakia.)

In the earlier stage of the debate Mr Molotov and Mr Manuilsky had pressed strongly for the adoption of the two-thirds rule, arguing that the same procedure should be followed at the Paris Conference as had been adopted by the General Assembly of the United Nations. Dr Evatt and other delegates correctly pointed out there was no true comparison between the General Assembly and the Peace Conference, first, because the former makes decisions, not merely recommendations, and, secondly, because the Four Powers are not committed to support proposals placed before the General Assembly.

Almost simultaneously Mr Molotov was maintaining that a majority of two-thirds should be necessary to change the rules of procedure, despite the fact that a simple majority only is necessary in the General Assembly. As the Conference became more deeply involved in procedural questions hours were absorbed in discussing whether a two-thirds majority was necessary to decide as to whether or not a two-thirds majority was necessary to settle whether a question was one of procedure or of substance.

The United Kingdom proposal was accepted by a majority of more than two-thirds, in a vote which indicated the future voting alignment of the Conference. Mr Molotov then maintained that unanimity was necessary. He would not accept a two-thirds majority, which he said was dictation over the minority by the majority. Nor would he submit his opinion to the vote. He had stated his opinion, and this could not be changed.

Mr Molotov maintained this position before the Plenary Conference, when the rules of procedure (providing, *inter alia*, for the two types of recommendations) were adopted on 9 August by 15 votes to 4, with 2 abstentions. (*Against*: U.S.S.R., Byelo-Russia, Ukraine, Yugoslavia. *Abstained*: Poland, Czechoslovakia.) The Conference was left uncertain therefore, as to whether the U.S.S.R. would accept proposals recommended to the consideration of the Council of Foreign Ministers by a simple

majority. Doubt was resolved by Mr Molotov on 14 October, when he informed the Plenary Conference that Russia would refuse to accept certain recommendations passed by a two-thirds majority when they came before the Council of Foreign Ministers.

At the second meeting of the Procedural Commission the Yugoslav representative proposed the insertion of a proviso in the voting rules to the effect that—

“ In the case of recommendations dealing with boundary questions, the representative of the Allied Power whose racial or national groups are effected shall have voted.”

The effect of this proposal would have been to make any settlement of the problem of Trieste and Istria impossible without Yugoslavia's approval. It was not accepted.

LANGUAGES

English, French, and Russian were the official and working languages of the Conference and Commissions. Thus, for the first time at a large international Conference, Russian was given the status, previously confined to English and French, of a working language.

The requirement that everything spoken or written should be translated into two additional languages had the great advantage of reducing, though not removing, the possibilities of misunderstanding, though it naturally added considerably to the length of the Conference and increased the formality of the discussions.

The Chinese delegation put on record their intention of pressing for the inclusion of Chinese as an official (not a working) language of the Far Eastern Peace Conference⁽¹⁾.

PARTICIPATION OF EX-ENEMY STATES

Representatives of Italy, Roumania, Bulgaria, and Finland were invited to appear before the Plenary Conference at its early sessions, to give the general viewpoint of their Governments upon the relevant draft peace treaties. Thereafter they appeared before the various Commissions upon invitation, and stated their opinions (which were usually amplified by written memoranda) upon the most important individual articles as these came up for examination.

⁽¹⁾ The following statement was submitted by the Chinese delegation : “ Under the Charter of the United Nations, Chinese is one of the five official languages, and at the meeting of the Council of Foreign Ministers at London last September it was agreed and acted upon that important decisions and documents should be translated into Chinese and circulated among the delegations. Such arrangement does not involve any additional expenditure of time of the meetings of a Conference. The Chinese delegation do not intend to ask this Conference to follow the aforesaid practice in view of technical difficulties involved. We wish, however, to put on record that in future meetings, and particularly in conferences dealing with peace in the Far East concerning Japan, China will certainly expect the inclusion of Chinese as one of the official languages.”

The ex-enemy States were neither permitted to take part in the discussion nor to table amendments to the draft treaties. On certain occasions they did put forward proposals in the form of amendments, but these only became eligible for consideration if one of the States member of the Commission adopted it and tabled it as its own amendment. The representations of the ex-enemy States had little effect upon the decisions of the Conference.

PUBLICITY

For the first time the press was admitted to a Peace Conference. The proposal of Mr Byrnes that the press should be admitted not only to the Plenary Conference, but also to all Commissions, was seconded by Mr Molotov on the ground that closed meetings might prevent the Soviet viewpoint from being understood.

There is a widespread opinion, expressed by pressmen as well as by delegates, that the relative futility of the Conference was due to the fact that its proceedings—and especially the proceedings of the Commissions—were open to the press. It is true that delegates found it physically difficult to examine problems objectively with the glare of flashlights in their eyes and the click of cameras in their ears. It is also true that the discussions of the Conference had little of the cut and thrust found in parliamentary debates, and that many of the meetings consisted in a series of relatively unconnected and often irrelevant formal statements directed at other ears than those of the delegates to the Conference. The evidence does seem to indicate, for better or for worse, that in the present state of international relations delicate negotiations cannot be conducted satisfactorily in public. It is noteworthy that one of the only compromises which satisfied all parties was achieved by a sub-committee of the Hungarian Commission, which worked *in camera*.

Many passionate speeches might not have been made had the press not been present, while many of those that were made seemed much more uncompromising when reported in the outside press than they were known to be by delegates at the Conference who had better facilities for judging whether the words of a speech expressed its real purpose. Not a few issues were confused in this way.

Yet, against this view that it was publicity that ruined the Conference must be recorded the fact that the Conference had little real power. Thus it was natural that several delegations should use the enormous publicity opportunities at hand for purposes that had little in common with the Peace Conference.

OTHER RULES OF PROCEDURE

It was agreed that on all questions of procedure not covered by its own rules of procedure the Conference and the Commissions should in appropriate cases be guided by the principles of the rules of procedure of the General Assembly of the United Nations.

GENERAL COMMISSION

Officers

Chairman Colonel M. NASZKOWSKI (*Poland*)

Vice-Chairman Dr H. M. LANGE (*Norway*)

Rapporteur [Not appointed]

New Zealand Representatives

Hon. H. G. R. MASON

Rt Hon. W. J. JORDAN

Mr A. D. McINTOSH

This Commission held only one meeting, at which it merely elected its officers. Its duties, as set out in the Rules of Procedure, were to assist the Plenary Conference and to co-ordinate the work of the various Commissions.

Most delegations assumed that the General Commission, a Committee of the whole Conference, would be the Steering Committee and would co-ordinate proposals affecting more than one peace treaty. The Soviet Union, however, ensured that no problems were referred to the General Commission and that the control of the Conference was kept in the hands of the General Secretariat.

The impotence of the General Commission reflected the Conference's piecemeal and undirected approach to every problem and its failure to treat as an interrelated whole either the political, economic, or military aspects of the Eastern European and Mediterranean peace settlement.

POLITICAL AND TERRITORIAL COMMISSION FOR ITALY

Officers

Chairman Mr LEIF EGELAND (*South Africa*)

Vice-Chairman Mr D. Z. MANUILSKY (*Ukrainian S.S.R.*)

Rapporteur Mr A. D. MCINTOSH (*New Zealand*)

New Zealand Representatives

Hon H. G. R. MASON

Mr A. D. MCINTOSH

Mr F. H. CORNER

The Political and Territorial Commission for Italy held forty-three meetings. It was composed of delegates of twenty countries : Australia, Belgium, Brazil, Byelo-Russian S.S.R., Canada, China, Czechoslovakia, Ethiopia, France, Greece, India, Netherlands, New Zealand, Poland, Ukrainian S.S.R., United Kingdom, Union of South Africa, U.S.A., U.S.S.R., Yugoslavia. Norway alone of the twenty-one nations at the Conference was not represented.

The Commission had the task of considering certain parts of the draft peace treaty between the Allied and Associated Powers and Italy drawn up by the Council of Foreign Ministers, and of submitting, eventually, recommendations to the Plenary Conference. These parts were as follows :—

Preamble.

Part I: Territorial clauses (Articles 1 to 13, Annexes 1 and 2).

Part II: Political clauses (Articles 14 to 37, Annex 9).

Part III: War Criminals (Article 38).

Part V: Withdrawal of Allied Forces (Article 63).

Part IX: Settlement of disputes (Article 72).

Part XI: Final clauses (Articles 75 and 78).

In the course of its work the Commission took into consideration some ninety-five amendments, proposals, and resolutions advanced by the member delegations.

The observations of the Italian delegation⁽¹⁾, oral statements of Italian, Albanian, and Egyptian representatives, and the memorandum of the Albanian delegation⁽²⁾ were also taken into consideration in so far as they concerned articles within the competence of the Commission and provided they were sponsored by one of the delegations member of this Commission.

The members of the Council of Foreign Ministers had agreed in advance upon most of the articles submitted for the consideration of this Commission, but the Four Powers had not been able to reach prior

⁽¹⁾ CP (IT/P), Docs. 1 and 12.

⁽²⁾ CP (Gen), Doc. 7.

agreement in the case of the Statute of the Free Territory of Trieste, and submitted to the Conference four different texts on that question. On Article 76 (procedure for the settlement of disputes arising from the treaty), also, the Commission had to make a choice between a French - United Kingdom - United States proposal and a proposal sponsored by the U.S.S.R.

In the Italian Commission, as throughout the rest of the Conference, proceedings were characterized by lengthy debates on procedure, but, thanks to the able chairmanship of Mr Egeland (South Africa), this Commission, the largest and in some ways the most difficult of all, was more fortunate in this respect than most others. Nevertheless, the opening sessions were occupied by many hours' talk on procedural matters. The first substantial discussion took place on the admissibility or otherwise of the proposals put forward by the Italian Government for the modification of the Preamble in order to take note of Italy's ultimate share in Allied victory. Eventually it was agreed that "none of the suggestions contained in the Italian document were taken up as amendments in the form in which they were presented by any delegation, and therefore they were not supported as such."

The Preamble, after much discussion, was amended in certain respects, and, as finally approved, it set out more correctly the situation regarding the state of war between Italy and the Allied belligerents. It was also subject to corrections of style, and due recognition was given to democratic forces in Italy which had contributed to the overthrow of the Fascist regime.

Though not the first matter of substance to be discussed by the Commission in point of time, none proved more complicated and none was debated at greater length nor with more vigour than the twin problems of the Italian-Yugoslav frontier and the Free Territory of Trieste, upon which the Council of Foreign Ministers had failed to reach agreement in advance. The Italo-Yugoslav boundaries were covered in three identically worded articles of the treaty—namely, 3, 4, and 16, para. (1). But there was no agreed text regarding Trieste: Article 16 merely contained the decisions of the Council of Foreign Ministers on certain broad principles.

Trieste was, and is, undoubtedly the key to the Italian settlement. It is as well to state quite frankly that in the present situation, where mixed ethnic and national groups are at daggers drawn and backed by rival Great Powers, there appears to be little possibility of a wholly satisfactory solution, and a partial solution will probably have to be accepted as better than none at all.

Discussion in the Commission began with a statement from Signor Bonomi setting forth the views of the Italian Government on Articles 3 and 4 of the treaty relating to the boundaries between Italy and Yugoslavia, and Italy and the Free Territory of Trieste. Signor Bonomi (regarded by some as a not very tactful choice because of his association

with the Treaty of Rappallo) reviewed the history of the Julian March. He mentioned the danger of taking from Italy territories inhabited by Italians which had been gained through the sacrifices of the 1914-18 war and of creating a free territory which would be coveted by both sides. He pointed out that the Upper Isonzo Valley was economically and geographically linked to the Venetian Plain ; that it was necessary that Trieste should have communications with its hinter-land through both Italy and Yugoslavia ; that the French line separated Gorizia from its suburbs and water-supply. He asked for a new commission to revise this part of the frontier.

On the subject of the Free Territory of Trieste, he said that the French line had been based on the principle of "ethnic equilibrium"—*i.e.*, that equal numbers of each people should be under alien rule. It did not take into account the fact that the Free Territory would include 226,000 Italians as against 50,000 Slavs ; these figures should be added to the number of those under foreign rule. In order to restore the equilibrium it was essential to enlarge the Free Territory to include those parts of Istria lying to the west of the British line. He finished by protesting against the solution at present envisaged for the Italo-Yugoslav frontier, and appealed for justice as being the only basis for a durable peace.

The Yugoslav delegation were equally emphatic in their condemnation of the Italian case and of the proposals of the Council of Foreign Ministers, as embodied in Articles, 3, 4, and 16 of the treaty, attacking the French line on the grounds that it abandoned the principle of the ethnic line, that it prevented the national liberation and union of a considerable part of the Slovene people, that it deprived the Slovene people of the whole of their coast-line, and barred them from their outlet to the sea, and that it deprived the Slovene littoral of all urban centres. They rejected the theory of "ethnic equilibrium," which, in effect, meant placing equal numbers of Italians and Yugoslavs on each side of the frontier, and they stressed that this conception, the principle of "equality of injustice" rather than "minimum of injustice," was contrary to the decision of the Council of Foreign Ministers, because the adoption of the French line deprived Yugoslavia of important parts of her ethnical territory in order to compensate Italian settlements in the towns on the Yugoslav Adriatic coast and favoured the Italian urban population at the expense of the Slovene rural population.

The Yugoslavs claimed that their great sacrifices in the war merited the most favourable consideration of their claims.

In September, 1945, the Council of Foreign Ministers had appointed a body of experts to investigate the boundaries and to make recommendations covering both the frontiers and the settlement of Trieste. After months of study and discussion the experts had made the considerable advance of agreeing upon the facts, but found themselves unable to agree upon any recommendations, and each of the four put

forward as a solution a different boundary line on a map. That which was eventually accepted by the Council of Foreign Ministers was the compromise line put forward by France, which came to be known as the French line. The decision of the Foreign Ministers to create a Free Territory of Trieste to the west of the French line, however, upset the ethnic balance of the French experts' proposals, and this was seized upon by various delegations as the basis of their respective amendments. The amendment farthest removed from the original text was that of Brazil, whose delegation argued that the decision to establish the Free Territory of Trieste had completely altered the significance of the problem of delimiting the frontier between Italy and Yugoslavia. None of the lines proposed before the Council of Foreign Ministers had provided for the creation of a Free Territory, and its establishment was exclusively at the expense of the territory which had been contributed to Italy by the frontier line in question. They therefore thought it necessary to find some compensation for the heavy sacrifices which Italy and the Italian population of Venezia Giulia were asked to make. One of these forms of compensation might consist of adding Western Istria to the Free Territory of Trieste, which had formerly been included within the British frontier line. This would be legitimate, since the Committee of Experts had unanimously reported that the Italian element constituted a majority, and in many instances almost the whole population in many of the towns on or near the coast.

The Brazilian proposals also provided for a more generous settlement of the Gorizia area in favour of Italy. In other respects the Brazilian line approximated closely to the so-called British line.

An alternative Brazilian amendment proposed that the problem be shelved for a year, and that a new committee draw up the frontier on ethnic principles which it was hoped would satisfy most of the claims on either side. Both amendments were conclusively rejected.

At the other extreme was the Yugoslav amendment, which provided for a frontier much to the west of the French line along its whole length from the north of Venezia Giulia to the boundaries of the proposed Free Territory of Trieste. Broadly, it proposed that the Kanal Valley in the north and Gorizia, the second largest town of Venezia Giulia, should be incorporated in Yugoslavia. It also proposed that the coastal corridor of Italian territory which gave access from Trieste to the Italian port of Monfalcone on the Adriatic, should be given to Yugoslavia.

To this boundary rectification was coupled the Yugoslav demand for a free port zone with a Yugoslav administration within the international territory of Trieste and for the exclusive use by the territory of Yugoslav railway traffic and shipping. Yugoslavia also demanded that the international zone should be confined to the immediate precincts of the City of Trieste.

The amendment was voted on in four parts. Each was defeated by 13 votes to 5, with 2 abstentions, New Zealand voting against.

A proposal by Byelo-Russia, also based on a boundary west of the French line, represented a compromise between the Yugoslav and French proposals. It would have given Gorizia to Yugoslavia, and would also have eliminated the corridor along the coast connecting the Free Territory with Italy. It was defeated by 13 votes to 5, with 2 abstentions, New Zealand voting against.

The South African delegation moved an amendment which would have provided for the extension of the boundaries of the Free Territory of Trieste to include Western Istria, the coastal areas which are predominantly populated by Italians, and which were awarded to Yugoslavia under the Big Four proposals. The South Africans based their amendment also on the fact that the principle of the ethnic line having been abandoned for that of ethnic equilibrium, and the Free Territory having been carved out of predominantly Italian territory, the French line no longer represented the balance. The South Africans therefore thought that the Italian population on the west coast should remain separated from Yugoslav rule, and instead be placed under the international rule of the Free Territory. This, they argued, would leave the smallest possible number of people under foreign rule and would eliminate one cause of international friction.

This amendment was supported by New Zealand, but was defeated by 12 votes to 6, with 2 abstentions. While the U.S.S.R. supported the French line in the votes, they nevertheless made it clear during the debates that they regarded it as the minimum of justice to Yugoslavia, and made no secret of the fact that they would have preferred a settlement more favourable.

The Yugoslavs, for their part, at a very early stage bluntly stated that they would not give up Gorizia, which had been awarded to Italy by the French line, and that they would not sign a peace treaty "based on the French line and its injustice."

The United States and United Kingdom delegations emphasized throughout the discussions that the question of the boundary and the nature of the permanent Statute of the Free Territory of Trieste constituted within the French line were linked as one decision and one agreement. Both the United States and United Kingdom delegations had accepted the French line as the eastern frontier of Italy and of the Free Territory as part of the comprehensive agreement which included the setting-up of the Free Territory of Trieste. The two delegations made it clear that their agreement to one part of this decision was contingent upon agreement upon all parts of it, including a satisfactory Statute for the Free Territory. The British delegate went further, and stated that if the Trieste settlement did not provide real guarantees for its integrity and independence and for the protection of the rights of its citizens, then the United Kingdom Government would have to review its whole position.

After the rejection of several amendments, the boundaries of the Free Territory of Trieste as defined in Articles 3, 4, and 16 (1) were adopted by the Commission by 12 votes to 5, with 3 abstentions. Thereupon the Yugoslavs reiterated their determination not to accept a decision with which they did not agree, and went further by declaring that they would never withdraw their troops from that part of north-west Istria which is intended to become part of the Free Territory of Trieste.

Following the consideration of the boundaries, the Commission turned to the Statute of the Free Territory of Trieste. The creation of this Free Territory was an essential part of the proposed settlement. The four sponsoring Powers had not been able to do more than reach agreement on a few imprecise guiding principles for the Statute, and Article 16 merely contained some decisions on this point ; even these were not framed in definitive treaty language.

Five separate draft statutes were placed before the Commission, from the delegations of the United States, the United Kingdom, U.S.S.R., France, and Yugoslavia. They all provided for—

- (a) A Governor or, in the case of the Yugoslav draft, a High Commissioner, appointed by and responsible to the Security Council ;
- (b) A Council of Government ; and
- (c) A Legislative Assembly.

All the drafts agreed in providing that the independence and integrity of the Free Territory should be assured by the Security Council of the United Nations. It was also agreed that the Security Council would be the guardian of the observance of the statute. But this agreement meant nothing so long as the powers of the Governor, the Council, and the Assembly were left undefined.

