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„The Council of the League of Nations and the Appointment
of Commissions of Enquiry: Measures to Further
Negotiations in the Settlement of International Conflicts“

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1. Introduction

1.1 Prelude

The current efforts of the UN Security Council to protect peace and security in the world are showing that the achievements of international organisations in this field are ambivalent. On the one hand, the Security Council appears to be unable to find answers for the different trouble spots in the world such as it failed to contribute to an ending of the Syrian Civil War. On the other hand, it demonstrated as well to be able to perform a clear ability to act in maintaining peace as it for instance concluded Resolution 1718 in 2006 in order to issue several economic sanctions against North Korea due to its nuclear tests.¹ This ambivalence between the Security Council's ability and inability to act in such crisis situations has different reasons. One of them is, for example, the convergence of the interests of the five Veto-Powers, because it often hinders the organisation in its actions to preserve peace. However, not only the UN Security Council has been facing with such mixed achievements in this field, but already its precursor, the Council of the League of Nations, who was confronted with similar circumstances. It aimed as well to guarantee international stability, which finally could not be achieved as it was not able to hinder the beginning of World War II in 1939.

Considering this ambivalence between the ability and inability to act of international organisations in their efforts to maintain global peace and security, this study aims to examine the work of the League's Council in mediation processes of international conflicts. In this connection, it is influenced by a statement from Susan Pederson, in which she argued that the recent research on the League of Nations distances itself from the question of success or failure of the organisation and focuses more on what it actually did or was able to do.² Hence this master thesis does not desire to praise or condemn the organisation's efforts, but rather to analyse how it was able to further deliberations in order to finally achieve a settlement of a particular dispute. It especially deals with a specific diplomatic instrument that was used by the Council in several international conflicts in which it achieved to contribute to an agreement, namely the appointment of Commissions of Enquiry. These Commissions were applied by the Council in order to clarify the facts of conflict and provide some recommendations for an agreement. The Council appointed these Commissions in seven cases altogether, from which four of them concerned international conflicts and in which

¹ UN Security Council, Security Council Resolution 1718 (2006), In: Search Engine for the United Nations Security Council Resolutions, available at: <http://unscr.com/en/resolutions/1718> (Accessed 30.3.2020).

² Susan Pederson, Back to the League of Nations, In: The American Historical Review, Vol.112, No. 4 (2007) 1092.

the organisation was able to conclude the negotiations in order to provide an agreement. These four cases are: the conflicts over the Åland Islands 1920/21, the Memel Territory 1923/24, the Vilayet of Mosul 1924-26 as well as the Greco-Bulgarian War of 1925. This focus on the settlement of conflicts is connected with the study's aim to analyse the role of the Council in the negotiating process that finally led to an agreement in order to subsequently examine its ability to further deliberations.

As this study focuses primarily on the role of the Council, it chooses an institutional perspective on the deliberations in the selected cases and therefore raises questions which were rarely analysed in the context of the League of Nations until now. Such questions have already been posed primarily in studies on the UN Security Council.³ Influenced by this research on the UN and by studies that examine the League of Nations' Council in the settlement of international conflicts, this master thesis principally focuses on the question what the Council of the League of Nations and its Commissions of Enquiry were able to do in the chosen cases to further the negotiations. Besides that, another essential question to be cleared is, what the exact function of these two actors had been during these proceedings.

1.2 The League and its Efforts to Maintain Peace

As a consequence of World War I, the founding of the League of Nations was prepared by the victorious Entente Powers⁴ at the Paris Peace Conference in 1919, in which the organisation's Covenant⁵ became a part of the Treaty of Versailles. Subsequently, the organisation was officially founded on 10 January 1920 by the signatories of the Treaty of Versailles, namely the Entente Powers (except the United States)⁶ and its associates.⁷ In general, the Covenant defined the

³ See for example: Vaughan Lowe, Adam Roberts, Jeniffer Welsh, Dominik Zaum (Eds.), *The United Nations Security Council and War: The Evolution of Thought and Practice since 1945* (Oxford/New York 2008); Adam Roberts, Dominik Zaum, *Selective Security. War and the United Nations Security Council since 1945* (Adelphi Paper 395, London 2008).

⁴ The victorious Entente Powers were the United Kingdom, France, Italy, Japan and the United States.

⁵ The Covenant of the League of Nations determined the main principles of the organisation, it especially included provisions for its organisation and the basic principles of its work. See: Martyn Housden, *The League of Nations and the Organisation of Peace* (Seminar Studies in History, London 2012) 11.

⁶ Although the US government was leading involved in the creation of the League at the Paris Peace Conference, it never joined the organisation, because the Treaty of Versailles was rejected by the US Senate on 19 March 1920, See Anique H. M. van Ginneken, *Historical Dictionary of the League of Nations* (Historical Dictionaries of International Organizations Series, Lanham, Maryland/Toronto/Oxford 2006) 190.

⁷ Bob Reinalda, *Routledge History of International Organizations. From 1815 to the Present Day* (New York 2009) 186-197.

furtherance of international co-operation in order to accomplish international peace and security as the League's main objective.⁸ In order to achieve this, the League provided a wide range of different approaches. On the one hand, the organisation aimed to decrease the likelihood of war by attempting to establish stable conditions in the world for example by promoting different social or economic projects. On the other hand, it provided diplomatic means to prevent international conflicts before they escalate or possibilities to react on already erupted warlike actions.⁹

The League's efforts to establish global peaceful conditions required endeavours in very different areas. First of all, the organisation tried to deal with the problem of national minorities and therefore it established a system for their protection. Protected minorities received the possibility to write a petition of complaint to the Council of the League of Nations and consequently it could negotiate with the concerned states about the matter of the complaint. But the system turned out to be fairly ineffective, because the Council did not have the ability to sanction the states which were affected of these complaints.¹⁰ The League also played a significant role in managing international humanitarian crises which had the potential to destabilise international stability. It was especially able to demonstrate this with its efforts to repatriate prisoners of war of World War I in the early 1920s.¹¹ A major attempt to eliminate reasons of war was the social and economic projects of the League. The social projects included notably the fight against diseases, drug trade and human trafficking as well as slavery. Economic projects included particularly the improvement of labour conditions (in this connection the International Labour Organisation is very important) and the possibility for states to receive economic assistance in form of loans and advice (as for example in the economic reconstruction of Austria and Hungary). Furthermore, the League's Mandate system fell into the same sort of efforts. The system should help former German colonies and Turkish territories to become functioning states. In order to achieve this, the League supervised them especially to the United Kingdom and France. But the system was always confronted with the accusation of fulfilling colonial interests.¹² Finally, correlating with all these efforts, it is worth mentioning the League's work in attempting to achieve progress in global disarmament. In 1925 the League established the Preparatory Disarmament Commission to lay the foundation for a massive international disarmament conference. As a result the World Disarmament Conference was held in

⁸ Reinalda, Routledge History, 196.

⁹ Lorna Lloyd, The League of Nations and the Settlement of Disputes, In: World Affairs, Vol. 157, No. 4 (1995) 160.

¹⁰ Housden, The League of Nations, 52f.

¹¹ Housden, The League of Nations, 57-59.

¹² Housden, The League of Nations, 75-91.

Geneva from 1932 to 1934. In the end, tedious negotiations were guaranteed to fail as Adolf Hitler became the new Chancellor of Germany in 1933 and started a major rearming program.¹³

In the context of the League's diplomatic efforts to maintain peace, the Council played a leading role in the fulfilment of this purpose. In general, it could be described as the decision-making body of the organisation. In principle, the Council was intended to consist out of nine members. Five of them should be permanent members, which were intended to be the five victorious powers of World War I: the United Kingdom, France, Italy, Japan and the United States. However, after the establishment of the organisation, the number was reduced to 4 members due to the absence of the United States. Besides the permanent members, the Council consisted out of four non-permanent members, which were elected by the Assembly of the League for a limited time.¹⁴ The number of permanent and non-permanent members changed over time. In 1922 the number of non-permanent members was increased to six. Afterwards, in 1926, Germany got a permanent seat and the organisation established two semi-permanent seats for Spain and Poland. As Germany¹⁵ and Japan¹⁶ left the League in 1933, the USSR became a member of the League and obtained a permanent seat in 1934.¹⁷ Decisions within the Council had to be made unanimously, which had very negative consequences on the institutions ability to act as it was often very difficult to find a compromise between all its member states.¹⁸

The Council's proceedings in the settlement of international disputes were accompanied in most of the cases by a Rapporteur, who played a leading role within them. The holder of this office was always a representative of a member state of the Council and especially received the task to conduct the deliberations with investigations on the particular conflict. In order to achieve this, he primarily consulted the representatives of the disputing governments and tried to find an acceptable agreement with them. Subsequently, the Rapporteur submitted his report to the Council and it was discussed before it with the conflict parties. Within these discussions the Rapporteur could play a very active role, as he was able to intervene at any moment.¹⁹

¹³ Housden, *The League of Nations*, 94-97.

¹⁴ Marit *Fosse*, John *Fox*, *The League of Nations: From Collective Security to Global Rearmament* (New York 2012) 7.

¹⁵ Considering Hitler's aim to erase the Treaty of Versailles, Germany left the League in October 1933. See: Housden, *The League of Nations*, 97.

¹⁶ Japan announced in 1933 to leave the League as a reaction to the findings of the Lytton Commission in the context of the Sino-Japanese War over Manchuria, which contradicted its standpoints. See: van Ginneken, *Historical Dictionary*, 115.

¹⁷ As the USSR considered Germany and Japan more and more as a threat in the beginning of the 1930s, it increased its participation in international cooperation and joined the League in September 1934. See: van Ginneken, *Historical Dictionary*, 175.

¹⁸ Housden, *The League of Nations*, 12f.

¹⁹ Jean-Pierre *Cot*, *International Conciliation* (London 1972) 249.

Concerning the diplomatic efforts of the Council to maintain peace, Lorna Lloyd argues in her article “The League of Nations and the Settlement of Disputes” that the Covenant of the League provided two different possibilities to preserve peace by conciliatory instruments. On the one hand, it provided a legal and political machinery to settle international disputes or preventing them to arise, which were provided by Article 12 to 15 of the Covenant. On the other hand, the Covenant tried to guarantee the security of its members by a system of collective security^{20, 21}.

In general, the application of these instruments was based on Article 10 and 11 of the Council. Article 10 indicated that all member states would protect each other’s territorial integrity and political independence. The Council’s involvement in conflicts could be initiated with Article 11, that made war or the threat of war a matter of all members and asks them to report any threat of peace to the League’s Council. Consequently it was able to start its diplomatic efforts. Article 12 to 15 proposed different instruments that the League could use to solve international conflicts that were reported to it. The Covenant differentiated between disputes that could be solved by judicial settlement and those which cannot be solved by this sort of settlement. Cases that needed judicial settlement stemmed from disputes, which arose on the basis of international treaties. For these events, Article 13 and 14 provided that these cases should be treated by the new founded Permanent Court of International Justice. All the other international conflicts should be treated by the Council. Therefore, according to Article 15, it should discuss and investigate the conflict in order to find a solution, which was at the same time the foundation for the Council’s appointment of Commissions of Enquiry. As this article only defined the Council’s approach in this context very loosely, its decisions in consideration of its appointed Commissions were very adaptive which the study reveals later in its case studies. Furthermore, Article 16 was the core of the system of collective security as it gave the Council the possibility to apply sanctions on states which were defined as aggressors.²²

1.3 Development of the Historiographical Discussion on the League’s Efforts to Maintain Peace

At the beginning, the historiographical discussion on the efforts of the League to maintain peace circled especially around the question, whether they were successful or not. This debate started, as

²⁰ Encyclopaedia Britannica generally defines collective security as system with which states aiming to prevent or stop wars. In this context, it primarily determines that an aggressor against one state would be considered as one against all other states. They consequently should act together to confront the provoking party. See: The Editors of Encyclopaedia Britannica, Collective Security, In: Encyclopaedia Britannica, available at: <https://www.britannica.com/topic/collective-security> (Accessed 12.4.2020).

²¹ Lloyd, The League of Nations, 160.

²² Housden, The League of Nations, 11.

the organisation had begun its work in the 1920s. In this context, many early texts wrote predominantly in favour of the League. However, it should be noted that a lot of these authors had personal connections with the League. So, these texts could be considered as sort of descriptive reports about the work of the organisation. One of the most important texts of these time was the book “League of Nations: Ten Years of World Co-operation”,²³ which was published by the Secretariat of the League. This book was a very heroic overview of the organisation’s work in the first ten years of its existence. There was also for example a series of edited collections of essays, which was named “Problems of Peace”²⁴ and published by Oxford University Press. These essays were often written by the League’s staff and they commented issues which they were facing during their work. Usually these comments were very positive. In this context, the most important work about the League was F.P. Walters book “A History of the League of Nations”²⁵ that was published in 1952, a few years after the League was officially dissolved in 1946. Walters was the former Deputy Secretary of the League. Although, Walters did not see the history of the League as a spotless success story, he claimed anyway that it was worth studying, because he considered the organisation as the first world-wide political and social order that served the common interests of humanity.²⁶

At the same time, the praised and heroic opinions of the League were balanced by critical voices. In this context, a number of anonymous authors under the pseudonym “Vigilantes” wrote a text with the title “Why the League has failed”²⁷ as a reaction to the Abyssinia Crisis.²⁸ As the title already reveals, the text explains why the League has failed and how the organisation could have worked better if it had cooperated more with the Soviet Union. A famous critic of the League was the journalist Robert Dell,²⁹ who commentated the events concerning the organisation for many years.³⁰ According to Dell’s opinion, the League failed in every sense. He criticised for example that the organisation could not challenge the primacy of national sovereignties or its inability to treat all states equally. Criticism like that did not disappear over time. In 1975 Elmer Bendiner³¹ referred to

²³ League of Nations, *Ten Years of World Co-operation* (London 1930).

²⁴ See for example: M.K. Zilliacus, *The Nature and Working of the League of Nations*, In: *Problems of Peace, Fourth Series* (Oxford 1929).

²⁵ F.P. Walters, *A History of the League of Nations* (Oxford 1952).

²⁶ Housden, *The League of Nations*, 16.

²⁷ *Vigilantes, Why the League has Failed* (London 1938).

²⁸ As Italy started the Italo-Abyssinian War in 1934, it caused an international crisis, because the member state of the League were divided on how to react on this, See: van Ginneken, *Historical Dictionary*, 112.

²⁹ Dell commented the activities of League for several years from Geneva, at which he primarily tried to reveal defective actions within the organistaion. See: Housden, *The League of Nations*, 17.

³⁰ See for example: Robert *Dell*, *The Geneva Racket, 1920-1939* (London 1941).

³¹ Elmer *Bendiner*, *A Time for Angels: The Tragicomic History of the League of Nations* (London 1975).

Dell and additionally criticised that the League was not appropriately democratic and treated the inhabitants of the mandate territories very badly.³²

After the League of Nations ceased to exist in 1946,³³ the debate about its efforts decreased more and more. Not even the founding of the United Nations in 1945 led to an increasing debate on its predecessor. After the war, researchers only analysed the League along several trends within the field of International Relations. Therefore, they examined the organisation on the one hand in the context of “decline and fall” narratives like, for example, George Scott’s “The Rise and Fall of the League of Nations”.³⁴ On the other hand, they analysed the history of the organisation along “realist” approaches out of the field such as F.S. Northledge’s “The League of Nations: Its Life and Times, 1920-1946”.³⁵ Only in the late 1980s research about the League was rising again. This development was connected with the historical events at that time. As the Soviet Union and the bipolar security system were in decline, debates of the Interwar period concerning the question of how to coordinate new claims regarding sovereignty became relevant again. But there were also other historical events that contributed to the increasing interest in the League. Ethnic conflicts during the breakup of Yugoslavia arose the interest of scholars in the League’s system of minority protection.³⁶ As the UN was faced with the problem of failed states, the League’s administration of Danzig and the Saar along with the Mandate system moved back into focus.³⁷ Also the new field of Transnational History, which evolved in the mid-1990s, furthered the research about the League. Therefore, the League’s efforts in combating or managing transnational problems, such as epidemic diseases, drug trafficking or refugees, became more and more examined.³⁸

In contrast to this earlier discussion about success or failure of the organisation, this master thesis aims to locate itself within the current research of the League, which according to Susan Pederson’s 2007 published review essay “Back to the League” distanced itself from the question why the organisation failed and asked instead what it actually did as well as what its meaning was. In this connection, Pederson describes three narratives of the League that dominate the present historical

³² Housden, *The League of Nations*, 17.

³³ With the beginning of World War II in September 1939 the League mostly ceased its work and it officially ended to exist on 19 April 1946, after it transferred all its remaining powers and functions to the newly founded United Nations. See: The Editors of *Encyclopaedia Britannica*, *League of Nations*, In: *Encyclopedia Britannica*, available at: <https://www.britannica.com/topic/League-of-Nations/Third-period-1931-36> (Accessed 10.4.2020).

³⁴ George Scott, *The Rise and Fall of the League of Nations* (New York 1974).