Important differences manifested themselves between the United Kingdom, United States, and French drafts on the one hand, and the Russian and Yugoslav drafts on the other. The first three contained a proviso regarding demilitarization which would nevertheless preserve the right of Security Council forces to enter Trieste in pursuance of international security action, whereas the Russians and Yugoslavs desired that Trieste should be neutralized. The first three would have given the Governor—a person from outside Trieste nominated by and responsible to the Security Council—sufficient powers to maintain the provisions of the Statute and to assure the integrity, independence, public order, and security of the Free Territory.

The French, Americans, and British felt that it was essential for the Governor to have strong powers to enable him to hold the balance between Italians and Slovenes, since, if all legislative powers should lie with the Popular Assembly, the Slovenes, by means of the electoral machinery, could in all probability control that body, which would naturally incline towards union with Yugoslavia, and thus

frustrate the whole purpose of the international settlement. It was the view of the three Western Powers that Trieste should remain a free territory, to ensure that the predominantly Italian population did not pass under Yugoslav rule and that Trieste should remain a free port which would continue its traditional role of serving all the countries of south-eastern Europe. Since the Yugoslavs were more determined and physically powerful than the Italians it seemed necessary, they felt, to have a Governor with strong powers to protect the latter. If democracy were left to run its course in Trieste, there could only be one result.

In the Russian draft the powers of the representatives of the Security Council were reduced to a minimum. The Popular Assembly was made the centre of authority in the Free Territory and the Governor would have had no executive functions, his powers being limited to returning to the Popular Assembly any law which he considered contrary to the Statute, and to reporting to the Security Council for final decision if the Popular Assembly still refused to withdraw the law in question.

The issue resolved itself into the question of whether or not the elected Legislative Assembly of the Territory should be sovereign, or whether it should act under the direction of the nominated Governor. This, in turn, stemmed from the fundamental contest over Trieste. The Soviet Union had been of the opinion throughout that the Italian territory should be handed over to Yugoslavia, but the other members of the Big Four had insisted on the compromise of internationalization, which Russia eventually had agreed to accept.

The Slav countries all argued for a Customs Union between the Free Territory and Yugoslavia, and the right of Yugoslavia to handle the territory's monetary and foreign relations problems.

After a general discussion upon the Free Territory, the Commission set up on 10 September a Sub-Commission of eight, consisting of the representatives of the four sponsoring Powers (France, United Kingdom, U.S.S.R., and U.S.A.) and Australia, Netherlands, Poland, and Yugoslavia, to examine and report on the Statute of the Free Territory. The Sub-Commission held fifteen meetings, using as a basis for discussion Article 16 of the draft peace treaty for Italy and the draft statutes put forward by the delegations of France, United Kingdom, U.S.S.R., United States, and Yugoslavia. The Sub-Commission submitted its report⁽¹⁾ on 3 September and appended to its report an Annex comparing the texts of the four draft statutes. Except on certain points, the Sub-Commission was unable to present a single draft Statute,

⁽¹⁾ CP (IT/P), (S/T), Doc. 8.

and was unable to make recommendations for adoption by the Commission. In explanation of its limited success, the Sub-Commission reported⁽¹⁾ :—

“ From the beginning of the discussion it became clear that there existed fundamental differences of interpretation and implementation of these proposals concerning :—

“ (a) The character of the Free Territory :

“ (b) The responsibilities of the Security Council toward the Free Territory and, deriving from these, the position and role of the Governor and the position and role of the Legislative and executive authorities of the Free Territory.

“ Such differences of conception made the work of the Sub-Commission difficult, and explain why it has not been able to present, except on certain points, a single draft Statute.”

The time-table of the Conference precluded the Commission from discussing the Sub-Commission's report following its formal presentation on 2 October, 1946. Instead of a discussion in detail on the report of the Sub-Commission, there was a general discussion of all proposals before the Commission, including the Sub-Commission's report, but more particularly centred on the Polish resolution⁽²⁾, the United States partial redraft of Article 16⁽³⁾, the proposal by the French delegation⁽⁴⁾, the Yugoslav amendment⁽⁵⁾, and the U.S.S.R. amendment⁽⁶⁾.

The votes on these various amendments took place in the Commission on 3 October and in the Conference on 10 October. The vote in the Commission took place after the closing of the general debate at 2.25 a.m., and continued until 5.45 a.m., during the course of which fifty divisions were taken. The most important of the amendments was that of the French delegation, which set out in detail the principles to guide the Council of Foreign Ministers in their consideration of the final draft of the Statute. The vital point in the French proposals is that the Security Council shall have the power and the authority necessary to preserve the freedom and integrity of Trieste. It was voted on paragraph by paragraph, and adopted in each case by a two-thirds majority, normally a vote of 14 to 6. Almost all the clauses of the resolution put forward by the Soviet Union were rejected by the same majority. The decisions of the Conference upon Trieste (Article 16 of the treaty) as they finally emerged were as follows :—

ARTICLE 16

At present consisting of paragraphs 2, 4, 6, of Article 16 of draft treaty and of following proposals :—

U.S. Proposal (Part A)

1. There is hereby constituted the Free Territory of Trieste, which is recognized by the Allied and Associated Powers and by Italy. They agree that the integrity and independence of this Free Territory should be assured by the Security Council of the United Nations.

⁽¹⁾ CP (IT/P), (S/T), Doc. 8, p. 2, paras. 6 and 7.

⁽²⁾ CP (IT/P), Doc. 106.

⁽³⁾ CP (IT/P), Doc. 16.

⁽⁴⁾ CP (IT/P), Doc. 105, Rev. 1.

⁽⁵⁾ CP (IT/P), Doc. 103.

⁽⁶⁾ CP (IT/P), Doc. 46.

2. [*Description of the frontiers.*]

3. Italian sovereignty over the territory lying between the Adriatic Sea and the boundaries defined in Article 4 of the Treaty shall be terminated upon the coming into force of the treaty.

4. Upon the renunciation of Italian sovereignty, the Free Territory of Trieste shall be governed in accordance with a provisional regime to be established by the Security Council, which shall remain in force until such date as the Security Council shall fix for the coming into force of a permanent Statute which shall have been approved by it. The Free Territory shall thenceforth be governed by the provisions of such permanent Statute.

5. The Free Territory of Trieste shall not be considered as ceded territory within the meaning of Article 13 of Annex 3 of the present treaty.

French Proposal (to the Political and Territorial Commission for Italy)

The Commission,

I. Having taken note of the report of the Sub-Commission on the Statute of the Free Territory of Trieste,

Approves those provisions in the draft Statute on which unanimous agreement has been reached by the Sub-Commission.

II. Approves paragraphs 2, 4, and 6 of the decision of the Council of Foreign Ministers of 3 July, 1946, which appears under Article 16 of the draft peace treaty.

III. And in order to facilitate the elaboration by the Council of Foreign Ministers of the Permanent Statute, the Free Port Regime, and the Provisional Regime, the Commission,

Recommends that—

The principles contained in these paragraphs should be expanded in the Permanent Statute as follows:—

(1) The integrity and independence of the Free Territory is assured by the Security Council. This responsibility implies that the Council shall—

(a) Ensure the observance of the permanent Statute and, in particular, protect the basic human rights of the inhabitants:

(b) Assure the public order and security in the Free Territory.

(2) The Free Territory shall be demilitarized. No armed forces, except upon direction of the Security Council, shall be allowed in the Free Territory.

(3) In conformity with the principle that the legislative and executive authority of the Free Territory shall be established on democratic lines, the Permanent Statute of the Free Territory shall provide for the creation of a popular Assembly elected on the basis of proportional representation by means of a universal, direct, equal, and secret suffrage, and a Council of Government formed by and responsible to the Assembly.

(4) By reason of the responsibilities imposed upon the Security Council in the Free Territory it is inevitable that certain limitations shall be imposed upon the Powers of the popular Assembly and the Council of Government. These limitations result from the rights now conferred upon the Governor, subject to any modification which the Security Council may subsequently determine.

(5) The Governor shall be appointed by the Security Council after consultation with Yugoslavia and Italy. He shall be the representative of the Security Council in the Free Territory, and shall in particular have the duty of supervising the observance of the Statute.

(6) In matters which in his view affect the responsibilities of the Security Council as defined in paragraph (1) above the Governor shall have the right to propose legislation to the popular Assembly and to prevent the entry into force of legislative measures subject to reference to the Security Council if the popular Assembly does not accept his views and recommendations.

(7) In the meetings of the Council of Government, the Governor shall express his views on all matters affecting his responsibilities.

(8) The primary responsibilities of the Governor would be—

(a) The maintenance of public order and security :

(b) The conduct of foreign relations in the closest liaison with the elected authorities of the Territory :

(c) The appointment of the judiciary on the advice of the Council of Government and, subject to safeguards to be established by the Constitution, the removal of members of the judiciary for conduct incompatible with their judicial office.

(9) When as a result of exceptional circumstances, the independence and integrity of the Free Territory, public order and security, or the human and civic rights of the inhabitants are endangered, the Governor may take all necessary measures subject to his making an immediate report to the Security Council. Under the same reservation he may proclaim a state of siege.

(10) Citizenship :—

(a) Domicile in the Free Territory on 10 June, 1940, as provided in Article 13 of the Peace treaty with Italy shall be the qualification for original citizenship of the Free Territory :

(b) The conditions for the acquisition of citizenship by persons not qualifying for original citizenship shall be determined by the Assembly of the Free Territory and embodied in the Constitution.

(11) Free port and economic questions :—

(a) A Free Port Regime is desirable, irrespective of whether or not it is ultimately decided that the whole Territory shall be a Free Customs Zone :

(b) The establishment of special zones under the exclusive jurisdiction of any country is incompatible with the status of the Free Territory and of the Free Port :

(c) Freedom of transit shall be assured to goods and means of transport between the Free Port and the States which it serves, without any discrimination and without Customs or fiscal charges, by the States whose territories are traversed :

(d) Economic union or associations of an exclusive character with any other country are incompatible with the status of the Free Territory.

Provisional Government

(a) From the date of the entry into force of the Treaty of Peace until the entry into force of the permanent Statute, the Provisional Government of the Free Territory will be organized by the Security Council, which in particular will appoint a Governor and define his powers.

(b) The Security Council shall fix the date or dates for the withdrawal of foreign troops stationed in the Free Territory.

IV. The Commission recommends that the Council of Foreign Ministers gives an opportunity to a representative of the People's Federative Republic of Yugoslavia to present his views before final decision is reached.

The Commission likewise recommends that a representative of Italy be heard by the Council of Foreign Ministers.

U.S.S.R. Proposal (Points 5 and 6)

5. The Governor shall be responsible for the observance of the Statute of the Free Territory.

6. Legislative authority shall be exercised by a popular assembly elected by means of universal, equal, direct, and secret suffrage, irrespective of sex, on the basis of proportional representation.

ITALIAN COLONIES

The settlement of the question of the Italian colonies was one in which New Zealand had the greatest interest. Our troops had played a significant part in the liberation of Libya. The security of British Commonwealth communications in the Mediterranean is of direct concern to us. Moreover, we are particularly interested in the early establishment of the trusteeship system of the United Nations.

As in the case of Trieste, the Council of Foreign Ministers had failed to reach any final solution on the future of the Italian colonies, and their decision on this matter was contained in Article 17 of the draft treaty and in the declaration of the Four Powers⁽¹⁾.

The essential feature of Article 17 is that the Big Four shall have another year in which to "dispose of" the Italian colonies, and if they fail to do so, then the question of the settlement is handed over to the General Assembly.

(1) *Article 17* : (1) Italy renounces all right and title to the Italian territorial possessions in Africa—*i.e.*, Libya, Eritrea, and Italian Somaliland.

(2) Pending their final disposal, the said possessions shall continue under their present administration.

(3) The final disposal of these possessions shall be determined jointly by the Governments of the U.S.S.R., United Kingdom, U.S.A., and France within one year of the coming into force of the present Treaty, in the manner laid down in the joint declaration of [Date] issued by the said Governments.

Draft Declaration of the Four Powers on Italian Colonies.—(1) The Governments of the U.S.S.R., U.S.A., United Kingdom, and France agree that they will, within one year from the coming into force of the peace treaty with Italy bearing [Date], jointly determine the final disposal of Italy's territorial possessions in Africa, to which, in accordance with Article . . . of the Treaty, Italy renounces all right and title.

(2) The final disposal of the territories concerned and the appropriate adjustment of their boundaries shall be made by the Four Powers in the light of the wishes and welfare of the inhabitants and the interests of peace and security, taking into consideration the views of other interested Governments, and the Four Powers agree to accept the recommendations.

(3) If in respect to any of these territories the Four Powers are unable to agree upon their disposal within one year from the date of the coming into force of the present treaty, the matter shall be referred to the General Assembly of the United Nations for a recommendation and to take appropriate measures for giving effect to it.

(4) The Deputies of the Foreign Ministers shall continue the consideration of the question of the disposal of the former Italian colonies with a view to submitting to the Council of Foreign Ministers their recommendations on this matter. They shall also send out commissions of investigation to any of the former Italian colonies in order to supply the Deputies with the necessary data on this question and to ascertain the views of the local population.

Seven amendments were put forward by delegations. All were eventually withdrawn, except those of Brazil and New Zealand, the two amendments farthest removed from the original text. The proposal by Brazil would have provided a solution most favourable to the Italians, in that it gave them back their former colonies under United Nations trusteeship. Since the amendment clearly had little or no chance of being adopted, the Brazilian representative stated that his delegation would take up as their own the Italian proposals for an adjournment of the final decision on the fate of the Italian colonies for one year, in the meanwhile treating the territories in question as *res nullius*, which would enable Italy to concern herself by administrative action with the well-being of her colonists.

The New Zealand amendment was of a more far-reaching character. It proposed, firstly, the renunciation of sovereignty in the Italian colonies by Italy in favour of the United Nations, and, secondly, an undertaking on the part of the Allied and Associated Powers to hand over to the General Assembly the question of the future administration of the former Italian territorial possessions. (The statement of the New Zealand delegate is attached as Appendix 4.)

During the course of the discussion, several delegates spoke in favour of New Zealand's proposal, but those countries made it clear that, while they agreed in principle, they would nevertheless support the Big Four solution as being the one most likely under the circumstances to achieve practicable results. Both the Italian and Egyptian representatives spoke, and also delegates from Ethiopia, Brazil, New Zealand, Greece, Canada, China, the United States, India, South Africa, the United Kingdom, Australia, Yugoslavia, Belgium, and the U.S.S.R.

The South African and Australian delegates were most anxious that there should be a definite understanding that the countries—and notably the British Dominions—which had taken part in the liberation of this territory, should be consulted in its settlement. In response to a formal request by the South African delegate, this matter was referred to the Council of Foreign Ministers, which was sitting in Paris at the time, with the result that a satisfactory declaration was made, and the South Africans and other delegates were enabled to withdraw their amendments⁽¹⁾.

(1) *Article 17 of the Draft Peace Treaty*.—In answer to a question put at the last meeting by the delegate for South Africa, concerning the interpretation of Article 2 of the draft declaration of the Four Powers, the delegate for the United Kingdom made the following statement (see CP (IT/P), Doc. 82): "This question was considered by the Council of Foreign Ministers yesterday, and I am happy to be able to inform the South African delegate and the Commission that the Council, for their part, understand the existing phrase as meaning that those allied countries who fought in Africa during the last war will, amongst others, be fully consulted on the question of the disposal of the Italian colonies before any final decision is taken by the Council itself. How exactly this consultation will take place must be left for the Council itself to determine, but I can assure members of the Commission that no obstacle whatever will be placed in the way of a full exposition of the views of those Governments to which I have referred."

The Chinese delegate spoke briefly in favour of the grant of immediate independence, and the Australian delegate expressed his regret that the proposals of his Government for the settlement of the problem by a body of seven—namely, the Big Four and three associated Powers elected by the Conference—should have met with no success.

The Ethiopian delegate pressed his country's claim for the restoration of Eritrea, a proposal which met with general support, and the Ethiopian delegate agreed not to press for a decision, but to leave this question to be settled by the Council of Foreign Ministers.

During the course of the discussion the Commission also heard stated the Egyptian desire for frontier revision, which would recognize their claims in Eritrea. Egypt also voiced the desire of the Arabs in Libya to obtain self-government, the immediate grant of which was advocated by the Chinese delegation. The British Government also reminded the Conference of their pledge to the Senussi in Cyrenaica, who had helped the Allies during the war, that they would never again be subjected to Italian rule.

It was also made clear that in renouncing her sovereignty Italy was not necessarily excluded from her former colonies.

When the Commission proceeded to vote on the amendments, that put forward by Brazil was rejected by 18 votes to 1, with 1 abstention. The New Zealand amendment was rejected by 16 votes to 2, with 2 abstentions, Netherlands being the only other country to vote for it, while China and India abstained. The article as it stands in the draft treaty was then adopted without objection, Australia and Brazil abstaining in the Commission, and New Zealand abstaining in the Conference.

FRANCO-ITALIAN FRONTIER

The Franco-Italian frontier was the first provision of the treaty to be discussed by the Commission, and it followed a procedural debate on the Australian proposal for the appointment of a standing committee of investigation into all boundaries affected by the treaty. This was to be a body of a permanent nature, composed of seven members representing the Big Four and three other States, which would be charged with the task of looking into conflicting claims. Eventually the proposal was withdrawn in view of the fact that the Rules of Procedure permitted of the setting up of Sub-Commissions, as and when required. Though this did not meet the Australian point of view, it was found that no other course was acceptable to the majority of members of the Commission. The Australians reserved the right to propose the establishment of sub-committees as and when they appeared to be required throughout the Conference.

After a general discussion on the Franco-Italian boundary, during which Signor Sarragat was invited to present Italy's case, the Commission turned to a detailed examination of the various amendments.

The proposed rectification of the boundary in favour of France was a question which had caused some doubts in the minds of the New Zealand Government because, although the proposed changes were relatively small, an important principle was involved—namely, the principles of the Atlantic Charter regarding territorial aggrandizement and consultation of the wishes of the inhabitants. The French case was based in reality on strategical considerations—and it was clear that the new line gave France considerable strategic advantages—though claims of a historic and economic nature were the ones advanced before the Conference. France gave certain specific guarantees under Annex 2 of the treaty to secure electric power and water-supplies to Italy.

For Italy, Signor Saragat stated that the Italian Government would raise no objection to the transfer to France of the Little St. Bernard Pass, the valley of Bardonecchia, Mont Chaberton, and the Upper Tinee and the Vesubie Valleys, but they were worried about the Mont Cenis Plateau and the Upper Roya Valley. He explained that the Mont Cenis Plateau was entirely on the Italian side of the watershed and only 40 kilometers from Turin. There was also Italian property on the French side of the frontier, as there was French property on the Italian side. The Italians also stressed that it was dangerous that the large mass of water contained in the reservoir on the plateau of Mont Cenis should be detached from Italy, since any overflow would result in disastrous floods in Piedmont. As regards the Upper Roya Valley, the Italian objections were based on the fact that Italian was the universally spoken language, and this factor and the geographical one merited retention of the Briga-Tenda area in Italian territory. Moreover, the area was linked to Italy rather than to France by its economic ties, and, finally, the hydro-electric-power station in the Tenda area was of great importance to the economy of northern Italy. On the strategical side, the Italians argued that the cession of Mont Cenis and of the Upper Roya Valley would breach Italy's alpine frontier.