³⁵ F.S. Northledge, *The League of Nations: Its Life and Times, 1920-1946* (Leicester 1986).

³⁶ See for example: Mark Mazower, *Minorities and the League of Nations in Interwar Europe*, In: *Daedalus*, Vol. 126, No. 2 (1997) 47-61.

³⁷ See for example: Ralph Wilde, *From Danzig to East Timor and Beyond: The Role of International Territorial Administration*, In: *American Journal of International Law*, Vol. 95, No. 3 (2001) 583-606.

³⁸ Pederson, *Back to the League*, 1091f.

research. These three narratives concern the League's task of maintaining peace, managing relations of sovereignty and the furtherance in international cooperation to address transnational problems.³⁹ First of all, the League's narrative of security concerns principally with the organisation's contribution to maintain peace and the security policies of the great powers.⁴⁰ There are many studies which are dealing with the politics of the great powers during the Interwar period. One of the most important is Zara Steiner's *International History of Europe "The Lights that Failed"*.⁴¹ In this book Steiner especially focuses on the diplomatic efforts of the United Kingdom, France and Germany to politically and economically stabilise Europe in the 1920s in form of the Locarno Treaties. Additionally, it analyses the League's different efforts in maintaining peace such as the settlement of several disputes or the economic reconstruction of Austria and Hungary. In connection with the 1920s, Patrick Cohrs' work *"The Unfinished Peace after World War I. American, Britain and the Stabilisation of Europe 1919-1932"*⁴² is very essential as it is an ambitious account of the negotiations and agreements about international security in the 1920s. Besides this, within this narrative are also new approaches to study the diplomatic processes within the League such as the organisation's ability to promote popular mobilisation. Scholars argue that this mobilisation brought along advantages as well as dangers. Carolyn Kitching for example claimed in her book *"Britain and the Geneva Disarmament Conference"*⁴³ that British statesmen hardly tried to give publicly the appearance of trying to achieve an agreement instead of really accomplishing it in order to avoid blame for the conference's failing.⁴⁴

The second narrative of the League concerns its ability to manage relations of sovereignty. These were the organisation's efforts to achieve its ideal of formally equal sovereign states in a world that was shaped by the imbalanced international order formed by the great powers' policies. In this connection, the principle of self-determination of nations raised many questions. Some of the research in this context concerns the League's system for the protection of minorities with which it tried to protect minorities and to legitimise the borders that were drawn with the peace settlement of 1919. A landmark study for this topic is Christoph Gütermann's *"Das Minderheitenschutzverfahren des Völkerbundes"*⁴⁵ of 1979, in which he shows how the League's Secretariat Minority Section created a system of supervision which tried to solve the problems of minorities that were brought

³⁹ Pederson, *Back to the League*, 1092f.

⁴⁰ As great powers in connection with the Interwar period and the League of Nations, the study considers the victorious Entente powers of World War I which were permanent members of League's Council, namely the United Kingdom, France, Italy and Japan.

⁴¹ Zara Steiner, *The Lights that Failed: European International History, 1919-1933* (Oxford 2005).

⁴² Patrick O. Cohrs, *The Unfinished Peace after World War I. American, Britain and the Stabilisation of Europe 1919-1932* (Oxford History of Modern Europe, Cambridge 2006).

⁴³ Carolyn J. Kitching, *Britain and the Geneva Disarmament Conference* (Basingstoke 2003).

⁴⁴ Pederson, *Back to the League*, 1093-97.

⁴⁵ Christoph Gütermann, *Das Minderheitenschutzverfahren des Völkerbundes* (Berlin 1979).

before it by petition. More recent studies to this topic such as Carole Fink's "Defending the Rights of Others: The Great Powers, the Jews, and International Minority Protection, 1878-1938"⁴⁶ or Christian Raitz von Fentz's "A Lesson Forgotten: Minority Protection under the League of Nations. The Case of the German Minority in Poland"⁴⁷ shine a more pessimistic light on the League's minority protection system. Both of them are representing the opinion that the system was too weak to really protect minorities. Another important issue within this narrative is the League's Mandate system, which should help conquered territories, that were seen as "weak", with the process of state-building. Nadine Méouchy and Peter Sluglett edited a collection of essays with the title "The British and French Mandates in Comparative Perspectives"⁴⁸, in which the strategic value of the Mandate territories for the United Kingdom and France become emphasised.⁴⁹ However, one of the recent major studies to this topic is Susan Pederson's "The Guardians: The League of Nations and the Crisis of Empire" of 2017, in which she analysed the consequences of the Mandate System on the current international order.⁵⁰

Finally, the third narrative regards the League's ability to deepen international cooperation in order to address transnational problems such as issues with refugees or economic crises. On this occasion the technical aspects of the organisation are moving more into focus. Therefore, scholars dealt with a wide range of different topics. Patricia Clavin and Jens Wilhelm Wessels researched the development and functions of the League's Economic and Financial Organisation in their article "Transnationalism and the League of Nations: Understanding the Work of its Economic and Financial Organisation".⁵¹ In his book "Drug Diplomacy in the Twentieth Century"⁵² William B. MacAllister analyses the League's efforts in regulating drug trafficking. Another essential study to a different area of the League's work in this context is Paul Weindling's edited collection

⁴⁶ Carole Fink, *Defending the Rights of Others: The Great Powers, the Jews, and International Minority Protection, 1878-1938* (Cambridge 2006).

⁴⁷ Christian von Fentz, *A Lesson Forgotten: Minority Protection under the League of Nations. The Case of the German Minority in Poland* (*Arbeiten zur Geschichte Osteuropas* 8, New York 1999).

⁴⁸ Nadine Méouchy, Peter Sluglett, *The British and French Mandates in Comparative Perspectives* (Leiden 2004).

⁴⁹ Pederson, *Back to the League*, 1099-1105.

⁵⁰ Susan Pederson, *The Guardians. The League of Nations and the Crisis of Empire* (Oxford 2015).

⁵¹ Patricia Clavin, Jens-Wilhelm Wessels, *Transnationalism and the League of Nations: Understanding the Work of its Economic and Financial Organization*, In: *Contemporary European History*, Vol. 14, No. 4 (2005) 465-492.

⁵² William B. McAllister, *Drug Diplomacy in the Twentieth Century: An International History* (London 2000).

“International Health Organizations and Movements, 1919-1939”⁵³ in which the work of the organisation’s Health Organisation plays an important role.⁵⁴

Furthermore, after Pederson’s review essay of 2007 the historical research on the League of Nations evolved more and more into different historical sub-disciplines as especially the 100th anniversary of the conclusion of the Treaty of Versailles and the establishment of the organisation showed. This was recognisable on the interdisciplinary conference “A Century of Internationalisms: The Promise and Legacies of the League of Nations” which was held on 19 and 20 September 2019 in Lisbon.⁵⁵ This conference enabled historians from different historical sub-disciplines to present their research. By doing this, it revealed that current trends of historical research, such as gender history or the history of emotions, have as well influenced the research on the League of Nations. In this context, Dagmar Wertzni⁵⁶ held a presentation on the role of women in the League of Nations or Ilaria Scaglia⁵⁷ gave an insight into her research of the organisation regarding the history of emotions.⁵⁸ Therefore, these recent developments in the historical research on the League of Nations are showing that it was able to definitively distance itself from the question of the organisation’s successes and failures. Recent studies were able to benefit from different historical sub-disciplines in order to examine questions which had not been asked yet in the context of the League.

1.4 Focus and Aims of this Study

Considering the development of the historiographical discussion on the League’s efforts, this master thesis intends to locate itself in the current research debate. As its focus lays on the role of the League’s Council in the settlement of international conflicts, it is embedded in the narrative of security. However, research on this is relatively rare until now. An essential study for the general understanding of the mediating role of the League’s Council is Lorna Lloyd’s article “The League of Nations and the Settlement of Disputes”, which was already mentioned above. In this text Lloyd

⁵³ Paul *Weindling* (Ed.), *International Health Organizations and Movements, 1918-1939* (Cambridge 1995).

⁵⁴ Pederson, *Back to the League*, 1108f.

⁵⁵ Call for Papers, CFP, *A Century of Internationalisms: The Promise and Legacies of the League of Nations* (Lisbon, September 2019), In: *Humanities and Social Sciences Online*, available at: <https://networks.h-net.org/node/22055/discussions/1776154/international-conference-century-internationalisms-promise-and> (Accessed 1.4. 2020).

⁵⁶ See for example: Dagmar *Wernitzni*, *Out of her Time? Rosika Schwimmer’s Transnational Activism after the First World War*, In: *Women’s History Review*, Vol.26, No. 2 (2017) 262-279.

⁵⁷ See for example: Ilaria *Scaglia*, *The Emotions of Internationalism: Feeling International Cooperation in the Alps in the Interwar Period* (Oxford 2020).

⁵⁸ CONF: *League of Nations Conference – Final Program*, In: *Humanities and Social Sciences Online*, available at: <https://networks.h-net.org/node/28765/discussions/4668614/league-nations-conference-final-program> (Accessed 1.4.2020).

analyses several factors in which cases the conflict settlement succeeded and in which it failed. Concerning the League's ability to solve conflicts, she argues that the organisation was able to mediate successfully when the disputants and the great powers were interested in settling it via the organisation.⁵⁹

Besides Lloyd's text, there are very few studies that concern itself with the League's ability in settling conflicts as a whole. Much of the research in this area is based on case studies. Many of these studies examine either conflicts in which the Council was able to settle them or in which it was not capable to maintain peace. A recent study in the context of conflict settlement is Pierre-Etienne Bourneuf's article "'We Have Been Making History': The League of Nations and the Leticia Dispute (1932–1934)" that emphasises the League's achievements in solving the Leticia Dispute by establishing a temporary territorial administration over the disputed area.⁶⁰ Scholars that focus on the Council's inability to preserve peace, often analyse incidents where it failed to mediate between disputants as well as cases in which the League was hindered from involvement in certain conflicts. An interesting contemporary example for the latter is Pablo La Porte's article "'Rien à ajouter': The League of Nations and the Rif War (1921–1926)" which concerns with the inability of the League to intervene in the Rif War.⁶¹

Influenced by the just mentioned research on the Council's efforts to solve international disputes, this study aims, in consideration of the mentioned above statement of Susan Pederson, to examine what the Council was able to do in the settlement of international conflicts and not why it succeeded or failed. This special emphasis on the Council should contribute to perceive diplomatic processes in another perspective, namely from within the international organisation itself. However, it has to be considered that such processes are very complex. On the one hand, they are influenced by the interests of several different states, especially those of the great powers. On the other hand, negotiations on matters of international concern take place at different levels. Proceedings in which international organisations are involved, do not happen alone within its own frame, but also for instance in different international conferences or in bilateral deliberations. Therefore, in consideration of the international conflicts in which the League's Council contributed to its settlement, it cannot be argued that it was the organisation itself which solved them. Nevertheless, this study aims to examine in what way the Council was able to provide a diplomatic platform for

⁵⁹ Lorna Lloyd, *The League of Nations and the Settlement of Disputes*, In: *World Affairs*, Vol. 157, No. 4 (1995).

⁶⁰ Pierre-Etienne Bourneuf, 'We Have Been Making History': The League of Nations and the Leticia Dispute (1932–1934), In: *The International History Review*, Vol. 39, No. 4 (2017) 592-614.

⁶¹ Pablo La Porte, 'Rien à ajouter': The League of Nations and the Rif War (1921–1926), In: *European History Quarterly*, Vol. 41, No. 1 (2011) 66-87.

negotiations in the settlement of international disputes and how it was able to further such deliberations.

Therefore, this study examines questions on the work of the League's Council, which were not clearly asked yet in the context of this organisation, but rather in connection with the UN Security Council. A landmark study on this matter is "The United Nations Security Council and War: The Evolution of Thought and Practice since 1945", edited by Vaughan Lowe, Adam Roberts, Jeniffer Welsh and Dominik Zaum.⁶² In this study several scholars are analysing how the Security Council handled the problem of war during and after the Cold War. Another study on this matter is Adam Roberts and Dominik Zaum's book "Selective Security. War and the United Nations Security Council since 1945". Here, Roberts and Zaum are arguing that since 1945 the Security Council was not able address all security threats effectively, because it applied a sort of a selective approach. Thus, according to them, it depended on the five veto powers and in some cases on all UN member states in which conflicts the Council was involved or not involved in.⁶³

However, this master thesis concerns with a specific instrument of mediation, namely the appointment of Commissions of Enquiry. This instrument of mediation was chosen, because it contributed to the settlement of several conflicts in which the Council was involved, which had the potential to escalate and therefore endanger the international order. The appointment of a Commission of Enquiry is generally based on the idea that in case of two conflict parties are not able to find an agreement, it should be submitted to an impartial third party in order to be solved. Such a third party could notably be, for example, a court or a Commission of Enquiry. The latter one should examine the conflict by clearing its facts and may also provide recommendations for a settlement. This approach found its way into diplomacy with the Hague Convention of 1899, in which it was defined as an instrument of conflict settlement. Since that time, states frequently settled international conflicts by appointing a Commission on Enquiry in accordance with the Hague Convention.⁶⁴

The numbers of the appointed Commissions of Enquiry by the League of Nations differ in the literature on this topic, because it is especially based on the different applications of the Commissions. It was not only the Council which applied Commissions of Enquiry, but also the Assembly of the League of Nations. However, the Assembly did not aim to settle international conflicts by appointing a Commission of Enquiry, but rather examining transnational problems as it

⁶² Vaughan Lowe, Adam Roberts, Jeniffer Welsh, Dominik Zaum (Eds.), *The United Nations Security Council and War: The Evolution of Thought and Practice since 1945* (Oxford/New York 2008).

⁶³ Adam Roberts, Dominik Zaum, *Selective Security. War and the United Nations Security Council since 1945* (Adelphi Paper 395, London 2008).

⁶⁴ J.G. Merrills, *International Dispute Settlement* (Cambridge 2017) 41-44.

for instance deployed a Commission to investigate the Persian opium business.⁶⁵ In this context, for example Quincy R. Cloet defined in his thesis about the League's Commissions of Enquiry only those Commissions as "Commission of Enquiry" which were officially defined as that. Thus, he defines the number of appointed Commissions of Enquiry by the League with nine, while his counting included those which were appointed by the Council as well as by the Assembly. But the more essential number in context of this analysis is the number of Commissions which were applied by the Council. Based on the list of Cloet, there would be five cases: the border delimitation of Albania, the conflicts over the Vilayet of Mosul, Manchuria and the Chaco Boreal as well as the Greco-Bulgarian War of 1925. However, this list is incomplete, because there were also Commissions of Enquiry that were appointed by the Council in order to settle international conflicts, which were not officially defined as that. This concerns the disputes over the Åland Islands and the Memel Territory. In general, the work of a Commission of Enquiry in context of the League could be defined as fact-finding missions, which also included its involvement in the conciliation process as well as the elaboration of recommendations in order to solve the conflict.⁶⁶ Considering this definition, the Commissions that were appointed in these two disputes, must also be regarded as Commissions of Enquiry, although they were not officially defined as this. This is also noticeable in literature on this topic, as for example Jean-Pierre Cot defines in his book "International Conciliation" seven cases in which the Council applied Commissions of Enquiry, which includes the five that were listed by Cloet and the other two mentioned.⁶⁷

The research that emphasises the use of Commissions of Enquiry to settle conflicts in the context of the League also consists mostly out of case studies. Essential earlier studies are those of James Barros of the 1960s and 70s, in which he researches conflicts such as that Åland Islands or the Greco-Bulgarian War of 1925.⁶⁸ However, in Barros' studies great power politics played a major role. Still, there are also several more recent case studies in this area. One of them is Aryo Makko's article "Arbitrator in a World of Wars: The League of Nations and the Mosul Dispute, 1924–1925", in which he analyses the role of the League in the Mosul dispute between the United Kingdom and Turkey. Makko argues that the settlement of this conflict was a multi-level negotiating process in which several instruments of mediation were used and he highlights the League's role in averting

⁶⁵ Quincy R. *Cloet*, *Truth Seekers or Power Brokers? The League of Nations and its Commissions of Inquiry* (doctoral dissertation Aberystwyth University 2019) 86.

⁶⁶ Cloet, *Truth Seekers*, 39.

⁶⁷ Cot, *International Conciliation*, 249.

⁶⁸ See for example: James *Barros*, *The Åland Islands Question: Its Settlement by the League of Nations* (New Haven 1968). James *Barros*, *The League of Nations and the Great Powers: The Greek-Bulgarian Incident* (Oxford 1970).

war.⁶⁹ One of the few studies that examines the League's Commissions of Enquiry in a wider spectrum is Quincy R. Cloet's doctoral dissertation "Truth Seekers or Power Brokers? The League of Nations and its Commissions of Inquiry". In his thesis Cloet analyses the purpose and significance of these Commissions in the frame of "imperial internationalism". However, he is not only concerning himself with Commissions in connection with international conflicts, but also those which were appointed to examine transnational problems such as the opium production in Persia.⁷⁰

Influenced by the research on the role of Commissions of Enquiry in the League of Nations and the Security Council of the United Nations in the settlement of international conflicts, the master thesis specifically aims to examine what the Council of the League of Nations and its Commissions were able to do in the chosen cases to further negotiations in order to finally conclude a settlement of the conflict. Along with this question, it is also necessary to examine what the function of these two actors had been within the proceedings of the selected disputes.

Towards investigating these main questions, the study examines detailed questions about the work of the Council and the Commissions of Enquiry within the particular conflict. Considering the work of the Council, it is essential to analyse which instruments it used in order to contribute to the settlement of the conflict. Another relevant issue for the analysis of the Council's work is its handling of discussions during its negotiations. Here, the master thesis examines how discussions within the Council were moderated as well as how it handled criticisms by the disputants.

Concerning the work of the Commissions of Enquiry, the study primarily investigates, how they outlined their examinations and how they generated facts and subsequently concluded recommendations based on these findings. Besides that, in the context of the negotiations before the Council, the study also analyses the involvement of the members of the Commissions of Enquiry within these. Furthermore, it examines the question, to what extent the findings of the Commissions of Enquiry were incorporated in the final resolutions of the Council, which provided the basis for the settlement of the chosen conflicts in order to analyse their influence on the final agreement.

1.5 Case Selection

Considering Cot's listing of the seven cases in which the Council appointed a Commission of Enquiry, this study only examines those cases in which the organisation actually dealt with an international conflict and in which it was accepted by the conflict parties as a mediator. In

⁶⁹ Aryo Makko, Arbitrator in a World of Wars: The League of Nations and the Mosul Dispute, 1924–1925, In: *Diplomacy & Statecraft*, Vol. 21, No. 4 (2010) 631–649.

⁷⁰ Quincy R. Cloet, Truth Seekers or Power Brokers? The League of Nations and its Commissions of Inquiry (doctoral dissertation Aberystwyth University 2019).

connection with the first criteria, the case of the Commission of Enquiry on Albania showed that the Council did not only appoint such Commissions in the context of the settlement of an international conflict. However, first of all it has to be clarified, how an international conflict could be actually defined. Cambridge Dictionary defines an international conflict as a serious disagreement among countries with opposing opinions.⁷¹ Based on this definition, the case in which the Council appointed a Commission of Enquiry on Albania did not primarily concern an international conflict, even though Italy and Greece claimed parts of Albania and occupied them. Instead, the Council and its Commission of Enquiry were actually concerned with the definition of the territorial status of Albania. Prior to that, the Paris Peace Conference did not come to a conclusion on this issue and therefore the Council and its Commission examined the internal conditions of Albania, primarily the survivability of the state, as well as they determined its frontiers.⁷²

Furthermore, this master thesis examines only cases, in which the Council was accepted at least as a mediator by the conflict parties, because otherwise the deliberations were not able to proceed. If there was no full negotiating process due to the early ending of the deliberations, it would not be possible to analyse the Council's role in the furtherance of them. In this context, the examination of the conflicts about Manchuria⁷³ and the Chaco Boreal,⁷⁴ in which the Council was involved and appointed Commissions of Enquiry, will not be part of the chosen cases, because in both proceedings on the settlement of these disputes began, but as the negotiating process evolved in disfavour of one of the disputants, they stopped to accept the Council as mediator and thus the deliberations were not able to proceed. After the Commission of Enquiry in the deliberations on the conflict over Manchuria presented its report, Japan did not accept its results and announced to leave the League of Nations.⁷⁵ In the dispute over the Chaco Boreal, the appointed Commission of

⁷¹ Conflict, In: Cambridge Dictionary, available at: <https://dictionary.cambridge.org/dictionary/english/conflict?q=COnclict+> (Accessed 5.5.2020).

⁷² Deona Çali, The Role of the Enquiry Commission in the Decision-Making at the League of Nations Regarding the Albanian Issue, In: *Studia Politica: Romanian Political Science Review*, Vol. 16, No. 2 (2016) 243-55.

⁷³ In September 1931 Japan began to invade Manchuria and consequently China brought the case before the League's Council. The Council appointed a Commission of Enquiry, but the Japanese government refused its findings and withdrew from the League. As a result of these failed proceedings, the Chinese government signed an armistice with Japan on 31 May 1933. See: van Ginneken, *Historical Dictionary*, 170f.

⁷⁴ The conflict over the Chaco Boreal between Bolivia and Paraguay resulted in a war that lasted from 1928 until 1938. The League's Council was involved in the proceedings on the settlement of this conflict between 1932 and 1935, but failed to accomplish peace. See: van Ginneken, *Historical Dictionary*, 56.

⁷⁵ Housden, *The League of Nations*, 100f.

Enquiry could also not lead to a settlement of the conflict and also other de-escalating initiatives failed. Finally, Paraguay left the League and the Chaco War with Bolivia continued.⁷⁶

Therefore, this study examines only four out of seven cases in accordance with Cot's listing of the appointed Commissions of Enquiry by the Council: the conflicts over the Åland Islands, the Memel Territory and the Vilayet of Mosul as well as the Greco-Bulgarian War of 1925.

1.6 Structure of the Study

Following the Introduction, Chapter 2 of the study concerns itself with the historical background of the issue. It starts with the development of international cooperation until the founding of the League of Nations after World War I. Then it moves on to an overview of the international relations of the Interwar period. Subsequently, Chapters 3-6 are examining the chosen conflicts in form of case studies. For this purpose, each of these case study chapters will be structured in the same way. At the beginning, it provides some background information on the causes of the dispute. In a next step, it analyses the course of the negotiations before the League's Council from the beginning of its involvement until the adaption of its final resolution on the dispute. Subsequently, it determines the aftermath of the Council's resolution, namely the course of events after its involvement as well as the conclusion of a final agreement between the disputants. At the end of every chapter, a concluding section examines the raised detailed questions concerning the work of the Council and its Commissions of Enquiry based on the gathered findings of the particular case study. Finally, Chapter 7 uses the findings of the case studies to answer the study's main questions.

1.7 Method and Sources

In general, this study is embedded in the discipline of International History. According to Patrick Finney, the focus of this discipline is basically the analysis of the history of relations between states. But in contrast to Diplomatic History, from which it evolved, it focuses additionally on what constitutes the relations between states by considering not only diplomacy, but also other factors such as strategy or economics.⁷⁷ In this context, the study analyses not directly the relations between states, but between them via an international organisation. Therefore, this study also takes into account factors such as strategy and economy, but it focuses primarily on the internal procedures of the League's Council in deliberations on the settlement of international disputes.

⁷⁶ Lloyd, *The League of Nations*, 168.

⁷⁷ Patrick *Finney*, Introduction: What is International History?, In: Patrick *Finney* (Ed.), *Palgrave Advances in International History* (Palgrave Advances, Basingstoke 2004) 1.

This master thesis applies the method of historical interpretation in order to establish a proper framework for the analysis of the chosen historical document. However, there is no coherent definition what historical interpretation exactly is as many historians are characterising it differently. This analysis is based on Marc Trachtenberg's definition on this approach which he presented in his book "The Craft of International History", because he connects this method specifically with the discipline of International History. Trachtenberg defines historical interpretation as the process in which the historian establishes the basis for his particular examinations by constructing a conceptual pattern. By doing this, the specific subject of a study will be embedded in its broader historical context. In order to achieve this, he claims that historians have to determine a framework that reveals how the selected historical documents form a part of this broader historical context.⁷⁸ Therefore, the issue of this study has to be embedded in its broader historical context, namely the international relations of the Interwar period, the history of the League of Nations as well as the dealings of international organisations in international conflicts in general. Influenced by this context, the framework of this master thesis consists out of the raised questions addressed to the selected historical documents to examine the role of the Council in the furtherance of deliberations on the settlement of international conflicts.

The study is primarily based on the historical documents which the League of Nations published in the "League of Nations Official Journal".⁷⁹ The organisation published this journal between 1920 and 1940 and included numerous sources about different aspects of the League's work. This study takes especially the documents in connection with the work of the League's Council into account. These documents are primarily minutes of the Council sessions, telegrams/letters/memoranda, which were sent from the disputing governments to the Council and the reports of the appointed Commissions of Enquiry. The selection of these primary sources is grounded in the institutional perspective of this analysis as its examinations are focused on the role of the Council and the Commissions of Enquiry in negotiation processes.

The main analytical part of this study is structured along case studies, at which every selected conflict is examined individually. The choice of this approach is influenced by other studies out of the field of International History. It was also used in a few analysis in connection with the League, such as for example Quincy R. Cloet's doctoral dissertation on the League's Commissions of Enquiries. In contrast to previous studies on the Council's efforts in the field of international security, which mostly concerned with one case study on a particular international conflict, the examination of several case studies should make it possible to draw broader conclusions on the

⁷⁸ Marc Trachtenberg, *The Craft of International History. A Guide to Method* (Princeton/Oxford 2006) 26-28.

⁷⁹ League of Nations Official Journal and Special Supplement (1920-1940).

organisation's work. Therefore, the analysis will be executed in such a manner with each of the particular case studies, that at first the course of the deliberations before the Council and the work of the Commissions of Enquiry will be examined along the raised detailed questions on them. In order to achieve this, the study primarily evaluates the content of the selected historical documents. On the one hand, the sections that concern the negotiations before the Council are primarily based on speeches of representatives of the Council and of the disputing government held in its meetings. On the other hand, the parts which deal with the work of the Commissions of Enquiry, are first of all grounded in their reports. These reports are providing particularly an overview of the course of examinations of the particular Commission, its findings and considerations as well as its conclusions and recommendations. Subsequently, each of these chapters closes with a conclusion that answers the raised detailed questions on the work of the Council and the Commissions of Enquiry. Finally, the analysis uses the conclusions of each case study to answer its main questions.

2. Historical Background

2.1 Evolution of International Cooperation until the Founding of the League of Nations

The international system which evolved after the Congress of Vienna 1814/15 influenced heavily the international relations after World War I along with the founding of the League of Nations in 1920 as in that period multilateralism became more and more an instrument for the settlement of international conflicts and transnational problems.⁸⁰ The Congress of Vienna built a new international order in Europe, which was based on a balance of the great powers⁸¹ in order to maintain international stability. This international order was called Concert System. Subsequent to the Congress of Vienna, these states started to hold international conferences more regularly. As it was mentioned in the peace treaty which was concluded in Paris in 1815 in consequence to the Napoleonic Wars, the great powers met primarily to secure the execution of this agreement as well as to consolidate their relations in order to maintain peace in Europe. Subsequently, the number of multilateral conferences was strongly increasing. Especially at the end of the 19th century, the number of participating states to these conferences was rising and extended beyond the great powers. Along with the rising number of participants, the legitimacy of the conference's decisions increased as well. The Concert System also evolved to a sort of security regime with which the great powers tried to settle international conflicts. In case of international crises, they only took unanimous decisions in order to maintain the status quo. However, they only cooperated in these matters as long as it did not interfere with national interests. Thus, in the context of security policy, these conferences of the great powers could be seen as a sort of prototype for the Council of the League and the Security Council of the UN.⁸²

Another important development at that time, which provides a relevant basis for the work of the League of Nations, was the rise of arbitration. In the course of the 19th century more and more disputes were solved via this instrument. A major step for the growth of arbitration was the Hague Peace Conference of 1899 which had the intention to promote peace and disarmament.⁸³ In the context of the settlement of international disputes, the Hague Convention on the Pacific Settlement of International Disputes was very significant. The convention called the signatories to search for help in form of good offices or mediation in cases of international disputes. Therefore, the

⁸⁰ Housden, The League of Nations, 22.

⁸¹ At that time: the United Kingdom, France, Russia, Prussia and the Austrian Empire. See: Housden, The League of Nations, 23.

⁸² Reinalda, Routledge History, 17-27.

⁸³ Housden, The League of Nations, 24.

Permanent Court of Arbitration was founded by the Hague Conference, which formed one of the first notable steps for institutionalised international conflict settlement.⁸⁴

Considering these developments in the 19th century and the history of international relations in general, Anique H.M. van Ginneken classified the creation of the League in her “Historical Dictionary of the League of Nations” as follows:

“The League of Nations was an absolute novelty in the history of international relations. An organization on such a scale, covering all fields of international cooperation, never existed before. Still, the idea behind it was not new. Voluntary cooperation between city-states had already occurred in ancient times. Alliances then were usually meant as a defensive weapon against enemy states.”⁸⁵

Therefore, van Ginneken emphasises that although the founding of the League of Nations was a milestone in the history of international relations as there had never been an organisation that promoted international cooperation in that way, but the idea of the collaboration between states was not new. However, the novelty of the League was that it enforced peace by cooperation and not war. As it was shown above, the Congress System and the Hague Convention on the Pacific Settlement of International Disputes provided an essential basis for the League’s approach of multilateralism in order to guarantee global stable conditions.

2.2 International Relations in Europe after World War I

The end of World War I meant significant changes for the international order in Europe. The old order was destroyed and a new one was evolving. The Interwar period was a paradox time where internationalism as well as nationalism was rising. The new order in Europe was based on the peace treaties resulting from World War I, from which the Treaty of Versailles was the most important. The results of these treaties were ambivalent in the context of creating durable peace. They were not well thought through to totally prevent international crises like World War I or other wars in the future as they consisted of different compromises between the interests of the victorious allies. While the founding of the League of Nations embodied the idealistic dimension of a working peace order, the punitive character of the German peace settlement was very contrary. Although Germany did not lose as much territory as the other defeated powers (especially Austria-Hungary and the Ottoman Empire), it was economically ruined as the Treaty of Versailles mandated it to pay

⁸⁴ Reinalda, Routledge History, 79-81.

⁸⁵ Van Ginneken, Historical Dictionary, 1.

extremely high reparations to France and it was diplomatically isolated especially due to the prohibition of entrance to the League of Nations by the victorious powers.⁸⁶

Nevertheless, besides these complications with the peace treaties of the defeated powers, the 1920s was a time of relative international stability. The new created states retained their independence and territorial integrity. The European economy began to recover after the conclusion of the peace treaties. Numerous governments wanted to solve international conflicts and so they tried to find solutions with other governments. Therefore, a positive international climate, in which even the League of Nations could fulfil its goal to contribute to the maintaining of international peace and further cooperation between states, was existing.⁸⁷ This positive international climate achieved its climax in the mid-1920s. The United States were interested to stabilise Germany economically. These interests resulted in the Dawes Plan of 1924, which contained a framework that allowed Germany to pay their reparations in instalments so its economy could recover. Starting with the stabilisation of Germany, the great powers began to build a new European security structure. The outlines of this structure were based on the Locarno Treaties. Basically, the treaties indicated that Germany should become integrated into the international society and fulfil the obligations of the Dawes Plan.⁸⁸ Hence in 1926 Germany became a member of the League of Nations as well as a permanent member of its Council. For the rest of the 1920s Britain, France and Germany cooperated by coordinating their foreign policy aims.⁸⁹

However, the positive international climate of the 1920s turned with the Great Depression beginning in 1929. In consequence to this major global economic crisis, radical ideologies as Fascism were rising and the decline of international stability was following. Responsible for this was in particular the aggressive foreign policy of Germany and Italy. In an economically ruined Germany, Hitler could gain power as he was appointed as Chancellor in January 1933. After his takeover, he undermined the democratic institutions and started a massive arming programme. His major foreign policy aim was to erase the Treaty of Versailles and establish Germany as a great power again. On the other hand, Mussolini became Italian prime minister already in 1921. In the 1920s he cooperated with the other great powers, but in the mid-1930s he changed his course drastically. Influenced by this new German course, Italy as well sought to increase its influence.⁹⁰

The subsequent aggressive foreign policy of these powers was displayed especially in their desire of territorial expansion and their rising international influence. Both of them supported General Franco

⁸⁶ Anthony Best, Jussi M. Hanhimäki, Joseph A. Maiolo, Kirstne E. Schulze, *International History of the Twentieth Century and Beyond* (New York 2008) 35-49.

⁸⁷ Steiner, *The Lights that Failed*, 602f.

⁸⁸ Best, Hanhimäki, Maiolo, Schulze, *International History*, 49f.

⁸⁹ Lloyd, *The League of Nations*, 161.