In answer to the Italian case the French delegation submitted a memorandum which outlined the economic and historic grounds on which the claims were based, but made little reference to their strategic significance. Most of the arguments advanced were repeated in the course of the debate, which is noted below.

The cases presented by the French and Italian delegations revealed considerable divergence upon basic facts, and the Australian representative accordingly proposed that a special Sub-Commission should be appointed to investigate and report upon the facts in this particular case. The New Zealand delegate took the view that the matter was of sufficient importance to be considered in the Commission as a whole, rather than in a Sub-Commission, and that such a method would moreover, save the time of the Conference.

Mr Mason expressed his concern that the territorial changes proposed by France should leave no physical barrier to military invasion of Italy. He asked if the French had considered whether the advantage

they would gain from the change might not be counter-balanced by the feeling of insecurity it would rouse in the minds of Italians. He felt that the apprehensions in Italy created by the weakened frontier would have undesirable effects, and, as important changes in the direction of democracy had taken place in the structure of the Italian State, he considered it was desirable not to create fear and suspicion which might weaken the prestige of Italian democrats, in exchange for the small reinforcement of a French frontier, which, as the recent war had shown, was already secure.

The French delegate, in reply, emphasized that very little territory and very few people were involved, and he thought the difficulties could easily be solved bilaterally between France and Italy, though he admitted that strategically the frontier was favourable to France and would be more so if the proposed rectifications were made. He also reminded the Conference that the plebiscite of 1860 would have given this area to France, and that in any event the pastures on the plateau had continued to be owned by French people—though they had been subjected to constant pinpricks and to the expropriation of 3,065 out of 5,037 hectares of their land by the Fascist regime—and the people of Savoy were very anxious that the plateau should be joined to France.

Mr Mason maintained that it would be inconvenient for Italy to lose possession of the hydro-electric-power site, however she might be compensated and even if guarantees were given, and he again stressed that it seemed that the impairment of the natural alpine frontier of Italy by the session of the plateau to France might set up an unnecessary source of trouble in the future. He therefore asked for more information.

The French delegate added two more points—namely, that France wished to recover property expropriated by Italian Fascists, and, secondly, to recover the waters which rise in France and flow towards France. Mr Mason finally expressed doubt as to whether the change would secure tranquility, and he asked that the position be reconsidered. He also inquired whether the wishes of the inhabitants had been or were to be ascertained, in accordance with Article 2 of the Atlantic Charter.

He was supported by several delegations, who had similar doubts as to the wisdom of embittering Italy for such a trifling gain to France, with the result that when the clause was put to the vote it received 15 affirmative votes, but five States abstained, including New Zealand. The French did, however, make a number of concessions, notably in leaving to Italy the village of Olivetta—San Michele and in arranging that a joint Italo-French technical committee should ensure that the safety of the lower valley is not endangered by the Mont Cenis Plateau reservoir. These modifications of the draft treaty ensured that the relevant articles of the treaty (2, 6, 7, 8, and 9) were approved unanimously by the Conference.

THE SOUTH TYROL

One of the few encouraging developments during the Conference was the independent negotiation by Italy and Austria of an agreement which provided for considerable guarantees being given to the Austrian inhabitants who comprise the bulk of the population of the Italian South Tyrol. When drafting the treaties the Council of Foreign Ministers had considered the claim for the return of the whole or some part of South Tyrol to Austria, but they had not been able to reach unanimity and had therefore rejected the claim. Thus the sole reference in the treaty to this most controversial question was Article 10, which merely provided that Italy and Austria should enter into arrangements to guarantee free movement of passenger and freight traffic between the north and east Tyrol.

The desire of several delegations to see justice done to the South Tyrolese, who had suffered under the rule of Italian Fascists and non-Facists, indicated that another item, involving territorial changes in an important strategic area, would be added to the Conference's agenda of disagreement. When, however, the Italians and Austrians negotiated an agreement which by implication left the South Tyrol under Italian sovereignty, but provided that the Italian Government should give to the inhabitants a wide range of guarantees, which included the use of their own language and local legislative and executive autonomy, these delegations were satisfied and simply proposed that the Conference add weight to the agreement by incorporating its provisions in the treaty.

This proposal, advanced by Belgium and the Netherlands, was opposed by the Russian group (who chose as their chief spokesman the Foreign Minister of Esthonia) on the formal ground that the agreement was between two ex-enemy States and therefore no concern of the Conference, and on the substantial ground that it was unreal to write into the peace treaty an agreement which by making no precise economic arrangements, by using vague words and setting up no practical machinery and by omitting to define the exact territory involved, failed to solve satisfactorily the question of the rights and freedoms of the population, left open the question of the frontiers, gave scope for narrowing the autonomy desired, and thus held no prospect of giving permanent satisfaction either to Italy or to Austria.

The Dutch-Belgian proposal, framed as a new article, 10A, was passed by 13 votes against the conventional 6, with Ethiopia abstaining; the Plenary Conference sent it forward to the Council of Foreign Ministers as a two-thirds majority recommendation.

THE DODECANESE

Article 12 of the draft treaty provided for the cession to Greece of the Dodecanese Islands, and for their demilitarization. Though this article was agreed upon in advance by the Four Powers, the U.S.S.R., while not opposing it, raised various technical and procedural difficulties—especially in the Legal and Drafting Commission—and delayed final approval until the last moment. This may have been intended as a further sign of displeasure towards Greece, though it is natural that the Soviet Union should give minute scrutiny to the arrangements made for the future of a group of islands which are intimately connected with the Dardanelles and with Mediterranean strategy.

PROTECTION OF THE INHABITANTS OF CEDED TERRITORIES

Three paragraphs of Article 13 provided that Italian citizens in any territory transferred to another State by the treaty should have the right to retain Italian citizenship (and risk being repatriated to Italy), or to obtain the citizenship of the State in which they would now find themselves. These clauses had been agreed upon by the Four Powers and were approved by the Conference.

A fourth clause, proposed by the United States, had not been agreed. It was designed to bind the States receiving territories from Italy to secure to all the inhabitants of those territories the enjoyment of fundamental rights and human freedoms. Australia had put forward an amendment to all the draft treaties, including the Italian, which was practically the same as this United States proposal.

The Russian group objected to such proposals, which put victors on the same level as vanquished. It was right and proper to bind ex-Fascist States to guarantee the rights of their citizens, but it was an insult and a humiliation to victorious democratic States to be told how they should treat any new citizens they might acquire. Each of the United Nations had joined the war—a war between Democrats and Fascists—in order to fight for liberty, and each now wished to be free to run its country in its own way. One had only to look at the record of the new Yugoslavia, for instance, as the Yugoslav delegate pointed out, to see that in truly democratic States human rights and freedoms exist in fact not just in theory.

The French delegate stated that France, who was directly concerned because she had received territory from Italy, had also fulfilled all her Charter pledges concerning human rights. Nevertheless, they understood that States who consented to the transfer of territory felt impelled to satisfy themselves that the inhabitants concerned did not suffer. Therefore, they had no objection to agreeing to the proposal and to allowing any of its Allies to see that all was well with the people of the transferred territory.

The Russian group, however, maintained their objection. As Mr. Vyshinsky said, "if the French liked interference in their internal affairs that was their business"; the Soviet Union did not. The vote, accordingly, was 14 to 6 in the Commission and 15 to 6 in the full Conference in favour of the proposal.

A new Article, 13A, proposed by Yugoslavia, was accepted after its intention and wording were clarified. This article, which is similar to the first three paragraphs of Article 13, enables any Yugoslavs in Italy who are Italian citizens to obtain Yugoslav nationality. (A Yugoslav is defined as a person who customarily uses one of the Yugoslav languages, Serb, Croat, or Slovene.) The Italian Government is authorized to require persons who do this to transfer their residence to Yugoslavia.

HUMAN RIGHTS IN ITALY

The draft treaty, Article 14, provides that—

"Italy shall take all measures necessary to secure to **all** persons under Italian jurisdiction, without distinction as to race, sex, language, or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion, and of public meeting."

There were naturally no objections to this article, which was accepted unanimously, but several proposals were made for dotting its i's and crossing its t's.

Australia proposed, unsuccessfully, that Italy should be bound to write the guarantees into her fundamental law. The wording of Yugoslavia's two amendments was too imprecise and contained good and bad principles, but by then the Commission had spent so long considering the Yugoslav arguments concerning Trieste and Venezia Giulia that it had no time to separate the good from the bad or to define and clarify, and both were rejected *in toto*. The first urged that Yugoslavs in Italy should have the right to be taught in their own language and to have separate schools; the second urged that an amnesty be granted to all Italian nationals who had deserted from the Italian Army or who had sought to have territory in Istria ceded to Yugoslavia. A similar fate ultimately befell Greece's proposal that, in the interests of culture and civilization, she should be entrusted with the administration of all the property, libraries, and archives of the various Greek Orthodox Churches in Italy.

SUPPRESSION OF FASCISM IN ITALY

All the draft treaties except the Italian contained an article binding the ex-enemy State to dissolve all organizations of a Fascist type on its territory and in future "not to permit the existence and activities of organizations of that nature which have as their aim denial to the

people of their democratic rights." The representatives of Poland and Ukraine proposed that a similar clause should be included in the treaty with Italy, the home of Fascism; Fascism, they maintained, was already reviving in Italy, and the Government needed help in stamping it out.

The United States and the United Kingdom delegations argued that Italy had already adopted laws for stamping out Fascism and there was therefore no need to include such an article, which in any case was so vague that it amounted to no more than "telling Italy to be good and not to be naughty."

In the Commission the proposal was rejected by 8 votes for to 9 against, with 3 abstentions. The New Zealand and Indian delegates voted in favour; the delegates of France, Greece, and the Union of South Africa abstained. It was again rejected in the Plenary Conference.

CLAUSES RELATING TO CHINA

Articles 18, 19, and 20 provide for the renunciation by Italy of territorial and other special rights in China. These were accepted unanimously.

ALBANIA

Articles 21 to 26 of the treaty reconstituted the State of Albania, which had been absorbed by Italy. Articles 23, 24, 25, and 26 were adopted unanimously without qualification. To the other articles, controversial amendments were proposed.

Article 21 read: "Italy recognizes and undertakes to respect the sovereignty and independence of the State of Albania." Yugoslavia, at Albania's request, proposed that Italy should also be bound to recognize the "territorial integrity" of Albania. The Commission accepted the amended article by 11 votes for (including New Zealand) and 1 vote against (Greece). Eight delegations, however, abstained (U.S.A., United Kingdom, U.S.S.R., France, Australia, Belgium, Brazil, and Canada). Most of these delegations abstained because they considered that to bind Italy to recognize the "territorial integrity" of Albania might be to imply the rejection of Greece's claim to Northern Epirus. At the time of the vote in the Commission the New Zealand representative considered that such an implication was not valid and that Albania, who had suffered from Italian aggression, should be guaranteed against its repetition. Greece, however, maintained that her claim might never even be considered if the Yugoslav amendment were incorporated in the peace treaty, and, in view of the doubts thus raised and in accordance with our policy of giving whatever support we could to Greece, the New Zealand delegate in the Plenary Session voted against it. Another delegation did the same, with the result that the phrase "territorial integrity" was rejected by 13 votes to 7, with 1 abstention.

Throughout the Conference the Russian group maintained that Albania's war effort entitled her to full membership of the Conference. Albania was given every opportunity to present her case upon those articles which concerned her, but her status as an "Allied and Associated Power" was not admitted. A Yugoslav amendment to Article 25, designed to give Albania the rights of an Allied and Associated Power, was rejected by 12 votes to the usual 6, with Ethiopia and France abstaining.

Article 22 of the treaty awarded the Island of Saseno to Albania. Greece claimed that the island was Greek, and moved an amendment accordingly, but the original article was accepted in the Commission by 15 votes (including New Zealand) to 1 (Greece), with 4 abstentions (Australia, Belgium, Brazil, and South Africa). As a result of further discussion, it appeared to the New Zealand delegate and others that there had not been a sufficiency of information on this question, and the merits of the decision taken in Commission were open to doubt; New Zealand, therefore, abstained when the article was voted upon in full Conference.

The article received only a simple majority of 13 votes to 2 (Greece and South Africa), with 6 abstentions (Australia, Belgium, Canada, China, Netherlands, New Zealand).

ETHIOPIA

By Articles 27 to 31 of the treaty, Italy was bound to recognize the sovereignty and independence of Ethiopia, to renounce any special rights or advantages she might have acquired in that country, and to make good some of the damage she had committed there.

Italy claimed that credit should be allowed for certain of the economic assets which she had bequeathed to Ethiopia. The Ethiopian representative maintained, however, that the bulk of Italian installations in Ethiopia had been built for strategical reasons and their value was military rather than commercial; in any case, the roads and many of the buildings had been built with Ethiopian material and by Ethiopian workers. The Commission, naturally enough, favoured the Ethiopian case.

Several amendments proposed by Ethiopia were accepted, including one which provided that the clauses of the treaty relating to Ethiopia should be applicable to all acts taken by Italy and Italian nationals since the beginning of their aggression in 1935. The date set by the draft treaty had been 1939.

The Ethiopian claim to the possession of Italian diplomatic and consular buildings in Ethiopia, advanced on the ground that these had been misused for military purposes, was rejected, though 6 voted for the Ethiopian amendment (Byelo-Russia, Ethiopia, India, Poland, Yugoslavia, and Czechoslovakia) and 6 abstained (Australia, Canada, China, Greece, New Zealand, and the Netherlands).

AUSTRALIAN AMENDMENTS

The arguments advanced for and against the Australian proposals for a European Court of Human Rights, for Treaty Revision, and for a Treaty Executive Council have been covered in reports on other Commissions. The Italian Commission, pressed for time, gave little serious consideration to the case put forward by Australia, and their amendments secured the support of few delegations.

NO RATIFICATION—NO BENEFITS—(ARTICLE 77A)

Article 78 of the draft treaty provided that the treaty should come into force when ratified by the Four Powers, while those of its provisions relating to any one of the twenty-one signatory States should become effective upon deposit of that State's ratification.

After the voting upon the Italo-Yugoslav frontier and the Statute of Trieste the Yugoslav delegation announced flatly that it would not accept the decision of the Conference, would not sign or ratify the treaty, and would not withdraw its troops from Istria. The United States delegation met this development by proposing that a new provision should be included in the treaty to ensure that none of the Allied and Associated Powers should share the benefits of the treaty if it failed to ratify it.

The United States representative claimed that this new article was not directed against any particular State, but was merely intended to prevent a possible conflict of interpretation over Article 78. In fact, its purpose was clear, and, despite the Soviet and Yugoslav arguments that the new clause was unnecessary, eleven members of the Commission and a two-thirds majority of the Conference agreed that it was reasonable to include such a clause, and voted accordingly.

Mr Vyshinsky protested against this decision, and stated that the United States proposal was not a new article, but an amendment to the agreed Article 78. This being so, he asked that it be recorded that by voting for the amendment of an article previously agreed by the Council of Foreign Ministers the United States and United Kingdom delegates had committed a breach of agreement.

POLITICAL AND TERRITORIAL COMMISSION FOR ROUMANIA

Officers

Chairman Mr D. MANUILSKY (later Mr BARANOVSKY) (*Ukraine*)

Vice-Chairman Sir N. J. WADIA (*India*)

Rapporteur Mr K. LISICKY (*Czechoslovakia*)

New Zealand Representatives

Rt Hon. W. J. JORDAN

Mr D. P. COSTELLO

1. FACTUAL OUTLINE

The Roumanian Political and Territorial Commission dealt with the following sections of the draft treaty with Roumania :—

Preamble.

Articles 1–10 inclusive : Frontiers of Hungary and political clauses.

Article 21 : Withdrawal of Allied troops.

Articles 35–38 inclusive : Final clauses.

Annex 1 : Map of Roumanian frontiers.

Of all these, only Article 36 was not an agreed clause. The Commission met eleven times. It set up no Sub-Commission.

The Roumanian delegation forwarded to the Commission, in written form, its views of the treaty and amendments, and Roumanian representatives on two occasions addressed the Commission orally.

2. GENERAL CONSIDERATIONS

The matters dealt with in the Roumanian Commission were, *mutatis mutandis*, the same as those treated by the Political and Territorial Commission for Hungary, with the exception that here there was no equivalent to the Czechoslovak amendments. The same Australian amendments were put forward, and, with the exception of a slight alteration to the Preamble, identical to that adopted in the Hungarian treaty, later withdrawn. As in the Hungarian Commission, the United Kingdom proposed an amendment to Article 3, providing for protection for the Jews in Eastern Europe, which was passed by 7 votes to 5. The United Kingdom-U.S.A. draft of Article 36 (settlement of disputes) was approved, and the U.S.S.R. text rejected by 8 votes to 4.

The only country with political and territorial claims against Roumania was Hungary, anxious as ever to secure the revision of the Trianon frontiers. At a joint meeting of the Roumanian and Hungarian Commissions the Hungarian Minister proposed a plan for returning to Hungary a number of districts of Transylvania which have a Hungarian majority. But as to accept this proposal would have been to cut the main Transylvanian railway at several points and to deprive half the province of its natural economic centres it found no support, and the Commission confirmed the proposal of the Four Ministers restoring to Roumania her pre-war frontiers.

The Slav Powers were more favourably disposed towards Roumania than towards Hungary, the political complexion of whose Government, in which the Smallholder Party was predominant, was undoubtedly a conditioning factor. The Slav group supported an unsuccessful proposal to give Roumania the status of "co-belligerent", and they were foremost in opposing Hungary's revisionist designs on Transylvania.

POLITICAL AND TERRITORIAL COMMISSION FOR BULGARIA

Officers

Chairman Mr K. V. KISSILEV (*Byelo-Russia*)

Vice-Chairman Rt Hon. W. J. JORDAN (*New Zealand*)

Rapporteur Viscount HOOD (*United Kingdom*)

New Zealand Representatives

Mr A. D. McINTOSH

Brigadier R. S. PARK

The Commission consisted of delegates from the following countries : Australia, Byelo-Russia, Czechoslovakia, France, Greece, India, New Zealand, U.S.A., Ukraine, U.S.S.R., Union of South Africa, United Kingdom, and Yugoslavia.

The Commission was set the task of examining parts of the draft treaty between the Allied and Associated Powers and Bulgaria which had been prepared by the Council of Foreign Ministers, and of submitting recommendations to the Plenary Conference as a result. The sections of the draft treaty referred to its particular notice were :—

Preamble.

Part I : Article 1 and Annex 1.

Part II : Articles 2 to 8 inclusive.

Part IV : Article 19.

Part VIII : Articles 33 to 36 inclusive.

Eleven of the thirteen articles considered at the sixteen meetings of the Commission were adopted unanimously with little or no discussion. Thirteen amendments or proposals for new articles were examined ; of these, eight submitted by the Australian delegation related to the establishment of a Court of Human Rights, a Treaty Executive Council, and a future Conference to review the treaties. As these amendments were of general application to all treaties and had been considered by the Territorial and Political Commissions for Italy and Finland, the Bulgarian Commission considered only the amendments adopted by those Commissions, the remainder being withdrawn by the Australian delegation. The New Zealand delegation gave general support to the Australian proposals, but the only positive result achieved was the addition of a few words and a drafting alteration to the Preamble.