⁹⁰ Best, Hanhimäki, Maiolo, Schulze, *International History*, 164-75.

in the Spanish Civil War. Italy conquered Abyssinia in 1936. Germany was interested in uniting all the German-speaking areas in Europe. Thus, in a first step, it annexed Austria in 1938. The other great powers did not sanction them for their aggressive actions. On the contrary, they tried to appease them in order to prevent a great war from breaking out. So, they officially accepted the Italian conquering of Abyssinia and remained silent to the Austrian “Anschluss”. In the Munich Agreement of September 1938 the United Kingdom and France tried to appease Germany by ceding the German-speaking Sudetenland from Czechoslovakia to the Reich. However, this could not stop the German desire of expansion. In March 1939 it conquered the rest of Bohemia and Moravia while Slovakia became a client state. Finally, the international stability was lost as Germany began to invade Poland on 1 September 1939 and World War II in Europe commenced.⁹¹

2.3 The League’s Handling of International Conflicts and its Final Inability to Maintain Peace

The settlement of international disputes by the League of Nations cannot be considered as a success story, primarily due to its inability to prevent World War II from breaking out. But the Council’s machinery of settling disputes could achieve it anyway that in only 8 of about 30 disputes that it was handling, war or warlike actions escalated. In this context, Lorna Lloyd claims in her article “The League of Nations and the Settlement of Disputes“, that it has to be taken into account that there were several external factors which influenced its ability to settle international conflicts. First of all, she argues that the Council was primarily able to contribute to a solution in such disputes which occurred during a positive international climate. Such conditions especially prevailed during the 1920s, which were mostly characterised by optimism and increasing economic prosperity. There was a great economic recovery in Europe and in the context of the Locarno Treaties, the United Kingdom, France and Germany coordinated their foreign policy goals. Ultimately, this climate turned in the 1930s as the economic conditions worsened drastically in connection with the Great Depression. The economic misery led to serious difficulties in international cooperation. Additionally, authoritarianism was rising, as notably the example of Germany shows.⁹²

As a second factor in this context she emphasises the position of the disputing states. There have been different aspects which influenced other states’ decisions to channel the conflict settlement through an international organisation like the League. Conditions that were especially important were primarily whether the states are located in an area of strategic importance or have influential neighbours. Additionally, it was relevant how the disputing states are connected with the great

⁹¹ Best, Hanhimäki, Maiolo, Schulze, International History, 175-195.

⁹² Lloyd, The League of Nations, 161f.

powers. It was possible that, for example, a powerful protector could have protected one disputant against other states and therefore it was also able to prevent an involvement by the League.⁹³

By mentioning the role of the influence of the great powers, Lloyd further argues that the interests of them in settling disputes through the organisation would be the key factor for their ability to maintain international stability. That means the League was very dependent on their acceptance of being involved in the settlement of conflicts. She asserts that this could especially be observed in cases in which disputes occurred among the great powers or in which one of them was involved as most of these cases were not submit to the Council. Therefore, Lloyd concluded that the probability in which the Council would be involved in the settlement of a conflict and finally could contribute to an agreement was significantly higher once the great powers were interested in resolving a controversy among smaller states.⁹⁴

Furthermore, Lloyd defines the legitimacy of the organisation as a decisive factor for settling disputes via its system. On the one hand, that means that the disputing states had to accept the authority of the League to propose a solution. On the other hand, the solution had to be designed as possible as acceptable for the disputants. Therefore, she claims that it was also essential that the arguing states were generally interested in settling the conflict rather than let it escalate. Thus, the disputing parties had to be able to compromise.⁹⁵

However, the factors that were raised by Lorna Lloyd were not valid any more in the 1930s as the international climate was becoming more and more worse in the aftermath of the Great Depression. Consequently the system of conflict settlement provided by the League of Nations finally failed in that time and the world went back to war in 1939. Although the failing of the League's system of collective security cannot be stated as one of the major causes for World War II, it was still not able to prevent aggression from happening. The main problem was that Japan and Italy (both permanent members of the Council) set aggressive actions and the other great powers in the Council, the United Kingdom and France, were not willing to effectively use the system of collective security against them.⁹⁶ They, for example, could have initiated Article 15 of the Covenant, which could set sanctions against an aggressor without the consent of the concerned power. However, they did not invoke this article, because they did not want to provoke war with the aggressive powers.⁹⁷

The first incident that disclosed this weakness was the Japanese invasion of Manchuria in 1931. The League could not intervene in this conflict, because the United Kingdom and France did not want to the League to intervene in order to protect their economic ties with Japan. This case showed the

⁹³ Lloyd, *The League of Nations*, 162.

⁹⁴ Lloyd, *The League of Nations*, 162.

⁹⁵ Lloyd, *The League of Nations*, 162.

⁹⁶ Housden, *The League of Nations*, 108f.

⁹⁷ Van Ginneken, *Historical Dictionary*, 16.

most essential weakness of the League's system of collective security, namely that it would only work when all great powers oppose the aggressor. The Italian invasion of Abyssinia in 1935 had shown the same complication. The system of collective security began to work as 50 states agreed on sanctions against Italy, but the United Kingdom and France prevented an oil embargo that eventually could have harmed the aggressor effectively. Again, the United Kingdom and France prevented the system of collective security to work due to their strategic and economic interests. With time the League became more and more paralysed as the United Kingdom and France tried to pacify their relations with the aggressor states with their strategy of Appeasement as it was already mentioned above. However, this strategy was not a successful one.⁹⁸

⁹⁸ Van Ginneken, Historical Dictionary, 15-21.

3. Åland Dispute 1920/21

3.1 Historical Background

After World War I, the question arose if the Åland Islands should become part of the newly independent Finland, to which they belonged while it was united with Russia since 1809, or go to Sweden, because the majority of the population of the islands was Swedish and they were united until 1809. The sovereignty over the islands was transferred to Russia as a result of the Finnish War of 1808-1809 against Sweden. Sweden lost this war and with the Peace Treaty of Fredrikshamm of 1809, Finland and the Åland Islands were incorporated into Russia. Subsequently, Sweden considered the Åland Islands and Finland as part of Russia as a strategic threat. Thus, it tried to reclaim at least the Åland Islands via diplomatic efforts, which could not be achieved. Consequently Sweden began to propose the demilitarisation and neutralisation of the Islands, but that was rejected by Russia.⁹⁹

The demilitarisation and neutralisation of the islands were again a matter of proceedings in the following of the Crimean War. During the war, the Ottoman Empire was allied with France and the United Kingdom and they fought together against Russia. In the course of this war British and French troops took control over the Åland Islands. Whilst peace negotiations after the Crimean War, the United Kingdom and France agreed with defeated Russia over the demilitarisation and neutralisation of the Åland Islands in 1856, which should have weakened its geopolitical position in this region in favour of Sweden. Subsequently, the overcoming of the demilitarisation and neutralisation of the islands remained an important strategic issue for Russia in this region for the next decades. During World War I Russia developed the islands into an enormous fortress, because it feared a German invasion. The United Kingdom and France remained silent to this development as they were allied with Russia and Sweden did not react due to its neutrality.¹⁰⁰

As a consequence of World War I and the Finnish Independence in December 1917, the circumstances of the dispute over the Åland Islands changed completely, because it was no longer a controversy between Sweden and Russia, but between Sweden and Finland. In this context, it was at first essential for the Swedish government to maintain good relations with Finland, so it did not initially demand possession over the islands. The central interest of Sweden remained the demilitarisation and neutralisation of the islands. The conflict began to get serious once at the beginning of 1918 a separatist movement on the Åland Islands, which was supported by Sweden, delivered a petition by the inhabitants of the islands that demanded the reunion of the islands with it

⁹⁹ Pirjo *Kleemola-Juntunen*, *The Åland Strait* (International Straits of the World Volume 18, Leiden/Boston 2019) 4.

¹⁰⁰ *Kleemola-Juntunen*, *The Åland Strait*, 5-9.

to the Swedish government. At the same time the Finnish Civil War¹⁰¹ began and in the context of the chaotic circumstances of this situation Sweden stationed troops on the islands in order to guarantee the safety of the inhabitants, which Finland later considered as an attempt of a military invasion.¹⁰²

After the Finnish Civil War was over and the situation of the newly independent state had stabilised, the question occurred, whether the convention of 1856 concerning the demilitarisation and neutralisation of the Åland Islands was still binding. The Finnish government emphasised that all treaties which were concluded with Russia would have no consequences for it. Besides that, Finland had explicitly refused to accept the convention of 1856.¹⁰³ However, Sweden insisted that the convention has to be binding for Finland.¹⁰⁴ As it was not possible for the Swedish government to achieve an agreement with Finland bilaterally, it brought the case to the Paris Peace Conference. At the conference, the Commission of Baltic Affairs, which was established to deal with the problems in the Scandinavian and Baltic region, as well as the Supreme Council of the conference were concerned with the conflict. Finally, the great powers in the Supreme Court were also not able to find a solution in this conflict, because they had very diverging interests on this matter.¹⁰⁵

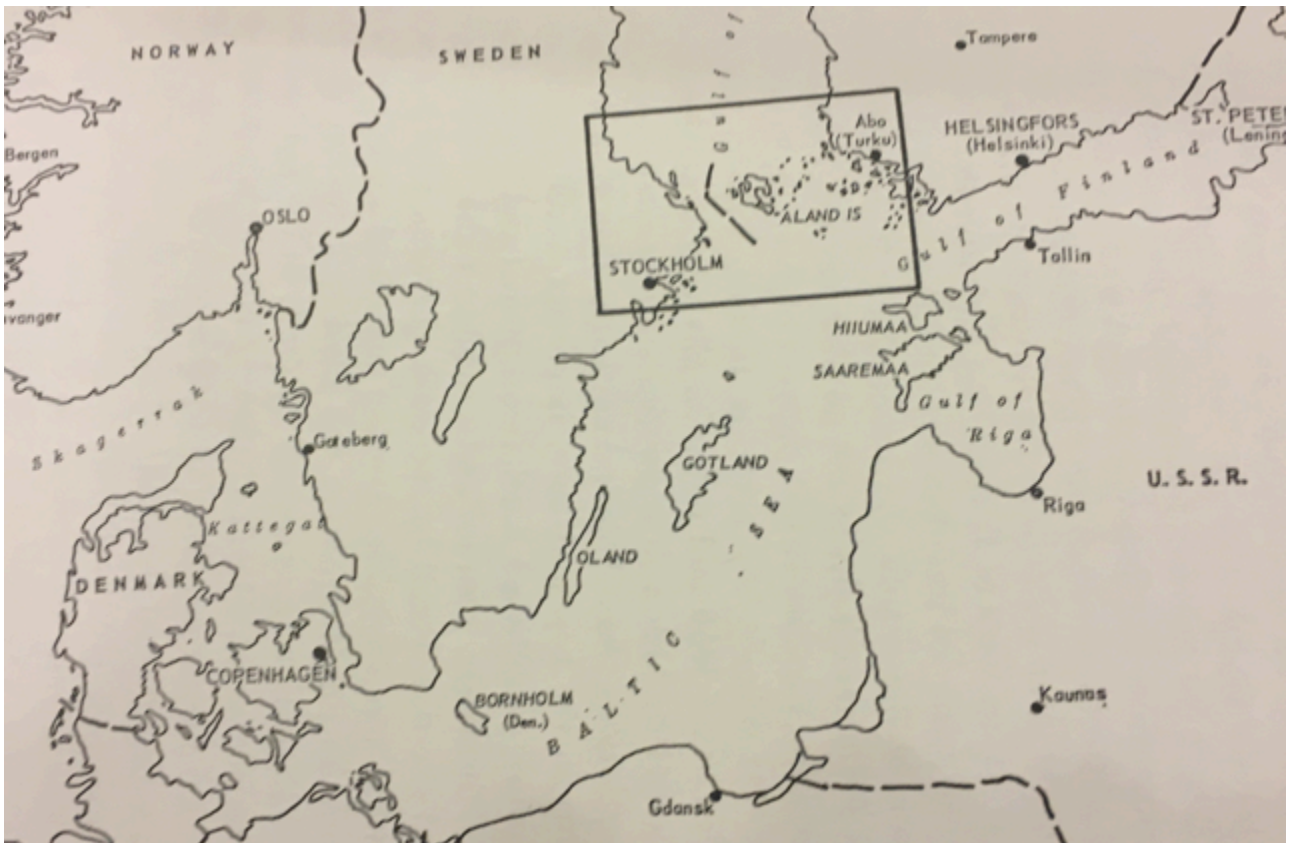
¹⁰¹ After Finland gained its independence from Russia in December 1917, the Civil War started in January 1918 as the revolutionary-socialist Reds began to fight the right-wing government. Finally, the government was able to win the war in May 1918 with the help of German troops. See: Carl Fredrik *Sandelin* and Others, Finland, In: Encyclopaedia Britannica, available at: <https://www.britannica.com/place/Finland/The-struggle-for-independence> (Accessed 11.4.2020).

¹⁰² Kleemola-Juntunen, The Åland Strait, 11-15

¹⁰³ In general, International Law provides no obligation that treaties have to be accepted by newly founded states in case of secession. See: Andreas *Zimmermann*, State Succession in Treaties, In: Oxford Public International Law, available at: <https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1109> (Accessed 1.3.2020).

¹⁰⁴ Kleemola-Juntunen, The Åland Strait, 15.

¹⁰⁵ Barros, The Åland Islands Question, 151-215.



Map 1: The Location of the Åland Islands in the Scandinavian Region

Source: James Barros, *The Åland Islands Question: Its Settlement by the League of Nations* (New Haven 1968) 9.



Map 2: The Åland Islands

Source: James Barros, *The Åland Islands Question: Its Settlement by the League of Nations* (New Haven 1968) 4.

3.2 The Begin of the Council's Involvement

Owing to the incompetence of the great powers to settle this conflict within the Paris Peace Conference, the relations between Sweden and Finland became more tense, especially since the Finnish government granted Autonomy to the Åland Islands in May 1920.¹⁰⁶ This autonomy law gave the Ålanders their own assembly as well as other wide-ranging privileges.¹⁰⁷ However, this step did not help settle the conflict, because the Swedish government requested a plebiscite on the future belonging of the islands in accordance with the separation movement. Consequently Sweden threatened to use force to push through its interests and Finland responded with their willingness to fight. Thus, it was visible that the tone became increasingly aggressive. Considering this situation, the Secretary-General of the League, Eric Drummond,¹⁰⁸ had already begun to prepare plans for a solution of the conflict even before the League became officially involved in this issue. In the context of the deadlocked negotiations to solve the conflict through the Paris Peace Conference, the British government referred the conflict to the League's Council in June 1920 by using Article 11 of the Covenant, which gave every member state the right to report any danger for international peace to the Council.¹⁰⁹

Before the Council session started, the disputing parties sent memoranda with their standpoints on this issue to the Secretary-General. In its memoranda the Finnish government delivered several reasons why the islands should remain stay a part of Finland. First of all, it considered the islands geographically as a part of Finland, because they are much closer connected to their mainland, especially during winter when the sea freezes over and hence connects both the mainland and the islands. Westwards of the islands, they are separated from the Swedish mainland due to depths of the Åland Sea. It continued by claiming that from a cultural point of view, the Swedish inhabitants of the islands are different from the Finnish majority from the mainland, but the Ålanders would be connected with the Swedish minority in Finland. Seen from an administrative view, the government emphasised that the islands always were a part of the Finnish province of Abo, also in times when Finland was a part of Sweden. According to this memorandum, also the commercial relations were always much closer with Finland than with Sweden, such as the industry of ship-building, the islands main industry, was constantly connected with the Finnish trade. The government further argued that the Ålanders were very ambitious in participating in Finnish political matters by having

¹⁰⁶ Lloyd, *The League of Nations*, 162.

¹⁰⁷ Osmo Jussila, Seppo Hentilä, Jukka Nevakivi, *From Grand Duchy to a Modern State. A Political History of Finland since 1809* (London 1999) 137.

¹⁰⁸ Eric Drummond (1876-1951) was initially the private secretary of the British foreign minister Arthur Balfour during the Paris Peace Conference. The conference appointed Drummond as the first Secretary-General of the League, which was primarily an administrative function. He held this post until 30 June 1933. See: van Ginneken, *Historical Dictionary*, 78.

¹⁰⁹ Lloyd, *The League of Nations*, 162.

a high voter turnout in their elections. Additionally, it considered the islands as strategically very important, because they could be easily used to start military operations against Finland. At the end of the memorandum, the Finnish government emphasised its fear that the transferring of the islands to Sweden could destabilise the Finnish state.¹¹⁰

Against that, the main demand of the Swedish government was that the population of the Åland Islands itself should get the possibility to vote within a plebiscite whether the islands should be a part of Sweden or Finland. It argued that the islands should be a part of Sweden, because they are populated entirely by Swedish people and although it was in an administrative unity with Finland for a long time, it cannot be stated as political unity due to the island's own historical forms of organisation. Furthermore, in its memorandum the government described the course of events that led to the conflict in its point of view. As a result of Finnish independence in 1917, the Ålanders turned to the Swedish King with the wish that their islands should become reunited with Sweden. The government argued that itself had no interest in uniting the islands with Sweden, but in order to fulfil the Ålanders' claim to the principle of self-determination, they began to negotiate with the Finnish government. However, it was not possible to negotiate constructively with the Finnish government on this matter. Despite the Finnish autonomy bill for the islands, the Ålanders continued to strongly desire unity with Sweden. Therefore, the government repeated its demand to protect the principle of self-determination for the Ålanders in order to fulfil their wish. The Swedish government considered the principle of self-determination as a part of International Law as it was applied by the Paris Peace Conference to draw new frontiers. Concerning the demilitarisation and neutralisation of the islands, it argued that if the islands were to become reunited with Sweden, they would not only agree to obligations of the convention of 1856 but also intensify its provisions. The government considered this issue as a major factor for the maintenance of peace in this region. With this argument it tried to refute the strategic concerns of the Finnish government.¹¹¹

The Swedish demand for the application of the principle of self-determination raised many legal questions for the Council, especially because it was unclear if it was authorised to make a decision on the question of a plebiscite in spite of the Finnish resistance against that. Therefore, this controversy was heavily discussed when the proceedings before the Council began on 11 July 1920 within its 7th session. At the beginning of the session, the disputants once again received the chance to clarify their points of view on this matter, whereby in both statements the idea of a plebiscite was

¹¹⁰ Finnish Case. The Correspondence Relating to the Question of the Aaland Islands, In: League of Nations Official Journal, Special Supplement 1 (1920) 3-6.