Main discussion in Commission centred round Article 1, concerning the delimitation of the Greco-Bulgarian frontier, the draft of which had been considered tentative by the Council of Foreign Ministers until

the delegations of Greece and Bulgaria had had an opportunity of presenting their views. The Commission heard the Bulgarian delegation, who used their appearance before the Commission to press their claims for the Greek territories of Western Thrace and for an outlet to the Aegean Sea.

In the ensuing discussion in Commission on their statements the extraordinary situation developed in which five Allied and Associated Powers (the Eastern Slav bloc) supported, apparently wholeheartedly, the claims of an ex-enemy State, Bulgaria, against an Ally, Greece. These tactics were doubtless adopted to offset the Greek claims for rectification of the present frontier, which as events had proved, provides little security for Greece. This was a question upon which the New Zealand delegation could not fail to take an active interest, as it was precisely this strategic weakness in Western Thrace that had so impressed the New Zealand Government when they were called upon to make their decision in 1941 regarding the despatch of the Second New Zealand Division into Greece.

Under a Chairman who gave wide latitude in debate, the delegations of the Eastern Bloc were given ample opportunity to draw unfavourable comparison between the relative democratic policies of Bulgarian and Greek Governments. The concentrated attack by these delegations upon Greece and her Government remained one of the features of discussion in this Commission, and indicated how sharply defined was the line of cleavage between Greek and Bulgar policies, now deepened and widened by the active Slav support for Bulgarian claims.

Greek experience of three distinct acts of aggression by Bulgaria, still vividly in the national memory, was reflected in her delegation's anxiety to provide greater security for her northern provinces. Their amendment to this Article I (C. P. (Bul/P), Doc. 9) sought a rectification in favour of Greece of the present frontier. In addition, a resolution was proposed by the Greek delegation requesting the Military Commission to examine the military implications of this proposal and to report on the measure of security which Greece would gain from certain strategic advantages implicit in the amendment. In view of the technical military nature of the question involved, a majority of the Commission supported the Greek resolution.

The answer from the Military Commission was as follows:—

“ The Military Commission considers that any extension or diminution of territory would probably strengthen or weaken the possibilities of local defence ; but that strategic security in the form in which it is mentioned in the Annex of the letter (from the Bulgarian Political Commission) would cover political, economic, and ethnical problems which are not within the purview of this Commission.”

This clearly demonstrated the reluctance of a majority of the Powers to reopen the delicate question and must certainly go down in history as a classic example of international question-begging.

Without any lead from the Military Commission, the Bulgarian Commission had practically no choice but to agree with the Council of Foreign Ministers that the present frontier line remain unchanged. The New Zealand delegation had supported the original Greek amendment, with its accompanying resolution. It offered an amendment to the latter which was adopted, and which aimed at permitting consideration of the possibility of giving some measure of security by means not involving the cession of territory—*e.g.*, by the establishment of a demilitarized zone. This aspect was apparently never discussed by the Military Commission.

Another discussion of note occurred on a United Kingdom proposal to insert a new Article 2A, designed specifically to alleviate the sufferings of the Jews in Eastern Europe by imposing a general obligation on the Bulgarian Government to respect the principle of non-discrimination between Bulgarian nationals. A similar article had been accepted by the Roumanian and Hungarian Commissions, where it had been opposed by the U.S.S.R. delegation. Similar opposition in this Commission was put forward by the U.S.S.R., first on the procedural grounds that the U.K. proposal had not been submitted by the due date—20 August—and, second, on grounds of substance that both Articles 2 and 3 contained similar and adequate safeguards against racial and religious discrimination, and, moreover, that Bulgarian legislation had already adopted and put into practice the principles of the proposal. The majority of the Commission, including New Zealand, however, thought it useful to confirm an existing juridical situation by introducing a special contractual obligation into the body of the treaty.

A debate also took place on the adoption of Article 34, which relates to the settlement of disputes concerning the interpretation or execution of the treaty. Two drafts of this article had been submitted for consideration by the Commission, one by the United Kingdom and U.S.A., the other by U.S.S.R. The point of difference in these drafts concerned the question of the submission of persistent disputes to the International Court of Justice after the failure of initial consideration by the three Heads of Missions and their failure to agree. The U.S.S.R. draft was advanced because that State had not yet recognized as obligatory the jurisdiction of the International Court. A simple majority of the Commission, 8 against 5, preferred the U.K. and U.S.A. solution as leading eventually to the solution of a dispute by an impartial tribunal. Under the procedure proposed by the Soviet a dispute could continue indefinitely.

As the necessary two-thirds majority was not obtained on either of these last two proposals no recommendation could be submitted by the Commission to the Plenary Conference.

POLITICAL AND TERRITORIAL COMMISSION FOR HUNGARY

Officers

Chairman Dr S. STANKOVIC (*Yugoslavia*)
Vice-Chairman Mr A. STIRLING (*Australia*)
Rapporteur Mr A. VOINA (*Ukraine*)

New Zealand Representatives

Hon. H. G. R. MASON
Mr D. P. COSTELLO
Mr F. H. CORNER

1. FACTUAL OUTLINE

The Hungarian Political and Territorial Commission met twenty times and dealt with the following sections of the draft treaty with Hungary :—

Preamble.

Articles 1–9 inclusive : Frontiers of Hungary and political clauses.

Article 20 : Withdrawal of Allied Forces.

Articles 34–37 inclusive : Final clauses.

Annex 1 : Map of Hungarian frontiers.

Of all these, only Article 35 was not an agreed clause.

A written statement of its view on the draft treaty and on the amendments thereto was presented by the Hungarian delegation, whose representatives were also heard at two meetings (6th and 8th) of the Commission.

The Preamble was adopted with two amendments proposed by the Australian delegation.

Article 1.—There were two Czechoslovak amendments⁽¹⁾ to Article 1—one declaring null and void the consequences of the 1938 Vienna Award (C.P., Gen. Doc. 1, Q. 2) and another providing for the cession to Czechoslovakia of five villages in the region of Bratislava (C.P., Gen. Doc. 1, Q. 3). After full discussion in Commission both these amendments were referred to a Sub-Commission on which the following countries were represented: Australia, Canada, Czechoslovakia, New Zealand, and Ukraine. In modified form the two amendments were approved unanimously, and Article 1 adopted accordingly.

Article 2.—An Australian amendment on human rights (C.P., H.P., Doc. 6), was put forward in two parts. The first, which provided for the embodiment in the fundamental law of Hungary of an obligation to protect human rights, was withdrawn. The second, which would

(¹) See Section 3 for a fuller discussion.

have imposed obligations on an Allied State, Czechoslovakia, to protect the human rights and fundamental freedoms of the inhabitants of the small area transferred by Hungary under Article 1, was rejected by 12 votes to 1.

A United Kingdom amendment designed to protect the Jews in Hungary was approved by 8 votes to 3, with two abstentions (Czechoslovakia and Yugoslavia).

Article 3, providing for the freeing of political prisoners and the repeal of discriminatory legislation, was passed unanimously.

Article 4, which binds Hungary to dissolve organizations of a Fascist type, was unanimously adopted along with a Czechoslovak amendment banning revisionist propaganda by Hungary (C.P., Gen. Doc. 1, Q. 4).

Article 4 (a) was proposed in a Czechoslovak amendment⁽¹⁾ (C.P., Gen. Doc. 1, Q. 5), which provided for the transfer to Hungary of 200,000 Magyars. This proposal was referred to the Sub-Commission set up to consider the amendments to Article 1, and, in an attenuated form, was unanimously approved by the Commission.

Article 5, dealing with the surrender for trial of war criminals, was adopted unanimously.

Article 6, recognition by Hungary of the force of other peace treaties, was adopted unanimously after a Czechoslovak proposal to antedate the commencement of the war between Hungary and the Allies (C.P., Gen. Doc. 1, Q. 6) had been withdrawn.

Article 7 (termination of state of war between Hungary and Roumania) was adopted unanimously.

Article 8, by which Hungary recognizes arrangements which may be made for the dissolution of certain international organizations, was adopted unanimously after the withdrawal of an Australian amendment which would have compelled Hungary to join certain international organizations (C.P., H.P., Doc. 8).

Article 9 (status of bilateral treaties) was adopted unanimously.

Article 9 (a) (joint Czechoslovak-Yugoslav proposal for the return to Czechoslovakia and Yugoslavia of artistic and historical assets which had been lost to these two countries in consequence of Hungarian domination (C.P., Gen. Doc. 1, U. 32, and C.P., H.P., Doc. 17) was referred to a special Sub-Commission composed of representatives of Yugoslavia, India, and South Africa. The Sub-Commission produced a new, more precise text, and the amendment thus modified was passed unanimously.

Article 20 (withdrawal of Allied Forces) was adopted unanimously.

Article 34 (execution and interpretation of the treaty).—An Australian amendment concerning a Treaty Executive Council (C.P., H.P., Doc. 9) was withdrawn, as was a Czechoslovak amendment on the participation

(¹) See Section 3 for a fuller discussion.

of representatives of the interested Allied and Associated Powers in the deliberations of the Three Ambassadors (C.P., Gen. Doc. 1, Q. 15). The article was then adopted unanimously.

Article 35 (machinery for settling disputes).—An Australian amendment on treaty revision (C.P., H.P., Doc. 9) was withdrawn. The U.K. - U.S.A. draft of the clause was adopted, and the U.S.S.R. draft rejected by 8 votes to 5.

Article 36 (accession clause) was adopted unanimously.

Article 37 (ratification clause) was adopted unanimously.

2. THE AUSTRALIAN AMENDMENTS

The Australian amendments are dealt with in the report on the Finnish and Roumanian Political and Territorial Commissions. The Australian delegation did not press them in the Hungarian Commission, since they had already been rejected by Commissions with similar membership.

3. THE CZECHOSLOVAK AMENDMENTS

The amendments proposed by the Czechoslovakian delegation provided the main subject of serious debate on the Commission. These amendments were limited in scope, designed to further the national interests of Czechoslovakia, and defended with great skill. As the three most important of these amendments were referred to a Sub-Commission of which a New Zealand representative was rapporteur, it will be convenient to treat them together and at some length.

(a) *First Czechoslovak Amendment to Article 1, Para. 4* (C.P., Gen. Doc. 1, Q. 2)

“After the words ‘null and void’ in the first sentence, add the words ‘with all the consequences ensuing therefrom.’” (See report of Sub-Commission C.P., H/P., Doc. 13.)

The intention of the Czechoslovak delegation in proposing this amendment was to give material content to the annulment of the first Vienna Award (1938), which had given to Hungary the whole of southern Slovakia. Czechoslovakia desired to recover the rolling-stock and trucks, as well as the financial assets which Hungary had received by the Vienna Award. When the amendment was discussed in Commission (4 and 6 September) it had been found too general in expression, and was referred to the Sub-Commission to receive a more precise wording. After four meetings the Sub-Commission agreed (Australia abstaining) on its recommendations, and the report was presented to the Commission on 20 September. There it was approved in principle and the recommendation it contained, cast in the form of a new subparagraph to Article 1, paragraph 4, referred to the Balkans Economic Commission, which ratified it by a unanimous vote.

(b) *Second Czechoslovak Amendment to Article I, Para. 4* (C.P., Gen. Doc. 1, Q. 3)

“ Hungary cedes to Czechoslovakia the villages of Dunacsun, Horvathjarfalu, Oroszvar, Rajka, and Bezenye, along with their cadastral territory, the extent of which is indicated on the map attached to the present treaty (Annex 1).” (See report of Sub-Commission, C.P. H/P., Doc. 18.)

The area for which Czechoslovakia asked was some 54 square miles with a frontage on the Danube of 12 miles, and was required by the Czechoslovaks on strictly economic grounds—the capital of Slovakia, Bratislava, can expand only in this area, which is needed also for the construction of a new river port at Bratislava. The British and U.S.A. delegates on the Commission, while agreeing that Czechoslovakia had a strong case for the cession of this territory, were unwilling to discuss it in isolation from the later amendment (C.P., Gen. Doc. 1, Q. 5), providing for the transfer of the Magyar ethnic minority from Slovakia. The New Zealand delegation did not hold this view, as it felt that the one problem was economic, the other ethnical and political, and that it would lead to confusion if they were considered together. (India and Canada agreed with New Zealand in this matter, Australia and South Africa with the United Kingdom and U.S.A.)

The Sub-Commission discussed this problem at five meetings and (with Australia abstaining) found that Czechoslovakia had a good case for some extension of her river frontage south of the Danube in the region of Bratislava, but felt that the area asked for could be substantially reduced without serious prejudice to the interests of Czechoslovakia. Accordingly, the New Zealand representative proposed a new frontier which would give Czechoslovakia almost all the increased river frontage required, while reducing by half the area and the population to be ceded by Hungary. The proposal was accepted.

The other problem was that of the population of the area thus reduced. The issue here was not a very clear one, as the population concerned consisted in 1941 of nearly nine hundred each of Slavonic Croats and Hungarians and over two thousand Germans. The Germans had recently been expelled by Hungary and their place taken by Hungarians. The New Zealand representative proposed that the population of the ceded area be guaranteed full human rights in the event of cession to Czechoslovakia; the proposal was adopted and embodied in the final recommendation of the Sub-Commission.

The Sub-Commission's report was presented to the Commission on 1 October and, with slight adjustments to the proposed southern limit of the “ bridgehead ” to bring it into accordance with the village boundaries, was ratified by unanimous vote on 3 October.

“Czechoslovakia is authorized to transfer a maximum number of 200,000 inhabitants of Magyar ethnic origin from its territory to that of Hungary and the latter is bound to receive these persons on its territory and to recognize them as its nationals.

“The conditions for the execution of the present article shall be fixed by a bilateral agreement between Czechoslovakia and Hungary which these two States will conclude between themselves within six months from the coming into force of the present treaty. As regards respect for the rights of person and property, this agreement will establish conditions corresponding to those laid down for this purpose in the agreement concluded on 27 February, 1946, between Czechoslovakia and Hungary on the exchange of populations. The non-conclusion of this agreement shall not prejudice the execution of the present article.”

This was the most difficult of the tasks set the Sub-Commission. It was generally felt that Czechoslovakia was justified in seeking to solve the problem of her Hungarian minority which had in 1938 and 1939 helped to disrupt the Czechoslovak Republic. On the other hand, the Czechoslovak proposal raised significant moral and economic problems.

The Hungarian objections were for the most part based on considerations of economics. The argument that room could not be found in Hungary for the Magyars whom it was proposed to transfer was not a convincing one in view of the fact that 240,000 Jews had been killed in Hungary and some 300,000 Hungarian soldiers had been lost in the war. Moreover, according to the Hungarian Foreign Minister himself when he testified before the Sub-Commission, Hungary had already expelled from her territory 120,000 Germans and proposed to expel a further 150,000. Since the Czechs had stated that they were prepared to reduce to 150,000 the number of Magyars liable under the terms of their proposal to transfer to Hungary, it seemed reasonable to suppose that room could be found for this number in the farms which the Germans would vacate. The fundamental moral objection, of course, remained, but the Hungarians, even then expelling their Germans, were not themselves well placed to employ moral arguments against the Czechoslovak proposal, more particularly as they were driving out the Germans in a state of destitution, while the Czechs proposed to pay full compensation for all property left behind by the Magyars and to spread the operation over a period of three years.

Another circumstance which influenced the New Zealand delegation was the fact that the Czechs had expressed their determination one way or the other to solve this problem of the Magyar minority. If the Conference refused to countenance their present plan, they would resort to other, and it was feared, less humane, methods. Their alternative plan was to uproot the Magyars from their present abodes and re-settle

them on the Bohemian lands vacated by the Sudeten Germans who had been expelled during the preceding year. In so doing the Czechs would remove the whole matter from the field of international affairs and deal with it as an internal problem of Czechoslovakia, in which international bodies could have no voice. While they would prefer not to have to do this, the Czechs were, nonetheless, resolved to do so if the Hungarian Government refused to reach agreement with them in the matter.

In spite of its repugnance for compulsory transfers of population the New Zealand delegation felt, in view of the particular circumstances of this case, that it could give qualified support to the Czech proposal, provided certain modifications and safeguards were obtained.

For a variety of reasons the United States, United Kingdom, and Australian delegations were opposed to the project, which was supported by the Ukraine, and naturally by Czechoslovakia, and the New Zealand delegation sought a compromise solution.

The final text which the New Zealand representative submitted to the Sub-Commission on 2 October as a substitute for the original amendment did not go far towards satisfying the Czechoslovak demands. It said nothing of forced transfer of population, and merely imposed on Hungary the obligation to enter into bilateral negotiations with Czechoslovakia with a view to solving the problem of the Magyar minority in Slovakia. On the other hand, by constituting the Council of Foreign Ministers, not the United Nations, as the court of appeal, it was not entirely consistent with New Zealand policy. It had, however, the overriding advantage of being acceptable to everybody as the best possible compromise. It was unanimously approved by the Sub-Commission and, on 3 October, by the full Commission. The representatives on the Commission of the United Kingdom, France, and U.S.A. delivered speeches welcoming this compromise proposed, and these speeches were included in the minutes of the day's meeting (C.P., H/P., 19th meeting, 3 October).

The Hungarian Commission succeeded better perhaps than any other of the political and territorial Commissions in achieving a reconciliation of the various views of the delegations represented on it.

POLITICAL AND TERRITORIAL COMMISSION FOR FINLAND

Officers

Chairman Mr J. A. BEASLEY (*Australia*)

Vice-Chairman Dr P. FISA (*Czechoslovakia*)

Rapporteur Viscount HOOD (*United Kingdom*)

New Zealand Representatives

Hon. H. G. R. MASON

Brigadier R. S. PARK

Mr F. H. CORNER

Eight meetings sufficed for the consideration of the political and territorial clauses of the Finnish treaty, which aroused less controversy than any of the other treaties presented to the Conference. Of these eight meetings, the equivalent of more than three were spent in discussing procedure, nearly four were occupied in consideration of the amendments advanced by Australia, and the remainder of the treaty itself was disposed of in the equivalent of one meeting. Most of the time of this one meeting was devoted to Article 33, the only article on which the Council of Foreign Ministers were not agreed.

Twelve States composed the Commission: U.S.A., Australia, Byelo-Russia, Canada, Czechoslovakia, France⁽¹⁾, India, New Zealand, United Kingdom, Ukraine, U.S.S.R., and the Union of South Africa. U.S.A. attended none of the meetings.

Those parts of the draft treaty for Finland which were referred to the Commission were:—

Preamble.

Articles 1–12.

Articles 32–34.

The Preamble of the draft treaty was approved, with a recommendation to the Plenary Conference that two alterations (proposed by Australia) be made—the first the inclusion of a phrase stating that the treaty should conform to the principles of justice, and the second the transposition of two sentences.

Articles 1 and 2, by which the transfer of the Province of Petsamo to the Soviet Union is confirmed, were approved unanimously and without comment⁽²⁾, as were all the political clauses (Articles 3 to 5), including Article 4, by which Finland will grant the Soviet Union a

(1) The U.S.S.R. maintained that France's vote should never be counted, since she was not at war with Finland.

(2) In the voting in the plenary conference U.S.A. reserved her position on Article 1 and Annex 1, presumably as a protest against the inadequacy of the map of the territory to be ceded which was prepared and submitted by the Soviet Union.

fifty years' lease of the territory and waters necessary for the establishment of a Soviet naval base in the area of Porkkala-Udd, and Article 5, which provides for the demilitarization of the Aaland Islands.