¹¹¹ Swedish Case. The Correspondence Relating to the Question of the Aaland Islands, In: League of Nations Official Journal, Special Supplement 1 (1920) 16-23.

discussed controversially. At first, the Swedish representative, Hjalmar Branting,¹¹² described the possibility for the Ålanders to decide by plebiscite if the islands should remain with Finland or become a part of Sweden as the main request of his government. In reaction to this, the Finnish representative, Carl Enckell, countered this demand with the fact that Finland is an independent and sovereign state and that it was recognised by several states, including Sweden. Therefore, he argued that the islands are an integral part of Finnish sovereignty and consequently they have to be considered as a domestic affair of Finland. On the other hand, the Swedish representative claimed that this cannot be stated as a Finnish domestic affair as it is clearly a matter of International Law, because the national affiliation has consequences which go beyond internal circumstances and so the dispute becomes an international character. Additionally, he asserted that the Swedish recognition of Finland as an independent state did not imply the recognition of its frontiers. However, both disputants agreed that the international obligations concerning the demilitarisation of the islands should be maintained.¹¹³

In order to clarify the question, in what way the Council was competent in settling this dispute, especially if it were to be authorised to conclude to hold a plebiscite on the Åland Island, the question had to be cleared beforehand if this conflict will be treated as an internal affair of Finland, as its representative argued, or whether it has to be considered as an issue of International Law. According to the Covenant, the Council would have to ask the Permanent Court of International Justice for an advisory opinion. But the problem was, that at this time the Court was not yet established. Therefore, the Council desired to engage a commission of international jurists to give an answer to this question. Additionally, this commission should also state its opinion on the present obligations concerning the demilitarisation and neutralisation of the islands, which was based on the convention of 1856. Consequently the Council concluded a resolution which stated that such a commission should clarify these two questions.¹¹⁴

Therefore, in the first phase of the proceedings the Council achieved to determine the most controversial issue between the conflict parties, namely the question whether a plebiscite on the Åland Islands should be held. According to the statements of the representatives, the second source of conflict, the demilitarisation and neutralisation of the islands, became more negligible as they both generally agreed on this matter. In order to give an answer to the question of plebiscite, the Council appointed a Commission of Jurists, in order to clarify the preliminary question, in what

¹¹² Hjalmar Branting (1860-1925) was Swedish prime minister and served as representative for his country to the League's Assembly and Council. As member of the Council, he played a significant role in the organisation's efforts to maintain peace within several international crises such as, for example, in the Mosul Dispute (see Chapter 5). See: van Ginneken, *Historical Dictionary*, 49.

¹¹³ The Question of the Åland Islands. Seventh Session of the Council of the League of Nations, In: *League of Nations Official Journal*, Vol. 1, No. 5 (1920) 247-249.

¹¹⁴ Question of the Åland Islands. Seventh Session of the Council, 249.

way it was competent to settle this dispute so that it was able to plan the next steps of the deliberations.

As one of the Commission's task was to examine, if the allowance of an plebiscite for the Ålanders was to be an internal Finnish affair or a matter of International Law, it has to be considered that the applicability of the principle of self-determination, on which the demand for this plebiscite was generally based on, was not clearly defined at this time as well as nowadays. In general, Encyclopaedia Britannica defines self-determination in this context as "the process by which a group of people, usually possessing a certain degree of national consciousness, form their own state and choose their own government".¹¹⁵ It began to become crystallised as a legal concept in the 14 points of US president Woodrow Wilson, which emphasised the realisation of the principle of self-determination as the an essential war aim and peace term of his country in World War I. Consequently, after the war, the principle provided the basis for some of the peace treaties for the Central Powers, but it did not evolve to a legal concept of International Law. This was also recognisable on the fact that self-determination was not mentioned in the Covenant of the League of Nations. Only after World War II, when the principle formed a part of the Charter of the United Nations, it crystallised more and more as a legal concept of International Law.¹¹⁶

Therefore, according to International Law, there was no legal claim for the Ålanders to demand a plebiscite in accordance with the principle of self-determination. In practice, the allowance of such plebiscites by the international community was limited in the Interwar period. In the aftermath of the Paris Peace Conference, the victorious powers held plebiscites in some disputed areas with a mixed population,¹¹⁷ namely for Schleswig, Allenstein and Marienwerder, the Klagfurt Basin, Upper Silesia as well as Sopron.¹¹⁸ Afterwards, the League of Nations was only responsible for one plebiscite in this context, which was the case for the return of the Saar to Germany in 1935,¹¹⁹ as it stood under the League's administration after World War I.¹²⁰ Considering the many minority conflicts in Europe in the Interwar period, these few conducted plebiscites are indicating that the fulfilment of the principle of self-determination happened only when it was either inevitable or in accordance with the interests of the great powers and not as a realisation of a legal concept of International Law.

¹¹⁵ The Editors of Encyclopaedia Britannica, Self-Determination, In: Encyclopaedia Britannica, available at: <https://www.britannica.com/topic/self-determination> (Accessed 1.3.2020).

¹¹⁶ Thomas Burri, Daniel Thürer, Self-Determination, In: Oxford Public International Law, available at: <https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e873> (Accessed 1.3.2020).

¹¹⁷ Burri, Thürer, Self-Determination.

¹¹⁸ Alan James, *Peacekeeping in International Politics* (New York 1990) 27f.

¹¹⁹ Alan James, *The Peacekeeping Role of the League of Nations*, In: *International Peacekeeping*, Vol. 6, No. 1 (1999) 159.

¹²⁰ Reinalda, *Routledge History*, 204.

3.3 Commission of Jurists

Before the Commission was able to start its work, the Council had to fix its composition. For this purpose, it chose eminent personalities in the field of international law as the Commission's members. Therefore, the Council appointed Ferdinand Larnaude, Dean of the Faculty of Law at Paris, as the Commission's president and Georges Kaeckenbeeck, who was part of the Legal Section of the League Secretariat, as its secretary. Furthermore, the two other members were Antonius Struycken, Councillor of State of the Netherlands, and Max Huber, adviser of the Swiss Political Department. The Commission began its work on 3 August and finished it on 5 September 1920.¹²¹

The Commission of Jurists gathered information, on the one hand, by receiving statements by the Swedish and Finnish government on the two questions that were raised in the Council's resolution. On the other hand, it held several hearings with high-ranking representatives of Sweden and Finland as well as of the Åland Islands.¹²² In these hearings, the conflict parties first of all presented their cases in general. The Finnish representative, Enckell, was heard by the Commission at first, but he only presented the already well-known positions of his government. Then the Swedish representative, Count Wrangel, was heard by the Commission. In comparison to Enckell, Wrangel based his statement on legal arguments in order to examine the applicability of the Covenant of the League on this case. While the Finnish case primarily was based on the restriction of the Council to intervene into internal affairs of a state as it was prescribed in Article 15 Paragraph 8 of the Covenant, Wrangel argued that the provisions of this article were very vague and could lead to an uncertain interpretation. He admitted that the demand of separation of a part of a state could be in the sense of the Finnish argument seen as an internal affair, but considering the fact that there was another state that claimed sovereignty over this territory would turn this into an international affair. In this context, this conflict should be seen as an international dispute in which the League of Nations should get the right to settle it peacefully. Wrangel maintained his position by arguing that the main purpose of the Covenant was to avoid a conflict from escalating, also if this means that frontiers have to be changed in order to avoid conflict. Thus, it should not be possible that the actions of the Council are limited when a border dispute was brought to it, only because one of the disputants argued that the matter is an internal affair. After that, Wrangel urgently requested the Commission to settle this conflict, because he feared that the Ålanders could become denationalised by Finnish migration and this could lead to a crisis. At the end of his presentation, Wrangel addressed the question of the demilitarisation and neutralisation of the islands. In his

¹²¹ Barros, *The Åland Islands Question*, 283f.

¹²² Report of the International Committee of Jurists Entrusted by the Council of the League of Nations with the Task of Giving an Advisory Opinion upon the Legal Aspects of the Åland Question, In: *League of Nations Official Journal*, Special Supplement 3 (1920) 3f.

opinion the convention of 1856 did not lose its applicability due to World War I as the signatory powers were allies at this time. He demanded that the convention should be replaced by a broader agreement.¹²³

In a next step, the Commission interrogated both representatives with several detailed questions on different topics. The Finnish representative was asked questions about the presence of foreign troops on the islands during the last years of World War I. Here, he was only giving some explanation of historical nature. The Swedish representative was asked some questions on the Finnish memorandum, which was sent to the Council at the beginning of the deliberations that concerned topics such as the Swedish recognition of Finland after its independence. To answer these, the Swedish representative, Ehrensward, sent a memorandum to the Commission. After the Commission completed its interrogations with the representatives, it finished its examinations and concluded its report.¹²⁴

At the beginning of the report, the Commission of Jurists determined that this case is a matter of International Law and therefore the Council is competent in making any recommendations to solve this dispute. In order to come to this conclusion, the Commission considered it as essential to analyse, how the principle of self-determination could be applied in this context and if the Åland Islands formed as a part of Finnish sovereignty at the time of transformation when Finland declared its independence and the Civil War occurred. By doing this, it argued that this principle is in general no part of positive International Law. The Commission emphasised that International Law did not recognise the right of national groups to separate themselves from the state to whose sovereignty they belong under normal circumstances. Thus, the right to grant or refuse a national group to determine its political affiliation to another state is reserved for the sovereign state to which it currently belongs. If this sovereignty is violated, it emphasised that the concept of sovereign states could begin to crumble and endanger international stability. In this context, the Commission examined, to what extent could Finland in its time of transition after declaring its independence in 1917 be defined as sovereign state. The Commission argued that these guidelines from International Law about the sovereignty of a state could only be applied on a definitively established sovereign state, which is also accepted as a member of the international community. Consequently it is possible that in times of transition the ordinary rules of International Law are not applicable. Therefore, the Commission determined that it is probably imaginable that the principle of self-determination could be applied under these extraordinary circumstances. In order to clarify this, it analysed the situation of the Ålanders during the time of transition in detail. Doing so, they came to the conclusion that the sovereignty was disturbed at this time due to especially two special factors.

¹²³ Barros, *The Åland Islands Question*, 284-287.

¹²⁴ Barros, *The Åland Islands Question*, 287f.

On the one hand, the Ålanders resisted against Russia together with the population of the Finnish mainland. However, both of them had different intentions to resist. While the Finns resisted in order to constitute an independent Finnish state, the Ålanders did this to reunite with Sweden. On the other hand, after the Finnish declaration of independence, Finland lost de facto the sovereignty over the islands due to military invasion. During the Civil War the islands became occupied by Russian troops. After that, Swedish troops expelled them on the request of the islands' inhabitants. However, the Swedish government emphasised that this military action had the intention of protecting the inhabitants and not to conquer the islands. Subsequently to the Swedish military actions, the Åland Islands were occupied by German troops. Only after that, Finland obtained the sovereign rights over the islands.¹²⁵ By considering these two factors, the Commission finally concluded:

“ (1) The dispute between Sweden and Finland does not refer to a definitive established political situation, depending exclusively upon the territorial sovereignty of a State.

(2) On the contrary, the dispute arose from a de facto situation caused by the political transformation of the Åland Islands, which transformation was caused by and originated in the separatist movement among the inhabitants, who quoted the principle of national self-determination, and certain military events which accompanied and followed the separation of Finland from the Russian Empire at a time when Finland had not yet acquired the character of a definitively constituted State.”¹²⁶

So, the Commission defined the dispute as an international affair due to the Ålanders' claim on the principle of self-determination during a time in which Finland had no sovereignty over the islands. Consequently it assumed that the dispute has to be settled under International Law and therefore the Council of the League should be competent in making any recommendations to solve the dispute. By doing this, it also indicated that the principle of self-determination should be applied under these special circumstances and a plebiscite should be held.

Concerning the demilitarisation and neutralisation of the Åland Islands, the Commission came to the conclusion that any state, which possesses the islands, has to fulfil the convention's obligations of demilitarisation and neutralisation. Therefore, it examined whether the convention of 1856 was still in force and how its legal consequences would affect the present situation. Concerning the maintenance of the convention of 1856, the Commission argued that it definitively remained in force until World War I. Also the state of war and the refortification of the islands did not change

¹²⁵ Report of the International Committee of Jurists, 5-14.

¹²⁶ Report of the International Committee of Jurists, 14.

this. The three contracting parties the United Kingdom, France and Russia were allies during the war and agreed on the militarisation of the islands. Additionally, Russia assured Sweden (which was not a contracting party) that the fortification of the islands was only planned for the duration of the war. Then, in the Treaty of Brest-Litovsk,¹²⁷ Russia agreed to remove the fortifications. In this context, the Commission concluded that the convention with reference to the demilitarisation and neutralisation of the islands was still in force. The application of the convention on the present situation consequently raised the question if Finland was bound to it as it was no sovereign state at the time of the conclusion of the convention. However, the Commission argued that the convention's provisions implied an "European interest" in order to stabilise the region and hence Finland should be tied to them.¹²⁸

The report of the Commission of Jurists was therefore able to give a clear answer to the questions which were raised by the Council. On the one hand, it clarified the preliminary question of the Council's competence in settling this dispute, which strengthened its position in the further proceedings. On the other hand, it succeeded in giving a definite answer to the question of the demilitarisation and neutralisation of the islands. However, although the findings of the Commission were legally grounded, this must not mean that it is possible to form a stable agreement based on them. Therefore, the report drastically failed in providing that, because it was heavily in favour of the Swedish demands and includes no concessions to the Finnish government. It is conceivable that the Commission was influenced to a certain degree by the argumentation of the Swedish representative Wrangel during its hearings in preparation for the report. Considering this, it has to be emphasised that Wrangel and the Commission converged especially on the point, that this affair could not be considered as an internal Finnish, but as an international affair. However, they reasoned this in a different way as on the one hand, Wrangel tried to base this assumption on the League's Covenant and that this conflict has to be regarded as an international question, because another state, namely Sweden, is claiming the Åland Islands. On the other hand, the Commission considered this situation as an international one, because it argued that during the Finnish Civil War Finland had no sovereignty over the islands and therefore the principle of self-determination should be applicable.

¹²⁷ The Treaty of Brest-Litovsk was signed on 3 March 1918 between the Central Powers and the Russia, which wanted to end cease hostilities as the Bolsheviks seized power in the context of the October Revolution in 1917. With these Treaty, Russia specifically lost Ukraine as well as its Polish and Baltic territories. See: The Editors of Encyclopaedia Britannica, *Treaties of Brest-Litovsk*, available at: <https://www.britannica.com/event/treaties-of-Brest-Litovsk> (Accessed 1.4.2020).

¹²⁸ Report of the International Committee of Jurists, 15-19.

3.4 Negotiations in Reaction to the Report of the Commission of Jurists

While the Commission of Jurists' conclusions heavily agreed with the Swedish demand to consider this dispute as an international affair and therefore a plebiscite for the Ålanders should be allowed, the Finnish government criticised its report severely in a memorandum that it sent to the Council on 16 September 1920. Therefore, the memorandum concerned itself especially with the defence of its sovereignty during Finland's time of transition and the continuity of its frontiers. First of all, the government argued that according to the Council's resolution of July 1920 that instructed the Commission of Jurists to advise on the question if the Åland Islands were to remain under Finnish sovereignty which it saw as an acceptance of its sovereignty and thus it should not be possible to interfere in its sovereignty. Furthermore, it emphasised that Finland constituted a political unity with the islands since 1809 and especially since 1899, as it received its own constitution and obtained so much internal autonomy within Russia that it could be considered de-facto as a sort of state. Considering this status, it highlighted that the Finnish frontiers were already determined since 1809 and with this territorial integrity Finland gained its independence in 1917. In this context, the government also doubted that the Finnish sovereignty over the islands was disturbed during the time of transition as the report claimed, for example, that the Ålanders' desire of independence from Russia was different from that of the Finnish population from the mainland.¹²⁹ At the same time, the Swedish government did not really comment the report in front of the Council, probably because it was very much in line with their interests.¹³⁰

In reaction to the harsh criticisms of the Finnish government on the report, the Council had to react in a de-escalating way, so that the proceedings on the settlement could still continue. Therefore, it adopted a resolution on 20 September 1920 within its 9th session, which determined that a Commission of Enquiry¹³¹ should be appointed in order to prepare a final agreement. This Commission should hold consultations with all concerned parties to frame a final or provisional settlement for the conflict. In a report concerning this issue, the British representative of the Council, Fisher, argued that the Council will react to the heavy criticisms by the Finnish government on the report of the Commission of Jurists. Thus, with the help of this Commission, the Council should find a solution that appears acceptable for both of the disputants. In this connection,

¹²⁹ Preliminary Observations by the Finnish Minister on the Report of the Committee of Jurists. The Åland Islands Question, In: League of Nations Official Journal, Vol. 2, No. 1 (1921) 66-72.

¹³⁰ Barros, The Åland Islands Question, 293f.

¹³¹ The Commission was never officially defined as „Commission of Enquiry“, but as „Commission of Rapporteurs“. Nevertheless, as its task is in accordance with the definition of a Commission of Enquiry that was stated above (See Introduction), the study characterises it as such.

the Commission should provide the necessary information to enable such a settlement.¹³² After the pronouncement of the resolution, the Finnish representative used the opportunity to criticise the course of action of the League's Council. He repeatedly condemned the report of the Commission of Jurists and emphasised that his government will not accept that the Council will stipulate a plebiscite for the Åland Islands against the will of the Finnish government as this would be a severe violation against Finland's legitimate right of sovereignty over the territory.¹³³

3.5 Commission of Enquiry

At first, the Council had difficulties with the appointment of the Commission's members, because of the political delicate work it had to fulfil. The representatives of the United Kingdom and France desired to send no members to the Commission, because they were already too much involved in this conflict. They feared that any decision concluded by the Commission with a British or a French member would make it more difficult for the disputants to accept a possible solution. Thus, the Council tried to choose members of states which were not involved in this conflict. Additionally, the members should have a high international reputation. Therefore, it appointed Baron Eugène Beyens, former Belgian foreign minister, as the Commission's president. The other two members, which were appointed by the Council, were Felix Calonder, former president of Switzerland, and Abram I. Elkus, former American ambassador to the Ottoman Empire and a member of the Court of Appeals of New York State. Additionally, Emil Nielsen of the League's Secretariat became the Commission's secretary.¹³⁴

Already on 13 October 1920 the work of the Commission began with the reception of a member of the Swedish community of Finland in Paris, the philosopher and anthropologist Edward Westermarck. After that, it interviewed the Finnish representative Enckell on the Åland issue in Brussels. Then the Commission travelled to Sweden and Finland in order to interview several representatives of both disputants. On 6 November the Commission arrived in Stockholm. Here they had talks with King Gustaf, the prime minister, Baron Louis De Geer, and the foreign minister, Erik Palmstierna. On 23 November the Commission departed to Helsinki where they stayed until 8 December. There they met high-ranking representatives, like the president, Kaarlo Juho Stahlberg, the prime minister, Rafael Erich, the foreign minister, Rudolf Holsti, and others. Thereafter, the Commission visited the Åland Islands from 9 to 12 December, where they interviewed several

¹³² Report Presented by the British Representative, Mr. H. A. L. Fisher, and Adopted by the Council of the League of Nations. The Aaland Islands Question, In: League of Nations Official Journal, Vol. 1, No. 7 (1920) 394-396.

¹³³ The Aaland Islands. Ninth Session of the Council of the League of Nations, In: League of Nations Official Journal, Vol. 1, No. 7 (1920) 392f.

¹³⁴ Barros, The Aaland Islands Question, 300-305.

prominent leaders of the Ålanders' community. After the investigations, the Commission needed a few days to draw conclusions from the collected material and the report was finished shortly after that.¹³⁵

At the beginning of the report, the Commission of Enquiry argued that the Åland Islands appear to be a continuation of the Finnish mainland with which it is even connected during winter when the sea is frozen. On the western side, the islands are separated from Sweden by a deep channel. The report stated furthermore that the sea between the islands and the Finnish mainland with its many rocks and islets are considerably a bad frontier between the two states, because it would be very difficult for Finland to defend itself if the islands fell into foreign hands. Thus, such a frontier could heavily weaken Finland's defensive position. Additionally, this part of the report concerns itself with the islands' population, agriculture, industry, merchant marine, emigrations and commerce which seemed to be as much with Finland as with Sweden.¹³⁶

The subsequent part of the report examined the political history of the Åland Islands. For this, the Commission especially emphasised the time before 1808, when Finland became a part of Russia, which was not yet considered so carefully by the disputants. In this connection, it found out that the constitution of 1634 had an eminent significance for the status of the islands, because at this time the Åland Islands had definitely joined the administration of the provinces of the Finnish mainland. The Commission assumed that this accession happened due to the geographical connection of the islands with the Finnish mainland. After that, it delivered a historical summary on the events after 1808 until the Finnish Civil War.¹³⁷

In a next step, the report focused on Finland's sovereignty in its time of transition. The Commission claimed that Finland has to be considered as a sovereign state due to its declaration of independence in December 1917. It justified this assumption by comparing this situation with the declaration of independence of the United States. Its independence and its sovereignty were dated on 4 July 1776 and not with the end of the Independence War in 1783, although the state was also in transition and was supported by foreign troops from France. The Commission admitted that the Finnish state lost sovereignty over the entire country during the Civil War, but on the other side it was able to demonstrate it by reconquering parts of its territories. Concerning the Finnish sovereignty over the Åland Islands, the report represented the opinion that with the Finnish Independence in 1917 its frontiers were just as clearly determined when it was part of Russia. Therefore, when Sweden recognised Finland's independence, it also accepted its sovereignty over the Åland Islands. In this context, the fact is also important that with the Treaty of Fredrikshamn of 1808, with which Sweden

¹³⁵ Barros, *The Åland Islands Question*, 306-311.

¹³⁶ Barros, *The Åland Islands Question*, 312f.

¹³⁷ Barros, *The Åland Islands Question*, 313f.

lost Finland to Russia, it renounced the possession over the islands forever. According to the Commission, this should underline the assumption that Finland already had defined frontiers since 1808.¹³⁸

The Commission's report also tried to refute the argument that the Finnish sovereignty over the Åland Islands was disturbed by military events during the Civil War. In this case, the Commission argued that although the islands were temporarily occupied by foreign countries, it did not mean that it had lost their sovereignty over them, because at that time Finland tried to reoccupy them and even before Sweden sent its troops, the Finnish government sent a military governor to administrate the territory. Thus, the Commission represented the opinion that Finnish sovereignty over the islands was at this time incontestable. In connection with the military events on the islands, the Commission believed that the Ålanders did not primarily want to be united with Sweden at this time due to nationalist reasons, but the fear for the Bolsheviks, who were allied with the Finnish Socialists, drove them to.¹³⁹

The Commission expressed several concerns about a plebiscite for the determination of the future of the Åland Islands which they assumed to result highly in favour of a unification with Sweden. The report especially draws attention to the general consequences of the potential right for minorities to separate from a sovereign state by applying the principle of self-determination. The Commission argued that such a right would destroy stability within states as well as destabilise the international order, because it is incompatible with the idea of the sovereign state as a territorial and political unity. Instead it considered it as more reasonable to fulfil the principle of self-determination within the state by adapting the relation between the minority and the state. The state should guarantee the minority religious, linguistic and social freedom. Only if the state is not willing to guarantee such freedoms, a minority should be able to decide about its separation. In connection with the Ålanders, the Commission argued that for them especially the protection of their language was important. Therefore, the commissioners were of the opinion that the Finnish government was ready to guarantee them adequate freedoms which would make the unification of the islands with Sweden not necessary. In case of the Ålanders, they would receive adequate minority rights, the Commission claimed that it would be unjust to separate the islands from Finland in terms of the raised historical, geographic and political arguments.¹⁴⁰

Strategically, the Commission considered that the Finnish possession of the islands would be no threat to Sweden and vice versa. Thus, there were no reasons for the Commission to emphasise the Swedish strategic concerns against the Finnish. It did not believe that the disputants would go to

¹³⁸ Barros, *The Åland Islands Question*, 314f.

¹³⁹ Barros, *The Åland Islands Question*, 315.

¹⁴⁰ Barros, *The Åland Islands Question*, 316.

war due to the islands, but it recognised the disputants' fear that the islands could be conquered by another state such as Russia. The Commission highlighted the Finnish efforts to stop the expansion of Bolshevism and warned for a resurgence of Russia. Hence it regarded it as very important that the region of Scandinavia and Finland itself would be stable and to achieve this, the remaining of the Åland Islands under Finnish sovereignty would be very essential. Consequently the Commission concluded that the region should be consolidated in order to face any threats from a stronger Russia.¹⁴¹

At the end of its report, the Commission recommended four proposals to guarantee the Ålanders minority status in Finland. First of all, the primary language in schools should be Swedish. If someone from outside the islands were to buy land there, then the Ålanders should get the right of pre-emption. The right to vote for the regional parliament for outsiders should only be granted after a stay of at least five years. The last proposal suggested that the Ålanders should be allowed to present the Finnish government a list of three candidates for the position of governor of the islands from which they have to choose one. If the government were to refuse these guarantees, then the Ålanders could still vote in a plebiscite about the future of the Åland Islands. Furthermore, the Commission recommended that if there were any difficulties with the application of these minority rights, the League's Council should be able to intervene and the Ålanders should be also able to report this to the organisation. Additionally, concerning the demilitarisation and neutralisation of the islands, the Commission held the same opinion as the Commission of Jurists, namely that the convention of 1856 was still in force. Moreover, it recommended that the clauses for the demilitarisation and neutralisation should become stronger in order to prevent any possible actions of fortification, like those of Russia during World War I, in the future.¹⁴²

Therefore, the findings of the Commission of Enquiry and the Commission of Jurists contradicted each other on the question whether a plebiscite for the Ålanders should be held or not, which is grounded in two totally different legal opinions. On the one hand, the Commission of Jurists argued that it would not be an internal Finnish affair but an international to decide whether the Ålanders should decide in a plebiscite about the future of the islands as Finland had no sovereignty over them during its time of transition. Thus, the Commission considered the principle of self-determination as applicable under these extraordinary circumstances and due to the international character of the affair, it would be up to the League to come to a decision on this matter. On the contrary, Jing Lu claims in his book "On State Secession from International Law Perspectives" that the report of the Commission of Enquiry did not argue along International Law as the Commission of Jurists primarily did, but it considered the matter was based on Natural Law as well as on general

¹⁴¹ Barros, *The Åland Islands Question*, 317.

¹⁴² Barros, *The Åland Islands Question*, 318.

principles of law. In this connection, the report's interpretation on the inadmissibility of a plebiscite was grounded in the perspective of equity. In this context, the perspective of equity indicates that a unilateral secession would be an unjust harming towards the state of which the territory aims to separate. Along this, secession would only be justifiable in a reasonable manner, for example in case of the state to which the particular territory belongs would agree on this.¹⁴³ Thus, the principle of equity also explains the report's fear of negative consequences for Finland in case of secession of the Åland Islands.

Considering that the Commission of Enquiry legally reasoned its conclusions differently than the Commission of Jurists, showed that the former was aiming to find a compromise for the conflict parties. This is recognisable on its handling with the principle of self-determination. Although the Commission advised against a plebiscite for the Ålanders, it did not deny the principle of self-determination itself, but it interpreted it differently. The commissioners only did not consider self-determination as a justifiable reason for unilateral decision, but it should be possible for the Ålanders to fulfil this principle in a cultural sense. Therefore, the Commission's compromise for this was that the conflict parties should negotiate minority rights for the Ålanders.

3.6 Deliberations in Reaction to the Report of the Commission of Enquiry and the Conclusion of the Final Resolution

After the Commission of Enquiry published its report, the Swedish government was in a comparable position than the Finnish government in consequence of the report of the Commission of Jurists as it was much more in favour with the demands of the opposing party. Therefore, the Swedish representative strongly opposed the conclusions of the Commission, when the report was discussed within the Council's 13th session on 20 June 1921. He did not see any foundation for an agreement in this report, because in his opinion the Commission argued highly in favour of Finland. Branting argued that the Commission's work was pretty unreliable, because it only gave an answer to the question of the sovereignty over the Åland Islands but not to that of the demilitarisation and neutralisation of the islands. Thus, its work was incomplete for him. He protested vehemently against the separation of these two essential questions as for the Swedish government these two questions were inseparable and any postponement of the demilitarisation and neutralisation of the islands would lead to further difficulties. In this context and as the results of the Commission of Enquiry were very different to those of the Commission of Jurists, the Swedish representative wanted the members of the Commission of Jurists to state their opinion on the findings of the second Commission. He demanded that they should evaluate the Commission of Enquiry's contrary

¹⁴³ Jing Lu, On State Secession from International Law Perspectives (Cham 2018) 107-109.

opinion on the points concerning the status of Finland as a sovereign state after its declaration of independence and the de-jure incorporation of the Åland Islands in the new state based on their unity within Russia.¹⁴⁴

In contrast to that, the Finnish representative complimented the thoroughness of the Commission's examinations in this conflict. For Enckell, it could fulfil its task to deliver the basis for a considerably settlement and it was possible to correct many "mistakes" of the Commission of Jurists as they were stated by the representative in his observations on the report of the Commission of Jurists. On the whole, the Finnish government accepted the recommendations of the Commission concerning the minority rights for Ålanders as well as the demilitarisation and neutralisation of the islands.¹⁴⁵

After the disputants obtained the possibility to state their opinion, the Council decided that representatives of the Åland Islands should be heard to gather more information about their situation and concerns. In general, the representatives stated the living conditions on the islands as very good. The islands were financially well off and always had a consistent and sufficient food source. Though the islands had to pay more taxes in proportion to their population, but this was reasoned by their greater wealth. There were also neither religious grievances nor did the inhabitants complain about any Finnish legislation. However, due to the fact that about 97 % of the population of the islands were primarily speaking Swedish, the Ålanders wanted to preserve the Swedish language and traditions. They feared that this would not be possible under Finnish sovereignty. So, they could not accept the solution suggested by the Commission of Enquiry by remaining under Finnish sovereignty, because, just as the Swedish government, they feared that such a solution would lead to further difficulties.¹⁴⁶

In reaction to this statement of the representatives of the islands, the Council considered as the best solution for the conflict to shape the formation of minority rights for the Ålanders in such a way that it would eliminate all their concerns. To achieve that, these rights should be negotiated between Finland and Sweden in assistance of representatives of the Council. If these negotiations failed, the Council itself would determine these rights. The Swedish representative criticised this decision heavily by arguing that thereby the wishes of the Ålanders would be ignored, while the Finnish representative was optimistic that the conflict could get solved through this way.¹⁴⁷

In order to appease the Swedish government, the Council decided to comply its claim of asking the Commission of Jurists if its opinion changed with regard to the report of the Commission of

¹⁴⁴ The Aaland Islands Question. Thirteenth Session of the Council, In: League of Nations Official Journal, Vol. 2, No. 7 (1921) 702f.

¹⁴⁵ Aaland Islands Question. Thirteenth Session of the Council, 704.

¹⁴⁶ Aaland Islands Question. Thirteenth Session of the Council, 694.

¹⁴⁷ Aaland Islands Question. Thirteenth Session of the Council, 694f.

Enquiry. However, the Swedish representative changed the questions which he wanted to ask the Commission of Jurists. He wanted to know, if the findings of the Commission of Enquiry changed the opinion of the commissioners concerning the Finnish sovereignty over the Åland Islands in 1917 and the ability of the Council to declare itself competent to make any recommendations to solve the conflict. But the members of the Council considered the findings of the Commission of Enquiry as a good basis for an agreement and thus they only allowed the first question to be asked. Subsequently, the Commission of Jurists examined the question about the Finnish sovereignty and replied by claiming that it did not change its opinion.¹⁴⁸

Nonetheless, this consultation of the Commission of Jurists did not change the course of negotiations. The Swedish representative emphasised again that he will nevertheless accept the decisions of the Council although he criticised them. He argued that he has serious doubts that it would be possible to find appropriate minority rights for the Ålanders in order to preserve their Swedish culture and nationality, but he still accepted the Council's proposal to negotiate these minority rights with the Finnish representative in order to do everything that is possible to support the Ålanders. At the same time, the Finnish representative asserted that he desired to settle the conflict as fast as possible and for this he was ready to cooperate with the Council in any way. Additionally, both of the representatives accepted the Council's proposal that a member of it should assist them during their deliberations.¹⁴⁹

On 24 June, after these decisions had been made, the Council concluded a resolution that included the basic points for achieving a settlement of this dispute. The resolution was influenced heavily by the findings of the report by the Commission of Enquiry. It officially confirmed that the Åland Islands should remain under Finnish sovereignty. The minority rights for the Ålanders should include the recommendations by the Commission of Enquiry and the details of these rights should be negotiated bilaterally by the disputants. Additionally, the demilitarisation and neutralisation of the islands should be guaranteed by a new broader agreement that will replace the convention of 1856. Such an agreement should be concluded not only between Sweden and Finland, but also between all the concerned states. Additionally, the Council recommended that the agreement in its main lines should be in conform with the Swedish proposals on that issue.¹⁵⁰ With these actions, the Council distinctively set actions in order to settle this conflict in a stable as possible manner, because it answered the most contentious questions of this controversy without endangering the international order of the Scandinavian and Baltic region. On the one hand, the Council achieved to fulfil the demanded principle of self-determination for the Ålanders within Finland so that secession

¹⁴⁸ Åland Islands Question. Thirteenth Session of the Council, 696f.