Articles 6 to 12 were common to the draft treaties for Roumania, Bulgaria, Hungary, and Finland, and all were accepted by the Commission. Except in the case of Article 6, there was no discussion. These articles provide for the guarantee of human rights to all Finnish citizens, the repeal of discriminatory legislation, the dissolution and banning of organizations of a Fascist type—(*i.e.*, those “ which have as their aim denial to the people of their democratic rights ”)—the prosecution of war criminals, recognition by Finland of the force of other peace treaties, the acceptance of arrangements made or to be made for the dissolution of certain international institutions, and the machinery for the revival of bilateral treaties.

During the discussion on Articles 6 to 12 the Australian delegation urged, unsuccessfully, two of its amendments which were common to all the treaties—the first, that the Allies should reinforce Article 6 by obliging Finland to write a guarantee of human rights into her fundamental law ; the second that Finland should undertake to join certain international social and economic organizations. As to these proposals there was a general opinion that the words “ Finland shall take all measures necessary ” made Article 6 sufficient in itself, and that, while it would be to the advantage of the United Nations that Finland should join such international organizations as the International Wheat Council or the Food and Agriculture Organization, full co-operation was not likely unless the states were *voluntary* members. The Soviet Union opposed both proposals strongly on the grounds that they interfered with national sovereignty. The New Zealand delegation voted in favour of the first Australian proposal, but abstained from voting on the second.

Article 32 of the draft treaty provided that the Ministers at Helsinki of the United Kingdom and the U.S.S.R. should represent the Allied and Associated Powers in dealing with the Finnish Government in all matters concerning the execution and interpretation of the treaty. The Australian delegation put forward an alternative proposal, again common to all the treaties, that a single body, a Treaty Executive Council, replacing the many separate bodies mentioned in the five treaties, should interpret and execute all the five treaties. This Council, composed of the U.S.A., the U.S.S.R., the U.K., and France plus three other States, would inherit all the records of the Conference, and would have a Secretariat and a permanent central headquarters. It would thus be in a position to give informed and uniform rulings on all disputed questions arising from the treaties. There was general agreement with the United Kingdom viewpoint that different types of disputes were best dealt with by separate *ad hoc* bodies of experts, and the Australian proposal was rejected by 9 votes to 1 (Australia), with 1 abstention (New Zealand). Thereupon Article 32 was adopted without a vote.

Article 33, concerning the machinery for the settlement of disputes of a political nature, was the only article of the draft treaty which had not been agreed upon by the drafting Powers and the separate proposals put forward by the U.S.S.R. and the U.K. came up for consideration. The U.S.S.R. proposal made the Ministers of the U.S.S.R. and the U.K. the final arbiters of disputes; that of the U.K. went a stage further and provided that those disputes which remained after other channels of settlement had failed should be referred to the International Court of Justice. The text of Article 33 proposed by the U.K. was accepted by 7 votes (Australia, Canada, France, U.K., India, N.Z., South Africa) to 4 (Byelo-Russia, Czechoslovakia, Ukraine, U.S.S.R.).

Article 34, setting out the procedure for ratification and enforcement of the treaty, was accepted without comment.

Only two other substantive matters were considered by the Commission—the Australian proposals for a European Court of Human Rights and for Treaty Revision. The former was referred by the Finnish Commission to the Legal and Drafting Commission for a report, from the legal point of view, upon the merits and practicabilities of the scheme. When the Finnish Commission accepted by 9 votes to 2 (Australia and New Zealand) the unfavourable report of the Legal Commission, the Australian delegate withdrew the project.

The Australian proposal that machinery for their revision should be provided in the treaties was likewise rejected. The Australian delegate maintained that the rigidity of the Versailles Treaty was a major cause of the Second World War and that the ability to revise the present treaties—treaties which would probably prove to be at least as imperfect as those of 1919—might provide a safety valve which would prevent further outbreaks of violence. The United Kingdom delegate asserted that the present treaties could in the future be revised by mutual consent if there was general will for revision, and that machinery for modification already existed in the United Nations. To Czechoslovakia the idea of revision and “revisionism,” not unnaturally, had a disastrous connotation, and her delegation insisted that to provide machinery for revision would be to set up a constant menace to peace by encouraging the ex-enemy countries to regard the treaties as temporary and the frontiers laid down by them as impermanent. The New Zealand delegation abstained from voting on the issue, because, while disagreeing with the specific Australian proposal, it believed that the New Zealand Government would be prepared to reconsider the treaties in the future through the machinery of the United Nations if a situation constituting a threat to the peace resulted from any of the peace settlements.

THE ECONOMIC COMMISSIONS

ECONOMIC COMMISSION FOR ITALY

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Vice-Chairman Dr ALES BEBLER, later Dr L. LEONTIC (*Yugoslavia*)

Rapporteur Mr HERVE ALPHAND (*France*)

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Chairman Dr J. KORBEL (*Czechoslovakia*)

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New Zealand Representatives

Rt Hon. W. J. JORDAN

Professor A. G. B. FISHER

The economic clauses of the treaties were referred to two Commissions, one concerned with Italy, upon which all the members of the Conference, with the exception of Norway, were represented, the other concerned with the four lesser ex-enemy States, Roumania, Hungary, Bulgaria, and Finland, on which sat the representatives of the four Great Powers, of four other members of the Soviet Bloc (not including Poland), of Greece, and of the four Dominions and India.

Many of the economic problems presented by the treaties were common to both Commissions, and it was largely a matter of chance (or of skilful steering) in which Commission any problem first arose, and where therefore there was likely to be the best opportunity for unhurried discussion. It will, for this reason, be convenient to present comments upon the economic clauses of the treaties without attempting to distinguish sharply between the two Commissions. The degree of similarity was even more striking between the four treaties with the smaller States, and it was not unreasonable, therefore, that the treaty which happened to come first on the list, that with Roumania, should have had allotted to it a disproportionate amount of the Commission's time (thirty-five meetings out of thirty-eight). There were, moreover, one or two problems—e.g., petroleum—peculiar to Roumania, and that country also happened to provide the most colourful setting for viewing

the tug-of-war between the East and the West, each eager to demonstrate that the purpose of the policy of the other was to establish its domination over the ex-enemy States. Even, however, when full account is taken of these facts, the time available in the closing sessions of the Balkans and Finnish Economic Commission for consideration of the treaties with Hungary, Bulgaria, and Finland was quite inadequate, and it was impossible to give the economic position of these countries anything like the attention which they deserved.

In the deliberations of neither Commission did the New Zealand delegation, apart from casting its vote, play a very active part. The general effects upon the tempo of the Conference proceedings of the preoccupation of some of its members with questions of voting and procedure have already been described in another part of this report. The Economic Commissions felt these effects to the full, and in addition, especially in the early sessions of the Economic Commission for Italy, a great deal of time was spent in the formal presentation of reparation statements. It soon became apparent that the most useful contribution which the New Zealand delegation could make to the work of either Commission was by refraining from taking up much of its time and maintaining a comparative silence.

The ex-enemy Governments were permitted to make observations, both written and oral, upon the economic clauses of the draft treaties, and in some cases were invited later to give supplementary information on specific points, and to submit themselves to cross-examination by the Commission. The final shape of the Conference resolutions was, however, little affected by these representations. With the exception of Italy, moreover, the ex-enemy Governments are at present so closely associated with the U.S.S.R. that it was natural to suppose that their feelings in regard to the current economic policy of the U.S.S.R., as it affected themselves, did not always find full expression in their submissions to the Conference. There is good reason to believe that the economic clauses of the draft treaties still contain gross anomalies or injustices.

The main economic issues discussed may be conveniently classified as follows :—

I. REPARATIONS

The Council of Foreign Ministers had already made some progress in determining the reparation liabilities of the ex-enemy States, and especially in so far as these liabilities were payable to the U.S.S.R. decisions already taken in the Armistice Agreements had to be taken as the practical starting-point for the deliberations of the Conference on this subject. From Italy the U.S.S.R. was to receive goods valued at \$100 million, calculated in terms of 1938 dollars, from Roumania \$300 million, from Hungary \$200 million, and from Finland \$300 million. It had been further agreed that from Hungary goods valued at \$100 million were to go to Czechoslovakia and Yugoslavia, and that

an unspecified amount—the figure of \$200 million had been widely mentioned, but apparently without official backing—was to be paid by Italy to claimants such as Greece and Yugoslavia. The position of Bulgaria had been left quite obscure.

It was difficult to believe that these figures had been the result of any careful objective analysis of all the relevant factors. The Australian delegation believed that such an objective analysis was necessary, and that the Conference itself was not adequately equipped to attempt it, and therefore proposed a series of amendments to the draft treaties designed to create institutional machinery upon which would be placed the responsibility for a more “scientific” survey of the problem as a whole, correlating the competing claims of rival allies in relation to countries from which more than one State was hopeful of collecting reparations, and ultimately administering the actual processes of reparation deliveries with a view to ensuring that they inflicted the least possible damage on the economies of the paying countries and on the long-term prospects for the revival of an orderly world trade. The amendments as originally drafted were open to objection on the ground of over-elaboration—the French delegate described them as “too logical and theoretical”—and the unfortunate time-table accident which compelled Australia to argue the case first in relation to Roumania, where it was weakest, as the U.S.S.R. was the only claimant for reparations from that country, made it easy for the U.S.S.R. to press the unfair criticism that the amendments were a veiled attack on reparation liabilities already agreed and accepted.

In principle indeed there was much to be said for the Australian amendments, and in the final stages of the Conference proceedings, when an effort was made by the Soviet Bloc to refer back the problem of Bulgarian reparations to the Council of Foreign Ministers without taking a vote on the subject in the Conference, arguments were used in support of this proposal which were very similar to those which had earlier been violently attacked when they were first put forward by the Australian delegation. After lengthy debate the Australian amendment was withdrawn in the case of Roumania, and not pressed in relation to the other smaller ex-enemy States. It was, however, carried to a vote in the Italian Economic Commission, which rejected it by 15 votes to 2. New Zealand voting with Australia in favour of it, and three other delegations abstaining. Several delegations had, however, expressed approval of that part of the original Australian amendment which contemplated the constitution of a Reparations Commission to supervise and co-ordinate reparation deliveries, once the aggregate volume of claims had been fixed. A more modest proposal drafted with this purpose in mind was later presented to the Italian Commission, where in an amended form it received a majority of 12 votes to 8.

The more far-reaching Australian amendment having been rejected or withdrawn, the Italian Commission was confronted with the task of assembling the claims of the Allies, other than the U.S.S.R., against

Italy, of assessing their relative merits, and then of converting them into definite obligations, based on some reasonable estimate of enemy capacity to pay. Estimates of war damage attributable to Italian action were submitted by fifteen States, though many of them either refrained from basing any formal reparation claim upon these estimates, or lodged a claim for an amount considerably smaller than the estimated value of the damage done. The United Kingdom, for example, estimated its own war costs for which Italy had been responsible at \$14,083 million (at 1938 prices), but expressly renounced any reparation claim, submitting its statement merely as a historical record, designed, as it was said, to enable other claims to be seen in proper perspective. Several of the smaller claims also were not pressed, and Egypt withdrew its claim in terms of a bilateral agreement with Italy announced while the Conference was still sitting. At the other extreme, Yugoslavia, while estimating her war damages at \$11,330 million, presented a formal claim for \$1,300 million. The Greek estimate of damage was \$7,030 million, but it was not stated how much of this Greece expected to recover by way of reparations. The Albanian claim amounted to \$1,161 million, and the Ethiopian, which was described as incomplete, to \$905 million.

These estimates were presented in very different forms and covered the widest variety of items. Nearly one-third of the Greek estimate was on account of "under-production, suspension of foreign trade, and loss of potential financial income" during the war, an item which also figured in the Yugoslav and Albanian estimates, and Ethiopia claimed £100 per head on account of 760,300 persons who had been killed or had died during the Italian occupation. Many of the figures were necessarily the roughest of rough estimates, and it was not unfair to interpret them as serving mainly the purpose of bargaining counters. A sub-committee was entrusted with the task of presenting the estimates in comparable form, but it was strictly debarred from undertaking anything but routine statistical work, and even within these limits the report of the sub-committee expressly disclaimed any responsibility for the comparability of the figures which had been assembled.

Except in the most general way, little attention indeed was subsequently paid to these detailed estimates of war damages. By its nature the determination of reparation liabilities is not a matter of exact science. Everybody paid at least lip-service to the principle that reparation burdens should not be placed upon any ex-enemy State so heavy as to cripple its economy, but at the same time there was a persistent insistence upon the justice of the fullest possible compensation for the victims of aggression. Objective criteria for the reconciliation of these contradictory objectives were, however, never forthcoming, and probably do not exist. Inflated estimates of the costs of war and enemy occupation are so easy, and the temptation so strong for reparation claimants to exaggerate the economic strength, real or potential, of their van-

quished enemies, that a disinterested party might well accept as a rough guide in forming judgments on these matters the principle of supporting the lowest claim which had a reasonable chance of receiving general support.

No formal resolutions for determining the volume of Italian reparation liabilities were submitted until the final meeting of the Economic Commission for Italy. The figures then presented independently by the United States, the United Kingdom, and the French delegations did not diverge widely, but the U.S.S.R. strongly supported Yugoslav claims which the other Great Powers felt went far beyond anything of which the Italian economy would be capable. The United Kingdom proposed \$100 million for Yugoslavia, the same amount for Greece, and \$25 million for Ethiopia. The United States at first proposed a smaller sum, \$80 million, for Yugoslavia, but later voted both for the United Kingdom resolution, which would have fixed the total amount of reparations due from Italy to countries other than the U.S.S.R. at \$225 million, and for the allocation of equal amounts to Yugoslavia and Greece.

France proposed the allocation of \$5 million to Albania. The vote on this proposition was a tie, 10 for and 10 against, New Zealand voting against. The Plenary Session registered a similar result on a United Kingdom resolution to allot no reparations to Albania. An Australian proposal to increase the Ethiopian allocation to \$35 million also produced a tie in the Economic Commission, but was rejected by 12 to 7 in the Plenary Session, New Zealand again voting against. The U.S.S.R. proposed \$400 million for Yugoslavia, the Yugoslavs claiming that this was the lowest figure they could possibly accept. This was rejected by 12 to 8 in the Commission, and 12 to 7 in the Plenary Session. The U.S.S.R. also proposed that, in any event, Yugoslavia should get twice as much as Greece, but the alternative United Kingdom proposal for equal shares was adopted by 15 votes to 1 in the Commission, and by 14 to 2 in the Plenary Session, New Zealand voting with the majority on each of these four occasions.

The Commission did not discuss the Roumanian reparation liability for \$300 million, but the United States, which had reserved the right to reopen the question of Hungary's liabilities, proposed to reduce by one-third the figure of \$300 million which appeared in the draft treaty. The United States argued that the deterioration of the Hungarian economy made it impossible to carry out in full the reparation provisions of the Armistice Agreement. Against this, the Czechs, on the one hand, argued that the Hungarians were ruining themselves deliberately in order to arouse the sympathy of the Western world, while the U.S.S.R., on the other, maintained that the Hungarian economy was recovering rapidly, and that the dilatoriness of the United States authorities in restoring Hungarian property which had been removed by the Germans and was now in the American Zone of Germany was a much more serious

impediment to recovery than any reparation burden. It was pointed out, moreover, that the Hungarian Government itself had raised no objection to the reparation liabilities imposed by the Armistice Agreement. The United Kingdom and France were under an obligation to vote for the agreed clause in the treaty, and there was therefore little chance of the amendment being carried in the Balkans Economic Commission. New Zealand, however, voted for it in the Commission and abstained in the subsequent vote on the same issue in the Plenary Session.

The principle of keeping reparation claims as low as possible was not by itself a sufficient guide to the attitude to be taken in the case of Bulgaria, where the problem was inextricably entangled with political considerations, and in particular with the Yugoslav-Greek feud. Greece had estimated the total damage attributable to Bulgarian action as \$985 million, and towards the end of the Commission's sessions presented a formal claim against Bulgaria for \$150 million. Yugoslavia, by refraining from the presentation of any detailed estimate of damages, had allowed it to be understood that its claim on Bulgaria would not be seriously pressed, and it was therefore widely assumed that as the U.S.S.R. made no claim on Bulgaria, the only question remaining to be settled was the determination of the precise amount to be allotted to Greece. In the last week of the Commission's sittings, Yugoslavia, however, also presented a detailed estimate of damage amounting in all to \$1,540 million, and eventually proposed that the total Bulgarian reparation liability should be fixed at the nominal figure of \$25 million, of which only 40 per cent. should go to Greece. In supporting this proposition, the Yugoslavs emphasized the weakness of the Bulgarian economy, the conversion of the Bulgarian Government and people to the true democratic faith, and the decision which had just been approved by a majority in the Economic Commission for Italy to recommend a reparation claim which, in the Yugoslav view, was a mere derisory 1 per cent. of the damage inflicted by Italy.

The United States, taking Roumania as the most convenient standard of reference, argued that a rough comparison of the pre-war economic positions of Roumania and Bulgaria, based on national income and other relevant indices, justified placing upon Bulgaria a reparation burden of \$100 million. This calculation, however, as was admitted, took no account of the comparative immunity of Bulgaria from war devastation, so that there was no inconsistency in the subsequent United States vote in favour of an aggregate liability, to be equally divided between Greece and Yugoslavia, of \$125 million, which subsequently received a majority of the votes in both the Balkans Commission and the Plenary Session.

Among the ex-enemy satellite States, Finland alone had formally requested a reconsideration of her reparation liabilities, her Government placing it formally on record that "from the Finnish point of view it would be important if the reparation sum of 300 million dollars fixed

in the Armistice Agreement could be reduced to 200 million dollars." The United States, having taken no part in drafting the Finnish treaty, was not bound to support the agreed text, and accordingly submitted an amendment designed to give effect to the Finnish request. This amendment was, however, submitted so late that the Chairman refused to place it on the agenda of the Commission; the United States then felt obliged to register its opinion by voting against the Finnish reparation article as a whole, a course in which it was joined by the delegations of Canada, New Zealand, South Africa, and (in the subsequent corresponding vote in the Plenary Session) the Netherlands.

The figures which have been quoted above are, of course, still far from being agreed. There is nothing binding about any of them. In one sense all that the Conference has achieved on this issue is to bring into the open estimates from the opposing sides much more precise than anything to which they had hitherto been willing to commit themselves. But even if the figures had been agreed, it would be a mistake to suppose that because they were apparently clear and precise, and certainly easy to remember, they, therefore, if taken by themselves, had very much precise meaning. Their practical significance depends entirely on price policy, and the U.S.S.R. vigorously resisted amendments designed to ensure the valuation of reparation deliveries at "fair prices." The technical difficulties of determining "fair prices" in the present disturbed condition of world trade would in any case certainly be very great. Without, however, necessarily implying any reflection upon the good faith of any of the recipients of reparations, there is equally certainly in present circumstances such a wide margin of discretion in determining the real burden of any apparently precise reparation obligation expressed in terms of United States dollars valued according to the standards of 1938 that the precision of the figures under discussion becomes almost illusory. In some cases an adjustment has already been made on account of the difference between 1938 and current prices, but, so far as can be ascertained, the value of the goods now in course of transfer from the reparation-paying countries, or to be transferred in the near future, are likely considerably to exceed the proportion allotted to the early post-war years of the nominal totals which have naturally figured so largely throughout these discussions.

From some points of view, moreover, the determination of the methods whereby reparation liabilities are to be discharged are scarcely less important than the fixing of their amounts. In the Western world it is now generally agreed that reparation liabilities cannot be taken seriously unless they are limited to a fairly short and clearly-defined period of time. But for this, as well as for other reasons, the view has also been widely held—though there is more divergence of opinion on this question—that, as far as possible, reparation deliveries should take the form of capital goods and equipment, encroaching to the least possible extent upon the output of current

production, which in any event in all the defeated countries is likely during the period of reparation payments to be far below the normal level. Obviously, however, reparation liabilities cannot be discharged exclusively by the transfer of capital equipment unless an adequate volume of such equipment is in fact available. This condition is satisfied only imperfectly in the case of Italy, and even less so in the smaller ex-enemy States, and there had therefore already, before the Conference, been a recognition of the principle of deliveries from current production, under conditions determined by bilateral negotiations between the directly interested parties. In the Roumanian treaty, for example, it was provided that reparations should be "payable over eight years . . . in commodities (oil-products, grain, timber, sea-going and river craft, sundry machinery, &c.)," and similar provisions occurred elsewhere in the other treaties.

The wide application of this principle opened the way for an integration in the U.S.S.R. economy of the economies of the countries paying reparations, the effects of which would probably be felt long after the period of reparation payments was past, an integration possibly so close as in effect to exclude the rest of the world. Some protection, the practical significance of which can be tested only by experience, was afforded in the case of Italy by a provision that deliveries should be arranged "in such a way as to avoid interference with the economic reconstruction of Italy and the imposition of additional liabilities on other Allied and Associated Powers," as well as by the provision that "Deliveries from current industrial production shall not be made during the first two years." It was later proposed by the United States, France, and the U.S.S.R. to modify the latter provision to the extent of permitting deliveries from current production if "made in accordance with agreements between the Italian Government and a beneficiary Government." The United Kingdom opposed this proposal, but as it was possible that its rejection might unduly prejudice the legitimate interests of the smaller beneficiaries of reparations, and in any event the power to veto such deliveries rested with the Italian Government, which might be expected to maintain a position of relative independence *vis-a-vis* the U.S.S.R., the New Zealand delegation voted in this case with the United States and France.

II. RESTORATION OF UNITED NATIONS PROPERTY IN EX-ENEMY TERRITORY

The discussion of the principle of restoring United Nations property which is still intact covered some special cases of peculiar interest to the countries directly concerned, but raised no problem of general interest and therefore calls for no further comment here.

III. COMPENSATION FOR WAR DAMAGE

The treatment of United Nations property in ex-enemy states which had been destroyed or damaged during the war raised much more fundamental issues on which the Commissions were sharply divided. The United Kingdom pressed strongly for 100 per cent. compensation, payable in local currency, maintaining not only that this principle was just, but also that its application would accelerate internal economic reconstruction; the costs of such compensation were therefore, in the United Kingdom view, clearly differentiated from reparation burdens, which by their nature involved a loss of wealth by the paying country. The United Kingdom preoccupation with this issue was, it became clear, and naturally enough, closely tied up with its concern over its post-war balance of payments, and it was no doubt worth while pressing this point upon the attention of delegations, not all of whom so clearly understood that it was not merely or even mainly a question of protecting the personal incomes of private shareholders, but much more one of conserving or reconstituting the foreign exchange reserves necessary if British imports were to be maintained at a satisfactory level. The U.S.S.R., on the other hand, with little or no direct interest in the reconstitution of any assets owned by itself in ex-enemy countries, tended to minimize the importance of the distinction between reparations and compensation for damages, contrasted the fractional compensation which was the most that could be expected from reparations by the inhabitants of devastated Ukrainian villages with the total compensation demanded for United Nations property-owners who happened to have investments in ex-enemy States, and stressed the excessive burden, involving serious risks of inflation, which the payment of total compensation would place upon the ex-enemy countries.

The United States and France had originally associated themselves with the United Kingdom claim for full compensation. But though the United States delegation was specially active in its efforts to deflate the "excessive burden" argument by attempting to show that, especially in the case of Roumania, even the most liberal estimate of the budgetary burden of full compensation (probably no more than \$70 million) gave a figure quite trifling as compared with the cost of Soviet occupation and other burdens on the Roumanian budget incidental to the collection of reparations (which, it was estimated, might be as high as \$2,000 million), both the United States and the French delegations eventually abandoned their earlier position, and declared for partial compensation. The United States interpretation of "partial" compensation was not disclosed until the conclusion of a long debate on this problem, and was then announced as 25 per cent., a figure which it was easy to interpret as an attempt to undercut the U.S.S.R. figure which, up to that time, had been supposed to be $33\frac{1}{3}$ per cent. The U.S.S.R. delegation then explained that "to the extent of one-third,"

the phrase used in their original draft on this subject, meant "not more than 33 $\frac{1}{3}$ per cent.," and promptly came down to the United States figure. The vote in the Italian Commission on the United Kingdom proposal for 100 per cent. compensation resulted in a tie. New Zealand supported the United Kingdom on this issue, but later voted with the majority for the French figure of 75 per cent. The United Kingdom delegation reserved its rights to raise the question again, but did not press it to a further vote in the Plenary Session.

Closely related with this problem was that of adequate provision for the restoration of "the legal rights and interests of the United Nations and their nationals as they existed" in the ex-enemy countries at the outbreak of war. Each draft treaty contained a clause designed to afford protection for this purpose, but the United Kingdom felt that such a general clause might in practice prove ineffective, and therefore, sought to include in the treaties a number of rather elaborate supplementary annexes to ensure more adequate protection in certain specified cases—*e.g.*, patents and copyrights, insurance, shipping, and petroleum. The U.S.S.R. regarded all these annexes as unnecessary. The United States and France did not object in principle to the insertion of special provisions of this kind, but objected to some of them, either as a whole or in part. The British case, which was argued at length in relation to the Roumanian treaty, was, like that of Australia in relation to reparations, open to criticism on the score of excessive elaboration. It seemed to be especially vulnerable in regard to shipping, where in any case the interests concerned received some partial protection from a more careful definition of "ships" which later received the support of a majority vote. The whole question appeared to be a highly technical one upon which it was not possible to obtain a clear understanding at the time the vote was taken. In the Balkans Economic Commission, therefore, New Zealand, with Canada and India, followed the lead of the United States in voting against this Annex, which was rejected by 9 votes to 4. Since, however, the United Kingdom delegation attached great importance to this matter, and had fully explained their reasons for so doing, it was felt that New Zealand's support should be accorded, and accordingly in the Plenary Session New Zealand voted for the Annex, which was, however, again rejected by 10 votes to 7. In the course of the debate the other Annexes were amended or simplified in a way which disarmed criticism, and New Zealand therefore voted for them.

IV. RIGHT TO CONFISCATE EX-ENEMY PROPERTY IN UNITED NATIONS TERRITORY

An agreed clause in the Italian and Roumanian treaties gave to each of the Allied and Associated Powers "the right to seize, retain, liquidate, or take any other action with respect to all property, rights, and interests

within its territory" (with certain specified exceptions) belonging to Italy, Roumania, or their nationals, and to apply such property or the proceeds thereof for purposes so widely and vaguely defined as to provoke strong protests from the ex-enemy Governments. In the Finnish treaty the opposite course was adopted of protecting Finnish property rights in foreign countries; in the Bulgarian and Hungarian treaties there were alternative drafts, the United States, United Kingdom, and France proposing to follow the precedent of Italy, the U.S.S.R., that of Finland.

The United States, the United Kingdom, and France indicated their intention to use the rights thus conferred with moderation, but the alacrity with which several States, in stating or renouncing their reparation claims against Italy, reserved their rights under this agreed clause suggested that the Italian apprehensions were not entirely without foundation, and that the wholesale confiscation of foreign assets might seriously damage the prospects for attaining a satisfactory balance of payments position, and amount in effect to an additional disguised reparation burden of unknown magnitude. The Australian delegation in particular expressed its concern at the potential far-reaching effects of this clause in the Italian treaty, and eventually proposed to add literary and artistic property rights to the list of exemptions, an amendment which was accepted by 14 votes to 6, New Zealand voting with the majority. Similar amendments were also carried in the Balkans Economic Commission.

When the general issue of the disposition of ex-enemy property arose in connection with Bulgaria, where there was no agreed text, the U.S.S.R. argued that Bulgaria had not in fact been in a position to inflict damage on any Allied or Associated Power other than Yugoslavia or Greece, that the disappearance of her foreign assets would greatly increase the difficulties of re-establishing effective links between Bulgaria and the outside world, and that the rights of debtors against Bulgaria or Bulgarian nationals--the necessity for protecting which had been advanced as a major justification for the United States and United Kingdom proposals under this heading--were given adequate protection elsewhere in the treaty. The United Kingdom maintained, on the other hand, that it was a matter of principle that all ex-enemy States should be treated alike, and subsequently explained that the special treatment already agreed for Finland was justified by the exceptionally good financial record of that country, which made it unnecessary to take special precautions to ensure the payment of Finnish debts to United Kingdom nationals. As the merits of the case appeared doubtful, the New Zealand delegation abstained from voting on this issue in Commission as well as on the parallel proposal in the Hungarian treaty, but, in the light of further information, subsequently in the Plenary Session voted in both instances with the United Kingdom.

V. COMMERCIAL POLICY

In each treaty an agreed clause imposed upon the ex-enemy State an obligation to grant, for a period of eighteen months, what amounted, broadly speaking, to most-favoured-nation treatment to any of the United Nations which in fact was prepared reciprocally to grant similar treatment to the ex-enemy State concerned. The U.S.S.R., however, proposed two exceptions to this rule—(a) for branches of industry where there was no private enterprise, and (b) except in the Italian treaty, for commercial relations with “neighbouring countries.” The most important “neighbouring country” in each case is the U.S.S.R., already active in pressing for bilateral agreements and capital participations, which have tied the economies of these countries very closely to the U.S.S.R. The admission of the U.S.S.R. exceptions would therefore have made the article as a whole practically meaningless, and indeed the absence of any similar proposal in the Italian treaty made it reasonable to suppose that this was precisely the intention in mind.

The debates upon this article therefore raised the whole issue of the rival commercial philosophies of the United States and the U.S.S.R. While some of the states outside the Soviet Bloc have not in recent years been enthusiastic supporters of every aspect of United States commercial policy, it seemed so probable that the formal ratification of the U.S.S.R. views would have left it open to that country to apply to Eastern Europe such an extremely exclusive policy that on this issue their proposals received no support except from the other members of the Soviet Bloc, Ethiopia, and the Netherlands abstaining in the Plenary Session votes. It is particularly worthy of notice that, in a statement attached to the Record of the Balkans Economic Commission, the United Kingdom delegation has placed itself formally on record in favour of the principle that “equality of terms should be given to all the United Nations without discrimination,” and has declared that this major objective can be assured only by including in the peace treaties the interpretation of the most-favoured-nation principle which had been embodied in the United Kingdom, United States, and French draft.

In the case of Italy, the Canadian delegation wished to extend the most-favoured-nation obligations by lengthening the period stipulated in the draft treaty from eighteen months to three years. Eighteen months, it was argued, was too short a period for Italy to negotiate a new series of commercial treaties. As the article was an agreed one, no one of the Big Four was in a position to vote for this proposal without the unanimous agreement of the others. It was, however, carried, in the Italian Commission, by 12 to 8, and in the Plenary Session, by 12 to 9, New Zealand voting with the majority.

The commercial policy clause in each treaty also contained a paragraph sponsored by the United States and the United Kingdom which in effect interpreted the most-favoured-nation principle in relation to civil aviation. The Netherlands and French delegations proposed a further elaboration designed to make this interpretation more positive.

This proposal received support from the United Kingdom and the United States. Although it seemed doubtful whether the additional considerations thus introduced were strictly relevant to the content of a commercial policy clause, the New Zealand delegation, after abstaining from voting in the Commissions, voted in favour of the amendment in the Plenary Sessions.

VI. THE DANUBE

Some of the earlier paragraphs of this report have already made it clear, at least by implication, that one of the main issues confronting the Conference was the extent to which formal approval was to be given to the special position in Eastern Europe at which many believed that the U.S.S.R. was aiming. This issue presented itself in a peculiarly acute form in regard to navigation on the Danube. In the view of the U.S.S.R., it was unnecessary to insert in the peace treaties any reference to the control of Danube shipping, and strong objection was taken by the delegations of the U.S.S.R. and their immediate associates to the admission of any share in rights of control over the Danube to non-riparian States. The formal ground for the U.S.S.R. objection to the Danube clauses proposed by the other members of the Council of Foreign Ministers was the alleged impropriety of including in the peace treaties provisions which not only infringed the sovereignty of Roumania, Hungary, and Bulgaria, but also purported to limit the freedom of action of victorious States such as Yugoslavia and Czechoslovakia. The United Kingdom, on the other hand, was anxious once more to have approval of the principle of freedom of navigation formally enshrined in the peace treaties, and to provide therein also for a conference of "all interested States" to establish a new permanent international regime for the Danube. The 1921 Danube Convention, it was argued, was still in force, though it was agreed that the exclusion of the U.S.S.R. in 1921 has been a serious error which must now be rectified. The French, in particular, insisted that it would be highly paradoxical if the peace treaty were in effect to ratify the unilateral exclusion of France by Germany in 1940 from participation in Danube control. The United States also indicated its permanent interest in the Danube, which, moreover, was especially strong during the period when it had responsibilities as an occupying Power. When the Danubian clauses first appeared on the agenda of the Balkans Commission the United Kingdom and the United States presented a joint draft setting forth in some detail the methods whereby freedom of navigation was to be maintained on the Danube. In the course of the debate the French delegation presented a compromise draft, which omitted the details, and, moreover, applied only to the Danube, and not to "its navigable tributaries and connecting canals." It contained a general affirmation of the principle of freedom of navigation on the Danube, and proposed to bind the ex-enemy States to take part, "together with France, the

U.S.S.R., the United Kingdom, the United States, and the Danubian States," in a conference to be convened within six months of the entry into force of the treaties. The French amendment was accepted by a vote on conventional lines.

VII. SETTLEMENT OF DISPUTES

An unofficial Roumanian group which carried on a skilful lobbying campaign throughout the conference had severely criticized the draft treaties on account of the lack of precision of many of their clauses. Many principles, it is true, were set forth in such general terms that disputes could easily arise over their interpretation in particular concrete cases, and, in any event, it was desirable to provide beforehand some machinery which could handle without unreasonable delay such disputes as might subsequently arise. The U.S.S.R. had proposed a procedure which left the ultimate responsibility for appointing the third member of the Conciliation Commission, which it was proposed should be set up when necessary, in the hands of the heads of the diplomatic missions (in each ex-enemy capital) of such States as were concerned with the particular treaty in question and were also members of the Council of Foreign Ministers. The U.S.S.R. was evidently reluctant to contemplate the possibility of a final decision in such matters passing entirely out of its hands. It was stated that the U.S.S.R. delegation refused to consider even the possibility of disagreement between the heads of these diplomatic missions, who would, of course, be acting under the instructions of their Governments, though the general tenor of Conference debates afforded little evidence in support of such optimism. Voting on conventional lines, the Balkans Commission adopted the text sponsored by the United Kingdom, which empowered the President of the International Court of Justice in the last resort to nominate the third member of any Conciliation Commission. In the Italian Commission, the United States proposed an alternative procedure, to some extent based on suggestions made by the Italian Government itself. The United States draft was accepted by 14 votes to 6, and as there was reason to believe that it was technically superior to the United Kingdom proposal, upon which the United Kingdom delegation insisted that the Commission should also take a vote, the New Zealand delegation joined the majority of 13 to 4 by which the United Kingdom draft was rejected. The United Kingdom did not insist on a further vote being taken in the Plenary Session, which accepted the United States proposal by 15 votes to 6.

On none of the main economic problems in dispute can it be claimed that the deliberations of the Commissions perceptibly narrowed the gap between the protagonists. Little attention, if any, was paid by the Conference to the broader long-range issues of general European

economic reconstruction and the procedure which it was necessary to follow would have made it in any event difficult to discover any suitable point in relation to which serious consideration of these issues could have been introduced. Even on some of the smaller, but immediately pressing, short-term issues the Conference did not get so far as a formal vote, most of the complex problems arising from the cession of Italian territory to Yugoslavia and France being referred back without comment to the Council of Foreign Ministers.

Even, however, where votes were recorded they did little more, except on the important question of compensation for damaged United Nations property in ex-enemy territory, than crystallize positions already well known. The United States, indeed, came nearer to the United Kingdom position in relation to the Danube than it had been prepared to do at an earlier date, but for the most part the variations of opinion within each of the so-called blocs did not amount to very much. The divergence of view between the United States on the one hand, and the United Kingdom and France on the other, on the percentage of compensation upon which it was proper to insist has already been noted. On the Soviet side, perhaps the most interesting variation was that of Czechoslovakia on the same issue, the Czechs, no doubt with an eye to their own property interests in ex-enemy countries, joining the United Kingdom and France in voting for 75 per cent. compensation. None of the deviations on either side from "the party line" holds out much hope for the establishment on any important issues of intermediate positions which might later become the basis for generally acceptable compromises. All the economic issues associated with the peace treaties still await their solution.

MILITARY COMMISSION

Officers

Chairman General S. MOSSOR (initially Colonel NASZKOWSKI), (*Poland*)

Vice-Chairman Mr FOO-PING-SHEUNG (*China*)

Rapporteur Mr BLATTA EPHREM T. MEDHEN (*Ethiopia*)

New Zealand Representative

Brigadier R. S. PARK

The Commission, which consisted of the delegates from all the twenty-one Allied and Associated Powers, and held thirty-eight meetings, was given the task of examining parts of the draft treaties between the Allied and Associated Powers and the ex-enemy States of Italy, Roumania, Bulgaria, Hungary, and Finland which had been prepared by the Council of Foreign Ministers and, as a result of such examination, submitting recommendations to the Plenary Conference.

The sections of the draft treaties referred to the notice of the Commission were—

Italy: Articles 39 to 62, with Annexes 4 and 5.

Roumania: Articles 11 to 20, with Annexes 2 and 3.

Bulgaria: Articles 9 to 18 with Annexes 2 and 3.

Hungary: Articles 10 to 19, with Annexes 2 and 3.

Finland: Articles 13 to 21, with Annexes 2 and 3.

Notwithstanding long preliminary discussions on procedure, the work of the Commission was throughout continually subject to lengthy interruptions in order to discuss points of procedure evoked by members of Eastern States to delay consideration of proposals to which they took objection.

The procedure to be adopted in hearing the representatives of ex-enemy States and non-member States was only accepted after a long discussion and amplified that suggested by the Secretary-General. It was decided that, as regards ex-enemy States, any suggestions submitted would be considered in Commission only if they were presented in the form of amendments by a member of the Commission; in the case of non-member States any suggestions submitted would be studied on the initiative of one of the members, but were only to be voted upon if presented as an amendment by a full member of the Commission.

The various Articles of the five treaties are dealt with separately below.

ITALY

The following articles were unanimously adopted, after discussion, without change: 39, 42, 43, 45, 46, 48, 52 para. 1, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, and Annexes 4 and 5.