¹⁴⁹ Åland Islands Question. Thirteenth Session of the Council, 697f.

¹⁵⁰ Åland Islands Question. Thirteenth Session of the Council, 699.

could be avoided. On the other hand, the Council accomplished to guarantee the demilitarisation and neutralisation of the islands for the future.

Three days later, the representatives of the conflict parties completed their negotiations and they presented their agreement concerning the minority rights of the Ålanders before the Council. The agreement included the four recommendations from the report of the Commission of Enquiry. Additionally, the Åland Islands obtained the right to use 50 % of the land revenue for their own needs. The compliance of these provisions should be monitored by the Council. The Finnish government was required to put forward all the claims or petitions in connection with these guarantees to the Council and the Council should consult the Permanent Court of International Justice if it is necessary. Subsequently, the Finnish legislation included all these points in the Law of Autonomy for the Åland Islands of 1920.¹⁵¹

3.7 Aftermath

With the agreement on the minority rights for the Ålanders between Sweden and Finland, the direct involvement of the Council to settle this conflict ended. After this agreement, the Secretary-General of the League sent invitations to all states that were especially interested or concerned by the demilitarisation and neutralisation of the Åland Islands to a conference in Geneva in October 1921. The invited states were Sweden, Finland, Denmark, Estonia, France, Germany, the United Kingdom, Italy, Latvia, Poland and Russia. Russia was the only state that did not take part in the conference, because it had negative sentiments towards the agreement. During the negotiations at the conference, the most troublesome problem was Finland's right to deploy troops, warships and military airplanes in the demilitarised zone. However, finally the convention was signed by all participants on 20 October 1921 and entered into force on 6 April 1922. Article 1 of the Geneva Convention of the Non-Fortification and Neutralisation of the Åland Islands confirmed Finland's recognition of the convention of 1856. Concerning the demilitarisation, the Convention determined the prohibition of any military or naval infrastructure on the islands. The provisions for the neutralisation of the territory prohibited that the military, naval or air forces of any state enter or remain in this zone as well as it has to be considered as neutral also in times of war.¹⁵² Finally, it has to be noted that both of the agreements were initiated and negotiated within the League's Council, the minority rights for the Ålanders as well as the Geneva Convention of 1921, are in force

¹⁵¹ Åland Islands Question. Thirteenth Session of the Council, 701f.

¹⁵² Kleemola-Juntunen, *The Åland Strait*, 17-19.

until today. However, the autonomous status of the islands was consistently reformed, for example by the Åland Act of 1991.¹⁵³

3.8 Conclusion

This early example of the League's involvement into an international conflict showed that it was able to use a wide range of different diplomatic tools to further international negotiations in order to settle the dispute. As the standpoints of the disputants were heard at the beginning of the deliberations, the Council decided to ask a Commission of Jurists for advice on whether it was competent to make any recommendations to solve the conflict by considering whether the issue was an internal Finnish affair or a matter of International Law as well as if the convention of 1856 concerning the provisions for the demilitarisation and neutralisation of the islands were still in force. As this Commission had examined that the Council was competent, it set up a Commission of Enquiry to prepare an agreement between the disputants. It came to the conclusion that the conflict parties should negotiate the minority rights for the Ålanders in bilateral negotiations. Therefore, Sweden and Finland deliberated on this matter in assistance of a member of the Council. Thus, it was also possible for the Council to further these bilateral negotiations. The final activity of the Council in settling this dispute was that in its resolution it argued that a settlement concerning the demilitarisation and neutralisation of the islands should be negotiated between the disputants as well as all the other concerned states. Hence the Council initiated the Geneva Conference of 1921, which provided the forum to deliberate the Geneva Convention of the Non-Fortification and Neutralisation of the Åland Islands.

The deliberations within the framework of the Council enabled an exchange of opinions on the dispute. This was especially apparent after major steps within the negotiations as especially the Council sessions in which the findings of the Commissions were discussed as well as the final resolution was decided. If one of the disputants criticised one of these steps heavily, then the Council reacted accordingly. This was primarily the case when the Finnish government heavily criticised the report of the Commission of Jurists as well as when Swedish government did the same with findings of the Commission of Enquiry. In case of the Finnish criticism, the Council reacted by setting up the Commission of Enquiry, because due to the heavy criticism of the government it was clear that based on the findings of the Commission of Jurists the conclusion of an agreement was impossible. The Council also made concessions to the Swedish government in several ways as the report of the Commission of Enquiry contradicted its standpoint. On the one hand, it received the possibility to ask for another opinion from the Commission of Jurists. On the other hand, the

¹⁵³ Kleemola-Juntunen, *The Åland Strait*, 1-3.

Council complied with the Swedish government by enabling bilateral negotiations between the conflict parties in order to determine the minority rights for the Ålanders and it indicated that a new agreement for the demilitarisation and neutralisation of the islands should be conform with the Swedish standpoints on this issue. Furthermore, even the Ålanders itself received the chance to reveal their standpoints and concerns on this issue before the Council.

The diplomatic instrument of setting up a Commission of Enquiry in this case in combination with the judiciary advice of the Commission of Jurists supported the Council in achieving a considerably solution for this dispute, because the Commission of Jurists clarified the legal dimension while the Commission of Enquiry was aiming to accomplish a stable agreement with its examinations. The work of both of the Commissions was based on numerous interviews and hearings with representatives of both states as well as of the Åland Islands. Thus, again all the concerned parties obtained the possibility to state their opinion on the dispute in every detail. However, it has to be noted that both of the Commissions used different approaches to gather their findings as both of them had distinctive tasks to fulfil. The task of the Commission of Jurists was to clarify if the Council was competent to settle this conflict or if this is an internal affair of Finland as well as if the provisions of the convention of 1856 concerning the demilitarisation and neutralisation of the islands were still in force. By considering several principles within International Law, such as how a newly independent state becomes a sovereign state accepted by the international community, the principle of self-determination of nations as well as how the Convention of 1856 could be still in force despite the war and how this Convention could be binding for Finland as it was not one of its signatories. The Commission finally concluded that the Ålanders could rely on the principle of self-determination, because Finland had no sovereign rights over the islands during its time of transition. Thus, it did not consider this issue as an internal matter of Finland and declared that the Council was competent to make any recommendations to solve the conflict. Concerning the convention of 1856, the Commission argued that it was still in force for the signatories and it was also binding for Finland, because the demilitarisation and neutralisation of the islands was considered as “European interest” in order to stabilise the region and thus every state that had possessed the islands has to respect the convention. Against that, the task of the Commission of Enquiry was distinctive to that of the Commission of Jurists. Its focus was to prepare an adequate agreement that was acceptable by both of the disputants. The conclusions of the Commission of Enquiry were based on the one hand on the findings the commissioners gathered while they were travelling to Stockholm, Helsinki and to the Åland Islands, where it interviewed several high-ranking representatives. On the other hand, strategic considerations played an essential role. The commissioners argued in the report that they feared that separation of the Åland Islands eventually could further separatist movements of other minorities and thus endanger international order of which the sovereign state as a unity of

territorial and political integrity was a fundamental part of. Additionally, the Commission feared the rise of Russian influence in the Scandinavian and Baltic region. So, it desired for this region to become stable and this could not be ensured when Sweden and Finland have very tense relations.

The members of both Commissions played negligible roles during the negotiations before the Council, because they were only rarely present during the proceedings and therefore they were not able to participate in the conclusion of the final resolution. There was only one time the commissioners had any significance in the deliberations, as the Swedish representative, Branting, asked the Commission of Jurists if their opinion about the Finnish sovereignty over the Åland Islands in 1917 changed by considering the findings of the Commission of Enquiry. The president of the Commission, Larnaude, came to the Council and read a declaration that it did not change their opinion.¹⁵⁴ Nonetheless, this negation of the question did not change the course of the deliberations as the Council had already agreed to not hold any plebiscite on the islands.

In conclusion, within the negotiations before the Council between June 1920 and July 1921, the organisation was able to provide a platform for deliberations in order to negotiate an agreement that was acceptable for both of the disputants. The appointment of the Commission of Jurists was to clear the legal dimension of this conflict as well as of the Commission of Enquiry was to prepare a stable agreement and formed a platform for the exchange of opinions of the disputants on different levels. This exchange of opinion could contribute to form a basis for negotiations that finally advanced the conclusion of the final resolution within the Council. This contribution of both Commissions was especially recognisable in the influence of the findings of both of the Commissions on the Council's final resolution. In this context, the resolution's provisions concerning the demilitarisation and neutralisation of the islands were heavily based on the findings of the Commission of Jurists while those of the minority rights for the Ålanders did rest upon the conclusions of the Commission of Enquiry.

¹⁵⁴ Aaland Islands Question. Thirteenth Session of the Council, 697.

4. Memel Dispute 1923/24

4.1 Historical Background

The conflict over the Memel Territory among Lithuania¹⁵⁵ and Poland was part of a broader dispute surrounding the Polish annexation of the Vilna Region due to the which the conflict parties were officially in a state of war between 1920 and 1927 and did not have diplomatic relations until 1938. In principle, at the Paris Peace Conference, the great powers desired to give Vilna to Lithuania, as it was its historical capital. However, the city was claimed by Poland, because the majority of its population was Polish. Poland occupied Vilna and the surrounding region in October 1920, which was heavily supported by the Polish public opinion.¹⁵⁶ The occupation of Vilna has to be also seen in the context of expansionist plans of the Polish government after it regained independence after World War I. One of these plans was about a revival of the early modern Polish-Lithuanian Commonwealth.¹⁵⁷ Therefore, the Polish government hoped to found a federation of Poland with Lithuania.¹⁵⁸ In reaction to the occupation, the Lithuanian government reported the conflict to the League's Council.¹⁵⁹ The Council was not able to find a solution on this matter and declared its inability to adjudicate it in January 1922. Subsequently, in consideration that it was not possible to change the status quo, the Vilna Region became recognised as a part of Poland by the great powers.¹⁶⁰

The Paris Peace Conference failed to determine the future of the Memel Territory after World War I, because France as well as Lithuania and Poland had very diverging interests in this region. Originally, the territory was a part of Prussia and later of the German Empire, but with the Treaty of Versailles Germany had to renounce its sovereign rights on this region.¹⁶¹ However, no determinations regarding the further future of the region were made in the treaty, except that it should stay under international administration until further steps were decided. The determination about the future of the Memel Territory was above all difficult due to its ethnically diverse

¹⁵⁵ Lithuania had been part of Russia and declared its independence as the Tsarist regime broke down due to the October Revolution. See: van Ginneken, *Historical Dictionary*, 123.

¹⁵⁶ Lloyd, *The League of Nations*, 165.

¹⁵⁷ Poland and Lithuania were unified between 1569 and 1795 within the Polish-Lithuanian Commonwealth.

¹⁵⁸ Chiara Tassaris, *Peace and Security beyond Military Power: The League of Nations and the Polish-Lithuanian Dispute (1920-1923)* (doctoral dissertation Columbia University 2014) 55.

¹⁵⁹ Lloyd, *The League of Nations*, 165.

¹⁶⁰ Martyn Housden, *Securing the Lives of Ordinary People. Baltic Perspectives on the Work of the League of Nations*, In: Martyn Housden, David J. Smith (Eds.), *Forgotten Pages in Baltic History: Diversity and Inclusion* (Amsterdam 2011) 107.

¹⁶¹ Anna M. Cienciala, Titus Komarnicki, *From Versailles to Locarno. Keys to Polish Foreign Policy, 1919-25* (Lawrence, Kansas 1984) 207-8.

population. Its 140000 inhabitants were split equally between Germans and Lithuanians.¹⁶² In the context of this high share of Lithuanians in the population of the region, the Lithuanian government officially claimed it. However, France was interested in increasing its influence in this area, because according to an Anglo-French agreement, Danzig¹⁶³ would be submitted to a British administrator and Memel to a French one. Consequently the French government desired that Memel should become a free city or state under the protection of the League, in order to maintain its influence. Nonetheless, Poland also demanded as well influence on the Memel Territory, because the port of the city of Memel was of high economic relevance for it. Due to its geographical location, the port was very essential for the Polish export of lumber, flax and other agricultural products which were transported there via the Niemen River. Considering this, the Polish government would only accept the inclusion of the territory into Lithuania if the latter entered into a Polish-Lithuanian Union. Otherwise, it would favour, similarly to the French government, the creation of a free city or of a country, but only if it would guarantee extensive economic rights for Poland.¹⁶⁴



Map 3: The Disputed Memel Territory

Source: Alan *James*, *Peacekeeping in International Politics* (New York 1990) 34.

¹⁶² Housden, *The League of Nations*, 46.

¹⁶³ During the Interwar period Danzig was an autonomous state as a result of the Paris Peace Conference. Its autonomous status was guaranteed by the League, which also appointed a High Commissioner for the city. See: van Ginneken, *Historical Dictionary*, 71.

¹⁶⁴ Cienciala, Komarnicki, *From Versailles to Locarno*, 208f.

In November 1922 the Conference of Ambassadors¹⁶⁵ began to work on a plan for the future of the Memel Territory in accordance with its purpose to continue the work of the Paris Peace Conference. In the context of the deliberations within the Conference of Ambassadors, the Polish government especially demanded an international administration for the port of the city of Memel and free transit on the Niemen River. On the other hand, the Lithuanian government emphasised again its wish that the region should become united with its country. At the beginning of the negotiations, it seemed that the Conference would accommodate to the Polish desire to transform the region into a free territory, primarily because it corresponded to French intentions. Confronted with this, the Lithuanian government prepared plans for the seizure of the Memel Territory. Subsequently, Lithuanian troops started to occupy the territory on 10 January 1923. However, this operation was disguised as it was staged as an internal partisan uprising in which the regular Lithuanian troops were dressed up in civilian clothes. Thus, the Lithuanian government was able to deny any responsibility. On 12 January hostilities started between the Lithuanians and the French troops that were stationed in Memel. However, already three days later the Lithuanian units signed an armistice, because the French troops received massive reinforcements. In reaction to this, the Lithuanian troops withdrew, but in consideration of these events, the Conference of Ambassadors considered it as inevitable to solve this conflict by handing over the Memel Territory to Lithuania.¹⁶⁶ Therefore, it decided on 16 February that Lithuania should obtain the sovereign rights over the territory on certain terms. These terms especially included that all inhabitants of the region should be treated equally, the territory should become an autonomous region and the freedom of sea, river and land transit should be guaranteed, especially in regard of the Polish interests. Furthermore, it indicated that, if the Lithuanian government were to accept these terms, it should deliberate together with the Conference of Ambassadors a convention on the Memel Territory which includes these provisions.¹⁶⁷ After its decision, the Conference of Ambassadors concluded that the French troops should leave the region, which they finally did on 19 February and a few days later Lithuania established its authority in the territory.¹⁶⁸

However, on account of the worsening relations between Poland and Lithuania due to the dispute on the Vilna Region, the negotiations on the status of the Memel Territory were deadlocked. The

¹⁶⁵ The Conference of Ambassadors consisted out of ambassadors of France, the United Kingdom, Japan and Italy. It was established by the Supreme Council of the Paris Peace Conference as a standing organisation in order to handle questions concerning the execution and interpretation of the peace treaties. The Conference existed between 1920 and 1926 and its function was gradually adopted by the Council of the League of Nations. See van Ginneken, *Historical Dictionary*, 62.

¹⁶⁶ Cienciala, Komarnicki, *From Versailles to Locarno*, 210-212.

¹⁶⁷ Decision of the Conference of Ambassadors with Regard to Memel, In: *League of Nations Official Journal*, Vol. 5, No. 1 (1924) 122f.

¹⁶⁸ Cienciala, Komarnicki, *From Versailles to Locarno*, 212.

Conference of Ambassadors drafted a convention, which especially included a statute of the Memel Territory, which determined the autonomy status of the region within Lithuania, and provisions about the internationalisation of the port of the city of Memel and the free transit within the country for economic purposes. This draft was generally based on the principles of its decision of 16 February. The Lithuanian government mostly agreed on the statute on the Memel Territory, but it refused many of the provisions concerning the port of the city of Memel and the freedom of transit.¹⁶⁹ It especially denied to grant the Polish government special privileges, such as in regard to the freedom of navigation on the Niemen River or in the administration of the port. The Lithuanian government was prepared to grant freedoms in connection with the Niemen River and the port to all states, but not specifically to Poland.¹⁷⁰ Hence the Conference of Ambassadors decided on 25 September 1923 to submit the conflict to the Council of the League of Nations by arguing that the Lithuanian government prevented an agreement that accommodated with the interests of the Polish government. The conflict was officially brought before the Council as dispute between Lithuania and the Conference of Ambassadors. Thus, Poland was no official negotiating party in the Council's proceedings.¹⁷¹

4.2 The Begin of the Council's Involvement

In the first stage of the negotiations, the Council had to examine the factors which hindered an agreement between the Conference of Ambassadors and the Lithuanian government. In order to achieve this, in a first step the representatives of Lithuania and Poland received the opportunity to present their standpoints on this conflict. Therefore, first of all the Lithuanian representative, Galvanauskas, explained why the proceedings with the Conference of Ambassadors could not be concluded according to his government as the deliberations before the Council began in its meeting on 15 December 1923 within its 27th session. He argued that his government accepted the provisions of the Conference of Ambassadors' decision of 16 February 1923 and during the negotiations with it, it was possible to reach an understanding on most of them. However, he claimed that a final agreement was not possible, because the Conference demanded many other points, which in the view of his government did go far beyond the decision of 16 February. Specifically, Galvanauskas meant the concessions to the Polish government which the Lithuanian government resisted to guarantee. Regarding the negotiated draft convention, the representative

¹⁶⁹ Draft Convention, In: League of Nations Official Journal, Vol. 5, No. 1 (1924) 147-151.