In the discussion on Article 39⁽¹⁾ the New Zealand delegation submitted to the Commission a written statement⁽²⁾ setting out the view of the New Zealand Government that the Security Council should be associated with the control of the armed forces of ex-enemy States and should determine the level of their numbers and equipment. While sympathy with the principle underlying the proposal was expressed by several delegations it was evident that none was prepared to support actively an amendment based upon it. Moreover, in the time available adequate consideration of its implications was not possible.

The New Zealand delegation, therefore, did not submit a formal amendment, but requested the attachment of the statement to the records, reserving the right to raise the question in Plenary Conference.

Drafting amendments were unanimously adopted for the following articles: 40, para. 1 (b); 41, para. 1 (b); 47; 49; 50; and 51.

Two new Articles 46A and 62A were unanimously adopted. Article 46A forbids the employment of ex-Fascist officers and N.C.O.s by the Italian armed forces unless specially cleared by the appropriate Italian authority. Article 62A was designed to allow Italy to continue her present minesweeping forces, the size of which might be affected by the restriction on the naval forces, beyond the date of the coming into force of the treaty.

The main submission of all three service representatives of the Italian delegation was that all ranks of the Italian Armed Forces felt strongly that the draft treaty gave inadequate recognition of Italy's three years of loyal co-belligerent service. After such service they held that the treatment of the Italian Fleet (in Article 48 of the treaty) practically as war booty was particularly obnoxious. The South African delegation felt the force of the Italian argument sufficiently strongly to sponsor several amendments designed to reduce the severity of the arms limitation articles of the draft treaty. All, however, were rejected or withdrawn, as were Greek and Yugoslav amendments—the latter sponsored at the request of Albania—designed to restrict still further the size of the Italian armed forces. The New Zealand delegation took the view that numbers, organization, and equipment permitted under the treaty were reasonably adequate to meet the needs of local defence and internal security, and voted accordingly.

New Zealand proposed an amendment to Article 43, para. 4, designed to limit the application of the prohibition of construction in Sicily of service installations and fortifications to permanent works only and thus allow temporary work for purposes of local defence and internal security. This seemed reasonable, since in all other reference in the treaty prohibition had related only to the construction of *permanent*

1) "Each of the military, naval, and air clauses of the present treaty will remain in force until modified in whole or in part by agreement between the Allied and Associated Powers and Italy or, after Italy becomes a member of the United Nations, by agreement between the Security Council and Italy."

(2) Text of statement is attached as Appendix 3.

defences. After France, on behalf of the Four Powers, had explained that there was no intention to demolish any work other than that set out in para. 2 of the article and that the present installations were extensive, modern, and suitable for all needs of local defence, the New Zealand delegation withdrew its amendment

ROUMANIA

The Commission considered the draft peace treaty with Roumania at three meetings.

Of the ten articles and two annexes set down for consideration by the Commission, eight articles and the two annexes were adopted, after discussion, unanimously and without change. A drafting amendment to Article 15 to bring the three official texts into harmony was also unanimously agreed.

Much of the discussion in Commission on this treaty centred round the form of Article 14. There had been unanimous agreement to accept the Belgian amendment proposing the inclusion of atomic weapons in the list of prohibited equipment. This had been originally proposed as an amendment to Article 44 of the Italian treaty and it had been unanimously agreed to apply it to the other four treaties. As many delegations wished to see this article in identical form in all the Balkan treaties, the U.S.A. had suggested deferment of its adoption by the Commission until the fate of a Greek amendment (C.P., Gen. Doc. I.J. 22) to the corresponding Article 12 of the Bulgarian treaty, which proposed the prohibition of motor torpedo-boats to Bulgaria, had been settled.

The Eastern Bloc, apparently anxious to oppose the application of any further restrictions to the "new democratic" State of Roumania, strenuously debated this proposal, wishing to have the article adopted as it was. Subsequently, a serious difference of opinion, only resolved in Plenary Session, developed in the Commission on the correct interpretation to be given the unanimous adoption of the following resolution :—

"The Commission agrees that the articles on prohibitions in the Balkan and Finnish treaties (Article 12 of the Bulgarian treaty; Article 14 of the Roumanian treaty, Article 13 of the Hungarian treaty, and Article 16 of the Finnish treaty) should be in identical language—*i.e.*, that decided upon for Article 12 of the Bulgarian treaty."

BULGARIA

The Commission held nine meetings to examine the military articles of the peace treaty with Bulgaria. It heard the representatives of Bulgaria and considered their written and oral observations.

Of the ten articles and annexes set down for consideration by the Commission, all with the exception of two articles—12 and 13—were adopted after discussion without change and unanimously.

The Greek delegation submitted a series of amendments (C.P., Gen. Doc. 1J21) to Article 9, as well as proposals for the addition of new articles designed to restrict the size and composition of the Bulgarian Armed Forces allowed under the treaty. Long and acrimonious discussion took place on these Greek amendments, but after the United Kingdom and the United States had declared that any proposed independent frontier militia must either be included in the number of the armed forces under Article 9, or declared an illegal organization under Article 11, the Greek amendment was withdrawn.

Similarly, following a further declaration by the United States, supported by the Soviet Union, the Greek amendment (C.P., Gen. Doc. 1J23) requiring the return of Greek war material was withdrawn in conciliatory manner. The United States declaration set out that the interpretation given the word "property" in Article 65 of the draft treaty with Italy should be applied to Article 21 of the draft treaty with Bulgaria.

A Greek amendment for a new article (C.P., Gen. Doc. 1J21) prohibiting the construction of permanent fortifications along the Greco-Bulgarian frontier, where weapons capable of firing into Greek territory could be sited, was carried by a simple majority of 11 votes to 7, with 3 abstentions. The New Zealand delegation felt that the desire of Greece for some guarantee of security to her northern frontier was reasonable and justified. It therefore supported the Greek amendment.

Another Greek amendment to Article 10 proposed that to the weapons prohibited to Bulgaria should be added motor torpedo boats, which craft had been declared to have offensive possibilities and had accordingly been denied to Italy. This proposal was also the subject of very keen opposition from the Eastern Bloc, who, arguments failing, tried by every procedural device to prevent its adoption. Again the New Zealand delegation, following New Zealand Government direction to accord general support to the Greeks, and all the more because a principle of equal treatment to ex-enemy States was involved, supported the amendment, which was carried by 13 votes to 6, with 2 abstentions. This result required the submission of majority and minority reports to the Plenary Conference since a two-thirds majority was not obtained.

It is convenient here to treat of the request to the Military Commission to study the strictly military implications of a Greek amendment (C.P. (MIL), Doc 11), which had been proposed to Article 1 of the treaty in the Territorial and Political Commission for Bulgaria.

After spending two hours in dealing with Eastern Bloc arguments questioning the competency of the Commission to consider the question, a bare half-hour sufficed for a reply on its substance. The reply as follows, obviously prepared and agreed in advance by the Four Powers, was adopted :—

“ In reply to the letter, dated 17th September, from the Chairman of the Political and Territorial Commission for Bulgaria, the Military Commission considers that any increase or decrease of territory will probably improve or weaken the possibilities for local defence, but strategic security, as mentioned in the annex to your letter, includes political, economic, and ethnic problems, which are not within the province of this Commission.”

Little attempt had been made in Commission to discuss the Greek proposal and, in fact, the question of a demilitarized zone was not even raised.

It was only too clear that the Powers were reluctant to have this delicate frontier question reopened, and even more to pronounce judgment on it. In the event, the Greek proposal never received the consideration it well merited.

The New Zealand delegation, feeling that scant justice had been accorded the Greek proposal, was unable to agree to the reply of the Military Commission proposed by the United States, and abstained from voting.

HUNGARY

The Commission held three meetings to consider the Military Articles of the draft peace treaty with Hungary. It heard the representatives of Hungary and considered their observations.

All the articles with the exception of two (Articles 13 and 14), together with the two annexes, were adopted after discussion, unanimously and without change.

Article 13 was amended in accordance with a Belgian amendment (C.P. (Gen)., Doc. 1C4) proposing the prohibition of any atomic weapons, an amendment which had been accepted unanimously for insertion in related articles of the draft treaties with Italy, Roumania, and Bulgaria. In this article, too, a resolution similar in form to that agreed for Article 14 of the Roumanian treaty and Article 12 of the Bulgarian treaty was adopted unanimously, the Eastern Bloc also maintaining their previous attitude and reservation in regard to the unanimity of the vote.

Article 14 was redrafted in the French language text to bring the three official texts into agreement. The Czechoslovak delegation had proposed an amendment (C.P., Gen. Doc. 1Q7) for the insertion of a new article directed to prohibiting the construction of permanent

fortifications within 20 kilometres of the Czechoslovak frontier in which weapons capable of firing into Czechoslovak territory could be emplaced. The similarity between this amendment and the Greek amendment (C.P., Gen. Doc. 1J23) proposed for Article 14 of the draft treaty with Bulgaria is evident. The Eastern Bloc, however, were prepared to support the Czechoslovak amendment, the principle of which, when embodied in the Greek amendment, they strenuously opposed.

The false position in which they were now placed undoubtedly led the leader, the Soviet Union, to ask the Czechoslovak delegation to withdraw their amendment. This they did "in the interests of a just and peaceful collaboration with Hungary." The New Zealand delegation on this matter took the view that as it had supported the Greek amendment it should also support the Czech amendment, more especially as a principle of disarmament of the ex-enemy States was involved.

FINLAND

The Commission held two meetings on the Military Articles of the draft peace treaty with Finland, during which it heard the Finnish representatives who had previously submitted written observations. Their oral statement, the shortest by any ex-enemy State before the Commission, simply referred the members of the Commission to their written statements previously submitted. Both statements reflected the attitude which Finland is adopting in matters of concern to the U.S.S.R.

Of the nine articles and two annexes examined by the Commission all but two articles (16 and 17) were adopted after discussion unanimously and without change.

In Article 17 a redrafting amendment of the French text to bring all three official texts into line was adopted unanimously.

The Belgian amendment to Article 16 to add "any atomic weapons" to the list of those prohibited to Finland, and which had been agreed to for draft treaties with other ex-enemy States, was adopted unanimously. The resolution first adopted in discussions on the Roumanian treaty regarding the similarity of language of this and related articles of other treaties was also agreed to. The Eastern Bloc likewise maintained their objections to the unanimous nature of the vote on it.

The insertion of a new article (13A) relating to minesweeping, similar in form to that included in the draft peace treaty with Italy, was proposed by the United Kingdom delegation, and adopted unanimously by the Commission. The article provides that Finland should undertake to put her minesweeping forces at the disposal of the Zone Board of the International Mine Clearance Organization and authorizes her to retain for this purpose additional naval units and personnel over and above the tonnage and numbers permitted in Article 13.

GENERAL

Throughout the work of the Commission the compelling restraint exercised by the authority of the Four Powers was felt in various ways. The only new articles to be adopted for any of the treaties were all sponsored by a member of the Big Four, while no recommendation for the amendment of any article was agreed to without their support.

One other feature in Commission was the cohesion of the Eastern States. On all questions, even those of minor nature when some independence from the satellite States might have been expected, they spoke and voted as a bloc.

LEGAL AND DRAFTING COMMISSION

Officers

Chairman Hon. BROOKE CLAXTON (*Canada*)

Vice-Chairman Mr V. N. YACHOUNOV (*Byelo-Russian S.S.R.*)

Rapporteur Professor J. P. A. FRANCOIS (*Netherlands*)

New Zealand Representatives

Hon. H. G. R. MASON

Mr F. H. CORNER

All twenty-one member States of the Conference were represented on this Commission which held sixteen meetings. It set up a sub-committee (consisting of representatives of the U.S.A., Brazil, Czechoslovakia, France, New Zealand, Norway, the U.S.S.R., and the United Kingdom, together with the Rapporteur of the Commission) to consider the description of the Franco-Italian frontier. The sub-committee held four meetings.

LIMITED COMPETENCE OF COMMISSION

As the Rapporteur points out in his report⁽¹⁾, the task of the Paris Conference "was not to draft treaties of peace with Italy, Roumania, Bulgaria, Hungary, and Finland, but to make recommendations to the Council of Foreign Ministers in respect of these five treaties."

Despite this, most of the delegations at the Conference naturally assumed that the Legal and Drafting Commission would have two clear tasks—as the legal organ of the Conference, it would examine the treaties from the legal point of view and would acquaint the various political Commissions with its findings. As the final drafting body of the Conference it would examine the draft treaties and additions to them in order to eliminate all ambiguity, lack of precision or contradiction, and to ensure that the English, French, and Russian texts were in perfect accord.

The General Secretariat, however, apparently upon the insistence of the U.S.S.R., took a more limited view and ruled that the Commission's competence did not extend beyond :—

- (i) Considering and reporting direct to the Plenary Conference upon the eight articles (15, 32, 33, 34, 35, 36, 77, and 78) transferred to the Commission by the Political and Territorial Commission for Italy ;
- (ii) Considering, from the legal and drafting point of view, those questions referred to it specifically by other Commissions ;
- (iii) Considering, from the legal and drafting point of view, such *new* articles and amendments as had been unanimously adopted by other Commissions.

(1) C.P. (PLEN), Doc. 38. Rev.

As a result of this ruling, only a few of the provisions of the draft treaties were examined by the Conference from the point of view of the clarity and consistency of the texts and the agreement of the French, English, and Russian versions. The texts which issued from the Conference still abounded with inaccuracies of drafting and translation which, it is to be hoped, will be corrected by the Council of Foreign Ministers before the Allied and Associated Powers are asked to sign the final treaties. The representative of the U.S.S.R. informed the Commission that the Council of Foreign Ministers was quite capable of drafting the texts without the advice of the Conference. The representative of the United Kingdom, on the other hand, said that, in the stress of preparing the texts in the Council of Foreign Ministers, it had not been possible to take much account of purely drafting issues, and he had hoped that this would be attended to by the Drafting Commission of the Conference. He anticipated that a similar situation would occur in the concluding stages before the Council of Foreign Ministers, and it was therefore all the more important that the texts should go forward from the Conference to the Council in the best possible form, from the drafting point of view.

Even as regards the new articles and the amendments unanimously adopted by other Commissions the Drafting Commission was obliged to confine its examination to that part of the text which had been modified. It was not competent even to consider the context. Further, owing to the date at which these new articles and amendments were submitted to it, the Commission was unable to carry out even this limited task in a satisfactory manner.

Finally, the Commission had been informed by the General Secretariat that it would receive for study the texts of such new articles and amendments as would be adopted by the Plenary Conference. But, in view of the fact that the Plenary Conference did not complete its examination of the treaties until the day the Conference closed, this was obviously an impossible task.

Naturally, most of the members of the Commission were dissatisfied with the functions assigned to it, and some wished their dissatisfaction to go on record. It was ruled, however, that the Commission was competent neither to express its dissatisfaction nor to suggest in its report that the present procedure should not be taken as a precedent for other international conferences. The Rapporteur's report contains, however, the significant paragraph :—

“ It [the Commission] therefore cannot be held responsible for the drafting and concordance of the texts.”

In addition, the protest at the limitation of the competence of the Commission, made by the distinguished Belgian jurist, Dr Kaeckenbeek, is attached to the record of the Commission's meetings⁽¹⁾. Dr Kaeckenbeek said in the course of his speech —

(1) C.P. (JR), 5th meeting.

“ I should like to say that in my opinion the decision has not only lengthened the work of the Conference, but also has the evil consequence of making it possible to avoid consideration of the juridical aspect of certain questions, and to consider them merely from a political or economic point of view. I should like to emphasize this because I have no doubt that the day will come when the world will regret that more weight was not given to the principles of law.”

REPORT ON COMMISSION'S WORK

There would be no point in recording in detail the findings of the Commission upon the questions it considered because they naturally consist for the most part of minute drafting points—for instance, in checking the description of the Franco-Italian frontier, the changes in spelling, translations, terminology, and measurement of distances filled many pages⁽¹⁾. Only two general questions call for record—the first concerning multilateral treaties ; the second concerning the Australian proposal for a European Court of Human Rights.

MULTILATERAL TREATIES

The Netherlands delegate, Professor Francois, asked the representatives of the Four Great Powers why no provision had been made in the drafts in respect of multilateral treaties, a matter which was dealt with in the Treaty of Versailles (Articles 282 to 288). The U.S.S.R. delegate made the interesting and satisfactory reply that it had seemed unnecessary to make any such special provision for multilateral treaties, because they had merely been in abeyance during the war (some of them, such as the Red Cross Convention, were not even suspended) and would become operative once more as soon as the peace had been concluded⁽²⁾.

EUROPEAN COURT OF HUMAN RIGHTS

The draft treaties contained clauses which bound the ex-enemy countries to take all measures necessary to secure to all persons under their jurisdiction the enjoyment of human rights and fundamental freedoms. The Australian delegation maintained that it was of little use to write these rights—for which every nation claimed to have fought and to the securing of which each member of the United Nations has committed itself in the Charter—into treaties unless machinery was established to give them proper judicial protection. They proposed that this machinery take the form of a European Court of Human Rights, to which individuals and groups would have access as of right.

⁽¹⁾ Detailed reports will be found in C.P. (PLEN), Docs. 24 (Annex), 28, 30, 32, 35, and 36.

⁽²⁾ The full statement by the delegate of the U.S.S.R. appears in an annex to C.P. (JR), 6th meeting.

The Australian proposal never received impartial examination by the Conference. The Finnish Commission was quick to shift its responsibility by asking the Legal and Drafting Commission to give an opinion, from the legal point of view, upon the merits and practicability of the scheme. Under pressure of the Soviet Union, which expressed strong objection to the principle of interposing an International Court between a State and its control of its subjects, the Commission confined itself to a strict definition of the present position of human rights in international law, making no attempt to study the matter or to advance the law by recommending further joint international action. The Human Rights Commission of the Economic and Social Council of the United Nations, said the Commission's report, is the body which has power to formulate the principles and to decide upon the steps to be taken to ensure that human rights are respected ; but no fundamental understanding has yet been arrived at on the principles involved ; this being so, it is impossible in the present state of international law to compel a State to accept the decisions of an international legal body in the matter ; therefore, the Australian amendment should not be accepted.

The New Zealand delegation, believing the international protection of individual human rights to be a desirable end, even if the specific details of the Australian proposal were capable of improvement, gave consistent support to the Australian delegation on this matter. When it became apparent that the proposal for a European Court of Human Rights would be rejected the New Zealand delegation suggested, as an alternative procedure, that the Peace Conference should express to the United Nations its approval of the establishment by the Economic and Social Council of a Human Rights Commission and should urge upon the United Nations the desirability of setting up international machinery to ensure the practical application of human rights and ultimately to enable individuals and groups to have cases concerning breaches of human rights examined by an international judicial body. In advocating this procedure the delegation maintained that the Peace Conference having been brought face to face with many cases of repression of human liberties and having seen the inter-relation between internal repression and external aggression should pass on its experience to the United Nations ; it argued, further, that the Human Rights Commission of the Economic and Social Council does not entirely serve the purpose aimed at by the Australian proposal because it is a political not a judicial body, because it deals with States not with individuals or groups, and because, since its powers are confined to investigation and report on a rather high political level, it cannot deal in an unobtrusive judicial way with individual cases.

These arguments were of no effect, and though several delegations spoke in support of the " principle " only Australia and New Zealand voted against the adoption by the Commission of the unfavourable report described above.

APPENDICES

APPENDIX 1

OPENING SPEECH OF NEW ZEALAND DELEGATE, HON. H. G. R. MASON,
FOURTH PLENARY MEETING, 1 AUGUST, 1946

MR PRESIDENT, AND FELLOW DELEGATES, —

I join with other speakers in expressing to the Government of France, and to the people of this most beautiful and historic city, the warmest appreciation for the hospitable and manifold arrangements which have been made for the delegations attending this Conference.

I represent the country farthest removed in distance from the conflict in Europe, but one which did not hesitate for an instant to join the resistance to aggression in September, 1939. Twice in one generation our men have poured forth their blood in heavy measure; without stint New Zealanders have devoted their whole productive effort to the needs of war.

I cite this fact of the remoteness of New Zealand from the European theatres of war to stress the importance we attach to the well-known observation that peace, like war, is indivisible. An act of aggression in Abyssinia, or in Danzig, or in China is but the stone cast into the world's waters causing the ripples which touch with fatal impact the shores of every country of the world.

We knew that remoteness provided no safeguard, and that failure to resist aggression would mean the loss of the liberties and principles of justice upon which we had built our way of life. We are no less determined to preserve those principles in this making of the peace.

For six years our men fought continuously, proud to fight alongside those armies of free men whose representatives are seated here to-day in this hall of victory. They fought in Greece and Crete, then in North Africa, and later through the whole length of Italy. They fought against the Japanese in the Pacific when our own homeland was threatened. Our sailors fought on every sea, and our airmen brought war to every enemy of the United Nations.

I recall the heavy sacrifices of my country in the cause of democratic freedom, to emphasize our direct interest in the peace, in the settlement and in the maintenance of which we are willing to take as full a share of responsibility as we did in the conduct of the war.

In view of the wide scope of previous speeches, I have no desire to repeat the sound and excellent principles ably expressed by the most distinguished speakers who have preceded me. I should like, however, to express appreciation of the speech by Mr. Byrnes, the first I heard, having arrived late at this Conference. It was worthy of the greatness of America, and it must give encouragement and hope to all peoples to hear such truths and ideals set forth as the practical basis of the policy of a nation of such strength and power as the United States. I warmly uphold, also, the principles of peace-making enunciated with such vigour by my colleague from Australia, Dr Evatt, and also those of his proposals regarding the economic aspects of the peace settlement, proposals which mean so much to the ordinary men and women we represent.

For my own part I am deeply conscious that we are dealing primarily with human beings. We must not yield to the temptation to reward this nation, or to punish that, by giving to the one, and taking from the other, some territory so easily marked on a map. We are dealing not with maps—or abstractions. We are dealing with living men and women, their homes and families—with their lives, their hopes. Human beings are not fit subjects to serve as prizes and rewards.

The New Zealand delegation endorses what previous speakers have stressed regarding the positive task of peacemaking—the creation of goodwill and good-neighbourliness, and the avoidance of perpetuation of old antagonisms. Though we do not forget the baseness with which some of the now defeated enemies struck at us when our fortunes were at the lowest ebb, we are none of us actuated by the spirit of revenge at this Conference. We know, full well, that there can be no lasting advantage to be gained from a policy actuated by revenge. What we seek above all is a settlement that will avoid the recurrence of war.

In defeating aggression we hoped to see established an international order which would provide the maximum discouragement to aggression in the future. The war was not fought to aggrandize any one of the victors. Such purpose is expressly disowned in the Atlantic Charter. While we do not object to the punishment of the aggressor powers, the effects of punishment must clearly be such as to promote the security of the United Nations.

The peace at which we aim must not only be based on justice, but it must also appear just to those who come after us. Let us therefore see to it that our conception of justice to-day is far-sighted and thus avoid those elements of instability that will disrupt our settlement.

In our approach to the peace the New Zealand delegation consider that the Atlantic Charter, as a statement of principles and pledge of common faith by the United Nations, is of full effect. In particular, the territorial changes should not, we think, be adopted unless a very strong case has been presented, and certainly not until the wishes of the inhabitants of the territories concerned have been clearly ascertained. We believe that the beneficiaries of such changes should give effective guarantees as regards the protection of human rights and economic collaboration.

In many cases we shall have no alternative but to accept compromises reached by the Great Powers; let us, however, have a clear guarantee that the Great Powers regard these compromises as something more than temporary reconciliations of divergent interests and hopes.

New Zealand would welcome, in certain instances, the establishment of international control of areas which involve the economy of more than one country, or of territories whose people would not otherwise be able to maintain their political or cultural independence. But we consider that the Great Powers should not take the responsibility of proposing an international solution of such problems, unless they are unitedly resolved to uphold that solution as a permanent settlement, and that they should make it fully clear to the Conference that this is their resolve. Given such conditions, we believe that international solutions can be workable.

We trust that the various settlements will be such as to commend themselves to the United Nations Organization, which is charged with the responsibility of preserving world peace. The areas dealt with in the peace treaties may be the sore spots and trouble centres which will

occupy the attention of the United Nations. In this connection we would like to remind this Conference that we cannot bind that Organization, which is bound only by its Charter, and that before any tasks proposed for the United Nations in the Treaties become effective, they must be fully accepted by the United Nations itself, acting through its organs.

In conclusion, Mr Chairman, I would like to state that the New Zealand delegation reserves for the work of the Commissions its detailed proposals affecting the draft treaties. On this occasion I will say no more beyond expressing the earnest hope that we, in common with other nations represented here, may have the wisdom and breadth of vision to devise a peace that will be as just as humanly possible, a peace that will endure, and one which our children—less deeply involved and with less vivid memories than ourselves—will consider it worth maintaining; and, not of least importance, a peace that the powers, great and small, will unite in upholding.

APPENDIX 2

FINAL SPEECH OF THE NEW ZEALAND DELEGATE, HON. H. G. R. MASON, THIRTY-FOURTH PLENARY MEETING, 9 OCTOBER, 1946

Mr President, I shall not traverse the ground which has already been covered in this general discussion. After weeks of detailed Commission work, we have reached our conclusions upon the issues of this Conference, and the repetition of utterances by two rather than by one delegate will hardly alter the judgment we have reached after long discussion and examination.

We have reached the stage of final voting, and, as we study the questions put forward for the vote, we see how we may have modified our original viewpoints, how we have made adjustments as we come to realize the special problems of our fellow-victor-nations at this Conference. We have come far towards fulfilling the injunction of Mr. Manuisky at one of our early plenary sessions two months ago to-day, "that the best way to settle international relations after a war is that of mutual understanding of the interests of each of the parties, which should be reflected in the decisions adopted by all members of this Conference."

In this result we see illustrated what Field Marshal Smuts said about the spirit of our meetings—that the spirit of co-operation has been present and realization of it has been obscured by the undue emphasis placed by others upon our differences. Differences are, of course, inevitable. But the clear and emphatic expression of divergent viewpoints, perfectly proper and necessary at a Conference, has been quite wrongly represented to the outer world as a manifestation of ill feeling or ill will. I have been astonished to find this. It is not fair to the people of the world that frankness should be so represented as to cause them to believe it to be ill will, and induce in them despondency as to the cause of peace.

New Zealand has made many adjustments in recognition of the needs of its fellow-United-Nations. We have no self-righteous feelings about this. Clearly, adjustment is easier for a country which has no direct material interests involved in the settlement. We recognize that it is not as simple for others.

We are, let us speak frankly, unhappy about some of the compromises we have made as a result of our recognition of the present state of world power and of world organization. Our conscience is uneasy, but—whatever may be correct individual conduct—we do not think it would be helpful at an international meeting if we maintained our stand tediously against that of twenty.

I cite one example. Our primary aim, like that of other delegations, is to secure a peace settlement which is just and has the prospect of enduring. We believe that such a settlement would be assisted if the United Nations Organization were associated with many of the matters dealt with by the treaties. We believe that these might be better solved by the United Nations than by the Council of Foreign Ministers. It seems to us that all the United Nations are interested in the peace treaties because those treaties are setting the international framework within which the United Nations will work, and by which they will be bound. And if *all* the United Nations are responsible for keeping the peace—if peace is indivisible—it is not satisfactory that the pattern of peace should be woven by only *some* of the United Nations.

On several occasions we raised our voice in favour of the United Nations way of doing things—when we proposed that the United Nations should arrange the administration of the Italian colonies ; when we suggested that the Security Council should determine the future level of armaments in the ex-enemy States—when we asked this Conference to encourage the establishment of United Nations' machinery to protect the human rights of individual citizens.

We would have proposed other matters suitable for United Nations action, but when other delegations showed no favourable disposition, and even opposition, toward this way of doing things (which we are convinced is the right way), we did not remain intransigent, and we recognized that other issues required that we should not delay the work of the Conference by insistently pressing views that had been rejected after deliberation.

So much for our general position. A very few detailed points.

First, I wish to express the pleasure of the New Zealand delegation at the conclusion of an agreement between Italy and Austria to respect the rights and liberties of the people of the South Tyrol. This arrangement was as important in its way as any we concluded during these discussions, and I hope we shall express the concern of this Conference with the future welfare of the Tyrolese by giving the new clause 10A, sponsored by Belgium and the Netherlands, at least a two-thirds majority.

Italians have here a splendid opportunity of showing that there is a way of solving Europe's great problem—the problem of minority nationalities. I am sure the parties to this agreement are both determined to make it a success, and there is the highest hope it may become an example for other nations.

Second, our satisfaction at the adoption of the very reasonable Australian proposal for the co-ordination of reparations deliveries from Italy. The creation of the machinery proposed will avoid confusion and waste and will help Italy to fulfil her obligations, to her own advantage and to the obvious advantage of the States receiving reparations. Here is a case worthy of the full support of the Conference.

Thirdly, I wish to associate myself with the remarks of Field Marshal Smuts about Greece. When problems affecting Greece are raised no New Zealander can forget that our men fought by the side of the Greeks in Greece at a time when Germany was at the height of her power and our Allies were not as numerous as they later became. When a New Zealand soldier was cut off from his comrades, he was secure among the Greek people, who tended his wounds, concealed him from Germans, fed him when they were themselves in direst need. People in New Zealand cannot forget things like this, and it would be unnatural if a New Zealand delegation forgot them either. It is our hope that the Council of Foreign Ministers will bear in mind the heroic sacrifices of the Greek people when they draft the peace treaties in their final form.

Finally, I feel compelled to go back to my remarks made at the opening of this Conference—that compromises should only be agreed to if we all sincerely intend to be loyal to the compromise. The Great Powers and a two-thirds majority of the Conference have agreed to the establishment of international control over an area whose economy is bound up with the whole of Central Europe and whose citizens are at present at daggers drawn. Let us be quite clear that in taking the responsibility of proposing an international solution we are unitedly and resolutely resolved to uphold that solution as a permanent settlement.

APPENDIX 3

STATEMENT BY THE NEW ZEALAND DELEGATION REGARDING THE ASSOCIATION OF THE SECURITY COUNCIL WITH THE MILITARY CLAUSES OF DRAFT TREATIES, 26 AUGUST, 1946

THE New Zealand delegation wish to set out the views of their Government upon Article 39 of the draft treaty for Italy, Article 19 of the draft treaty for Roumania, Article 17 of the draft treaty for Bulgaria, Article 18 of the draft treaty for Hungary, and Article 21 of the draft treaty for Finland. These provide that the military, naval, and air clauses of the various treaties will remain in force until modified in whole or in part by agreement between the Allied and Associated Powers and the particular ex-enemy State, or, after the State becomes a member of the United Nations, by agreement between the State and the Security Council.

The New Zealand Government welcome the association of the Security Council with the control of the armed forces and armaments of the ex-enemy countries, but, looking forward to the international regulation of armaments envisaged in Article 26 of the Charter, feel that the powers of the Security Council in this connection might well be greater than is proposed in the draft treaties.

We have not, up to the present, advanced a specific amendment aimed at increasing the powers of the Security Council because we have not completed our examination of the implications of such a proposal and we desire to ascertain the views of members of the Commission on this question before coming to a definite conclusion ourselves. As a first step we would prefer that the present peace treaties should provide for the level of armaments of the ex-enemies to be set by the Security Council.

We would ask delegates to consider whether there might not be a provision in the treaty which limited the armed forces or military, naval, or air installations or equipments permitted to the ex-enemy States to such as might be deemed by the Security Council to be necessary for the maintenance of internal order, or for local defence of frontiers, or for allocation to the Security Council for the purpose of maintaining international peace and security. We realize the force of the objections to such a proposal; indeed, they have weighed heavily with us, and it was these objections which made us refrain from committing the Commission to consider our proposal as a formal amendment. We know that to provide that the armaments of an ex-enemy State should be determined by the Security Council, after that State has become a full member of the United Nations, is to put a limitation on sovereignty which may be inconsistent with full membership of the United Nations. We know, too, that it may be argued that the Security Council is not authorized by the Charter to prescribe the level of armaments of any State. This is an argument we find unduly legalistic; we remember that the Council of the League of Nations undertook functions not specifically provided for but consistent with the purposes of the Covenant. In the same way we hope that the Security Council will take a broad view of its function and will be willing to undertake tasks consistent with the purposes and principles set out in Article I of the United Nations Charter.

In our view the paramount consideration is to give the widest possible authority to the United Nations and its organs and to do everything we can to make it a real factor in maintaining peace and securing orderly development among the nations of the world. Since the Security Council is the organ given by the United Nations a particular responsibility for maintaining peace, we consider that every opportunity should be taken by member nations to increase the authority and the sphere of responsibility of that body.

We believe our suggestion—that the Security Council should determine the armaments of the ex-enemy States—is a basis of approach which is in the general interests of peace. It would give a dynamic control to the Security Council, and it would impose on the Security Council a positive duty to secure the maintenance of peaceful conditions in the territories of the defeated European countries. Finally, it would be a positive beginning to the task of disarmament for which the Security Council has a special responsibility.

APPENDIX 4

ITALIAN COLONIES (ARTICLE 17): STATEMENT BY THE NEW ZEALAND DELEGATE

MR CHAIRMAN, AND FELLOW DELEGATES,—

The New Zealand amendment on the subject of the Italian colonies is numbered Doc. 1, M. 1.

Its main purpose is to place upon the United Nations the responsibility for deciding the ultimate administration of the Italian colonies, and also to ensure that these territories are ceded to the United Nations. In view of the difficulties that have been encountered in the solution of this question, the New Zealand Government advances the amendment as the most logical and practical method of finding a settlement.

We propose to replace the three clauses of Article 17 of the draft treaty, and also the declaration of the Council of Foreign Ministers, by two new clauses and a new declaration. They are brief, and I shall read them:—

1. Italy renounces in favour of the United Nations all right and title to the Italian territorial possessions in Africa—*i.e.*, Libya, Eritrea, and Italian Somaliland.

2. Pending a decision by the United Nations upon the future administration of the territories, the territories shall continue under their present administration.

DECLARATION

(To be issued separately from the treaty by Allied and Associated Powers)

The Allied and Associated Powers hereby declare that they will accept the decision of the General Assembly of the United Nations as to the future administration of the former Italian territorial possessions, and express their view that such decision should accord with the recommendations of the Trusteeship Council.

Changes to Draft Treaty

In effect, therefore, we ask in these proposals for three changes in the draft treaty.

First, the sovereignty of the Italian colonies should be vested in the United Nations. In the present draft the sovereignty is left unsettled.

Second, the administration of the colonies will be determined by the United Nations, and not by Four Powers.

Third, the Conference should state its view (and we cannot, of course, bind the United Nations) that in deciding upon the administration of the colonies the General Assembly should take the advice of the Trusteeship Council.

In our view this amendment should not involve long discussion, because it depends on two clear propositions—should the United Nations be given the sovereignty over the Italian colonies, and should the United Nations decide who should administer them. If the Commission cannot accept these two propositions, then our amendment can quickly be disposed of.

I shall first state why the New Zealand Government puts forward this general approach.

We accept wholeheartedly and with conviction the position that peace is indivisible—that the security of a small, isolated and comparatively unprotected country like New Zealand depends on the maintenance of world security. The instrument of world security is the United Nations, and our policy is to do all we can to strengthen its authority, and to demonstrate our confidence in it, by giving it responsibilities.

We know that UNO contains many serious imperfections, but we trust that good sense, time, and experience will assist in their removal. It may also be possible that the 50-odd member nations do not all share the same sense of responsibility as compared with the twenty-one nations at this Conference. We know, too, the argument that the infant UNO might perish under the heavy burden of premature responsibility. But States and Organizations, like people, become responsible by doing responsible things, and we see no valid reason for shielding the full United Nations body from difficult tasks and leaving them to be done by four or seven or twenty-one nations.

We realize that a good argument can be made for keeping UNO out of the peace settlements, thus sparing the infant organization the opprobrium that will be associated with the necessarily unpopular clauses of the treaties. But the present draft treaty already gives the United Nations several tasks, in connection with Trieste and with the Italian colonies, to mention only two.

We should have wished to see the United Nations associated with the peace treaties in many other instances, but, realizing that the Conference clearly did not agree with our view, we decided to refrain from making proposals which would take time and get nowhere. But, in this particular case, we state our view because a United Nations solution is already provided for in the draft treaty.

All the United Nations are interested in territorial redistribution, because the areas now being disposed of have been, and may still be, trouble spots in this part of the world—places that may disturb the peace. And if all the 50-odd United Nations are responsible for keeping the peace, it is not entirely satisfactory that the pattern of peace should be woven only by *twenty-one* of the United Nations.

So much for our general position. A few words now on our amendment.

Sovereignty

First of all, there is the question of sovereignty. We wish to settle this by vesting the sovereignty of the Italian colonies in the United Nations. It should be possible to reach agreement in principle about this because we have all renounced ideas of territorial aggrandizement. Some of us who accept the principle may, however, be influenced by the narrow legal viewpoint that the Charter gives the United Nations no authority to accept sovereignty over territory. The United Nations is admittedly not obliged to do a great number of things which, in our view, it is competent to do, if it so decides, in accordance with the broadest interpretation of its functions. For our part, we are convinced that the United Nations may, *by agreement*, undertake any function consistent with the purposes and principles of the Charter. We all know that the Assembly and the Council of the League undertook highly important political functions not specifically provided for in the Covenant.

Administration

We believe that the United Nations should decide the form of administration of the territories, and should be guided by its expert organ, the Trusteeship Council. We have our own preliminary views—for instance we welcomed the United States collective trusteeship proposals—but we prefer to form our definitive views when the problem has been investigated thoroughly by the Trusteeship Council. We do not consider it to be a matter which can best be decided by the present Conference or by four powers.

Those of us who have followed the mass of successive proposals put forward by the Council of Foreign Ministers have been concerned that none of these proposals suggested that the inhabitants of the territories might themselves have views which should be considered. We dislike the very word “disposal” used by the Four Powers in the draft treaties. On the contrary, we hold that the interests of the inhabitants are paramount, and believe that their interests will be best safeguarded if entrusted to the United Nations.

Confidence in the United Nations

The New Zealand Division took a major part in the liberation of North Africa. But if our proposal is accepted, we seek no special status in determining the future of this area on that account. We suffered great loss in a place 12,000 miles from home, just as we suffered loss in the campaigns nearer our own shores. But North Africa happened to be the area allocated to us as our part in the total allied war effort. We might equally well have been allotted a task in some other part of the globe. It was one war.

We ask only that the future of the Italian colonies be settled wisely and humanly by the most competent body. We believe that the United Nations is that body.

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