¹⁷⁰ Memorandum from the Lithuanian Government to the Council of the League of Nations, In: League of Nations Official Journal, Vol. 5, No. 1 (1924) 156-159.

¹⁷¹ The Situation Created at Memel by the Attitude of the Lithuanian Government. Decision Adopted by the Conference of Ambassadors, In: League of Nations Official Journal, Vol. 5, No. 1 (1924) 122.

continued that his government modified this outline in order to be fully in conformity with the decision of 16 February, but the Conference of Ambassadors rejected these adjustments. At the end of his statement, Galvanauskas emphasised that his government felt offended by the Conference of Ambassadors, because it submitted the conflict to the Council while it was still ready to continue the deliberations on the convention.¹⁷²

Subsequently, the Uruguayan representative, Alberto Guani,¹⁷³ who was appointed as Rapporteur by the Council for the deliberations on this conflict, was instructed by the Council's president, Hjalmar Branting, to examine the situation in order to plan the next steps of the proceedings.¹⁷⁴ As the Rapporteur completed his report, the deliberations before the Council could continue on 17 December. Guani analysed all the relevant documents in connection with this dispute as well as the statements by the Lithuanian representative and concluded that the Council should especially determine the means to clarify the difficulties, which already hindered a settlement of the dispute, and analyse the practical application of the Conference of Ambassadors' decision of 16 February. Therefore, he suggested a draft resolution that recommended the appointment of a Commission of Enquiry,¹⁷⁵ which should examine the draft convention by the Conference of Ambassadors as well as the counter-proposals by the Lithuanian government. In addition, it should gather all the necessary information on the economic and technical factors of the conflict. Furthermore, the Commission should be composed out of two members who have a general knowledge on foreign trade, which should be appointed by the chairman of the Committee for Communications and Transit of the League,¹⁷⁶ and one that should be nominated by the Council.¹⁷⁷

However, the Lithuanian representative was discontent with the Rapporteur's draft resolution and hence he proposed some changes. First of all, he insisted that the examinations of the Commission of Enquiry should not be based on the Conference of Ambassadors' draft convention, but on the principles of its decision of 16 February. Furthermore, Galvanauskas suggested that the

¹⁷² Status of the Memel Territory. Eight Meeting (Private). Twenty-Seventh Session of the Council, In: League of Nations Official Journal, Vol. 5, No. 2 (1924) 353f.

¹⁷³ Uruguay was at that time a non-permanent member of the Council. See: List of Representatives. Twenty-Seventh Session of the Council, In: League of Nations Official Journal, Vol 5, No. 2 (1924) 323.

¹⁷⁴ Memel Territory. Eighth Meeting. Twenty-Seventh Session, 354.

¹⁷⁵ This Commission was not officially defined as „Commission of Enquiry“, but only as „Commission“ that should examine the situation. However, as its task is in accordance with the definition of a Commission of Enquiry that was stated above (See Introduction), the analysis defines it as such.

¹⁷⁶ The Communications and Transit Organisation was one of the League's sub-organisations. It frequently held international conferences on all matters concerning rail transport, inland and maritime navigation, ports, roadtraffic and power transmission. See: van Ginneken, Historical Dictionary, 61.

¹⁷⁷ Status of the Memel Territory. Ninth Meeting (Public). Twenty-Seventh Session of the Council, In: League of Nations Official Journal, Vol. 5, No. 2 (1924) 355.

Commission should be composed out of an American chairman and two other members, who do not belong to a member state of the Conference of Ambassadors or one of its associates. Considering this, he feared that the provision of Guani's draft resolution would lead to a strong influence of the Conference of Ambassadors on the Commission, with which negotiations already had failed. Subsequently, the Council interrupted its meeting in order to examine the draft resolutions by Guani and Galvanauskas.¹⁷⁸

The deliberations proceeded on the same day and the Polish representative, Skirmunt, joined the discussion in order to introduce the interests of his government into the negotiations, although his country was no direct negotiating party in these proceedings. He argued that the general interest of the Polish government in this dispute is that the Polish provinces on the Niemen River could be connected to its "natural port" in the city of Memel, which demands the freedom of access to the sea by river and land. Skirmunt was of the opinion that the decision by the Conference of Ambassadors of 16 February as well as its draft convention achieved to recognise this interest. He continued by explaining that he did not take part in the previous negotiations before the Council until now, because he considered the present disagreement to be between Lithuania and the Conference of Ambassadors. As the Council now wanted to examine the possibilities of an agreement, Skirmunt was of the opinion that now it was the time to join the negotiations. The representative argued that the deliberations be based on the draft convention of the Conference of Ambassadors and grounded in this the alternative proposals of the Lithuanian government be considered accordingly. Furthermore, he stated that he generally supports the Rapporteur's idea of the appointment of a Commission of Enquiry.¹⁷⁹

The Lithuanian representative reacted on this statement by arguing that there was no reason for concern, if the examinations of the Commission were not to be grounded in the draft convention of the Conference of Ambassadors, but on the principles of its decision of 16 February, because the latter should as well provide a sufficient basis. Furthermore, Galvanauskas expressed his doubts on the peaceful intentions of the Polish government to settle this dispute due the conflict over the Vilna Region.¹⁸⁰

In a next step, the Rapporteur presented his new draft report,¹⁸¹ which especially considered the objections by the Lithuanian representative. Therefore, in this draft, the investigations of the Commission of Enquiry should be based on the principles of the Conference of Ambassadors' decision of 16 February. The Rapporteur determined that the composition of the Commission

¹⁷⁸ Memel Territory. Ninth Meeting, Twenty-Seventh Session, 355f.

¹⁷⁹ Status of the Memel Territory. Tenth Meeting (Private). Twenty-Seventh Session of the Council, In: League of Nations Official Journal, Vol. 5, No. 2 (1924) 361f.

¹⁸⁰ Memel Territory. Tenth Meeting. Twenty-Seventh Session, 362.

¹⁸¹ Memel Territory. Tenth Meeting. Twenty-Seventh Session, 362.

should be changed in such a way, that it includes “three members belonging to nations other than those at present holding sovereignty over Memel”, which meant that no representative of the member states of the Conference of Ambassadors or of Lithuania should be included.¹⁸² The Lithuanian representative accepted these modifications in general, but he still had reservations about the composition of the Commission. Galvanauskas wanted to ensure, that there would be no member of the Commission of a state which is allied with the member states of the Conference of Ambassadors. He was especially concerned that the Commission might include a representative of Poland, which according to him would considerably endanger its impartiality. However, the president of the Council assured the Lithuanian representative that the Council intended to pay attention in choosing the members of the Commission in order to achieve an acceptable solution. Considering this, Galvanauskas acquiesced to the modified resolution and thus the Council adopted it.¹⁸³

In consideration of these changes, in the final version of its resolution the Council determined that the task of the Commission of Enquiry and its composition should be defined as follows:

“In order to discover the means of solving these difficulties and of preparing within the shortest possible period a draft convention in conformity with the principles of the Decision of February 16th, 1923

Decides that a report shall be submitted to it at its next session by Committee composed as follows

Three members belonging to nations other than those at present holding sovereignty over Memel, two of which members shall be appointed by the Chairman of the Committee for Communications and Transit entrusted with the duties of the Rapporteur, and the third, who shall be Chairman of the Committee, shall be appointed by the Council.”¹⁸⁴

Therefore, the final version of the resolution, on the one hand, determined that the examinations of the Commission of Enquiry be grounded in the principles of the Conference of Ambassadors’ decision of 16 February. On the other hand, it concluded that the composition of the Commission should not include a member a state that is “at present holding sovereignty over Memel”, whereby the president assured that the Council would only appoint members with which the conclusion of a

¹⁸² Report by M. Guani Submitted to the Council on December 17th, 1923. Annex 599a, In: League of Nations Official Journal, Vol. 5, No. 2 (1924) 411f.

¹⁸³ Status of the Memel Territory, Tenth Meeting (Private), Twenty-Seventh Session of the Council, 362-364.

¹⁸⁴ Status of the Memel Territory, Tenth Meeting (Private), Twenty-Seventh Session of the Council, 363.

stable agreement would be possible. Hence, as the Rapporteur and the Lithuanian representative were able to achieve an agreement on the work and the composition of the appointed Commission of Enquiry, it showed that both of them were interested in furthering the negotiations so that the negotiations would not become deadlocked such as with the Conference of Ambassadors.

4.3 Commission of Enquiry

After the Council's decision for the appointment of the Commission of Enquiry on 17 December 1923, it had at first to confirm its members, especially along the criteria of their nationality in accordance with its resolution. First of all, it appointed Norman Davis, Ex-Under-Secretary of State of the United States, as the Commission's chairman. The two other members were appointed by the chairman of the Advisory and Technical Committee on Communications and Transit. They were Kröller, a Dutch technical expert from the Advisory and Technical Committee on Communications and Transit, and Hoernell, a Swede, who was a member of the Stockholm Academy of Technical Science.¹⁸⁵

When the Council fixed the composition of the Commission, its examinations on the spot began with its arrival in the city of Memel on 10 February 1924. On 11 February it visited the city's port, where the commissioners noticed several advancements which were conducted during the international administration of the Memel Territory. Subsequently, the Commission proceeded to the town hall of the city of Memel, where it received many delegations of various groups of the inhabitants of the region until 13 February. Thereafter, it continued to the Lithuanian capital, Kaunas, where it had a meeting with the prime minister, Galvanauskas, on 14 February. On the next day, the commissioners travelled to Warsaw, where they consulted the Polish foreign minister, Count Zamoyski, and the Polish president, Wojciechowski. After it completed its examinations in Poland, the commission returned to Geneva, which it reached on 18 February. There, the commissioners negotiated with the Lithuanian delegation on a new draft convention and worked on their report, which they submitted to the Council on 12 March.¹⁸⁶

The report of the Commission of Enquiry showed the course of the negotiations between itself and the Lithuanian delegation in order to conclude a draft convention. Therefore, it presented at first its considerations on those points that were especially controversial for the Lithuanian government in the draft convention of the Conference of Ambassadors and subsequently it described how the

¹⁸⁵ Note by the Secretary General Dated February 9th, 1924, In: League of Nations Official Journal, Vol. 5, No. 3 (1924) 440.

¹⁸⁶ Report of the Commission Submitted to the Council on March 12th, 1924. Annex 615, In: League of Nations Official Journal, Vol. 5, No. 4 (1924) 599.

negotiators came to an agreement on these issues. Particularly contentious subjects were matters of port administration and the freedom of transit.¹⁸⁷

The Commission did not consider that the port of the city of Memel was confronted with any technical, but with political problems, as it stated in its report:

“There is reason to hope that, under an effective administration, the port of Memel may develop into a commercial centre of importance, but, at the state in the proceedings, at which the Commission as called in, the question of organisation of the port had become almost hopelessly entangled with political considerations which had little or nothing to do with the technical problems. The Commission was unanimous in its conviction that it would be impossible to arrange an adequate organisation for the port unless it were protected as far as possible from all political influence of an internal and external nature.”¹⁸⁸

Hence the Commission was of the opinion the opinion that an effective port administration would only be possible, if it were to be distanced from any political controversy, namely the conflict over the Vilna Region. In order to achieve this, on the one hand, the jurisdiction over the port had to stay with Lithuania. On the other hand, the commissioners were convinced that the port should not be administrated directly by the government, but by a port administration that prioritises economic and technical interests. The Commission recognised the Polish interests on the port of the city of Memel, but instead of granting the Polish government any influence on the port administration such as in the draft convention of the Conference of Ambassadors, it desired to establish an independent one. Therefore, the Commission proposed that such an administration should comprise out of an expert that should be chosen by the chairman of the Advisory and Technical Committee for Communication and Transit of the League, a representative of the business interests of the city of Memel as well as a representative for the economic interests of Lithuania, chosen by the Lithuanian government. However, this committee should not only be of an advisory character, as it was proposed in the draft convention of the Conference of Ambassadors, but it should be capable of acting independently.¹⁸⁹ Based on these considerations, the draft convention of the Commission of Enquiry included the establishment of the proposed independent administration and additionally obligated the Lithuanian government to internationalise the port, which should also guarantee the maintenance of its international zone.¹⁹⁰

¹⁸⁷ Report of the Commission Submitted to the Council on March 12th, 603-623.

¹⁸⁸ Report of the Commission Submitted to the Council on March 12th, 603.

¹⁸⁹ Report of the Commission Submitted to the Council on March 12th, 603.

¹⁹⁰ Report of the Commission Submitted to the Council on March 12th, 623-625.

Considering the controversial issue of the freedom of transit between the port of the city of Memel and its hinterland on the Niemen River, the Commission emphasised that the achievement of an agreement on this proved to be difficult due to the Polish-Lithuanian dispute about the Vilna Region. It accused the Lithuanian government of preserving its claims on Vilna by maintaining its state of war with Poland. The Commission argued that this state of war led to a closure of the Polish-Lithuanian frontier and thus the trade on the Niemen River was blocked. Therefore, it tried to develop an agreement, which would further the economic life of the Memel Territory and its Polish hinterland.¹⁹¹ Consequently the Commission considered this in its draft convention. In this connection, the Lithuanian government should guarantee the freedom of transit by sea, water and rail, regardless of whether the transit is coming from, bound for or passing through the Memel Territory. Additionally, the draft proposed some facilitation of the import and export of wood, which was one of the most important goods of that region and its Polish hinterland.¹⁹²

In addition to these controversial issues, the Commission implemented a few modifications on the statute of the Memel Territory although the Lithuanian government accepted most of this part of the Conference of Ambassadors' draft convention. The commissioners justified these amendments with its gathered information, namely the meetings with the delegations of various groups of inhabitants of the Memel Territory in the town hall of the city of Memel. After these meetings, the Commission obtained the impression that the population of the region was mostly in favour of autonomy. But one delegation also argued that after some time it could be possible to incorporate the territory fully into the Lithuanian state.¹⁹³ Therefore, the Commission decided that the autonomy status of the region should become contingent on the consent of population.¹⁹⁴ In this context, its draft convention included a clause, that the Chamber of Representatives of the Memel Territory would be able to modify its autonomy.¹⁹⁵ Furthermore, the commissioners assumed, based on the meetings with the delegations, that for the Lithuanian as well as for the German population, questions of public education and religious organisations seemed to be important. Hence, concerning the questions of education, the Commission argued that the authorities of the Memel Territory should marshal as fast as possible a corps of teachers, which speaks the Lithuanian as well as the German language.¹⁹⁶ In this context, the Commission's draft convention indicated that the educational authorities of the Memel Territory should be allowed to employ teachers from abroad until 1930.¹⁹⁷ Concerning the religious questions, it recommended that the Lithuanian government should allow

¹⁹¹ Report of the Commission Submitted to the Council on March 12th, 603f.

¹⁹² Report of the Commission Submitted to the Council on March 12th, 625.

¹⁹³ Report of the Commission Submitted to the Council on March 12th, 601.

¹⁹⁴ Report of the Commission Submitted to the Council on March 12th, 602f.

¹⁹⁵ Report of the Commission Submitted to the Council on March 12th, 621.

¹⁹⁶ Report of the Commission Submitted to the Council on March 12th, 602.

¹⁹⁷ Report of the Commission Submitted to the Council on March 12th, 619.

the entrance of preachers from abroad, if requested by the locals, but this was not included in the draft convention.¹⁹⁸

Therefore, the Commission of Enquiry was able to overcome the deadlocked negotiations with the Lithuanian government and accomplish an agreement with it along the principles of the decision of the Conference of Ambassadors of 16 February. The Commission was able to achieve this, because it determined the factors which had hindered an agreement with the Conference of Ambassadors and based on that, it deliberated a new draft convention. After its examinations, the commissioners figured out that any agreement which includes any particular privileges for Poland, would never be accepted by the Lithuanian government due to the dispute over the Vilna Region. By doing this, the Commission succeeded in negotiating an agreement that balanced Lithuanian as well as Polish demands. On the one hand, it satisfied the main claim of the Polish government, namely the freedom of transit on the Niemen River as well as the possibility to trade from the port of the city of Memel. On the other hand, the Lithuanian government did not have to privilege Poland in this context. On the contrary, the Commission determined a compromise by deliberating the guarantee for the usage of the port and the freedom of transit for every state with the Lithuanian delegation.

4.4 Deliberations in Reaction to the Report of the Commission of Enquiry and the Conclusion of the Final Resolution

When the Commission of Enquiry published its report, its findings were discussed controversially by the concerned parties in the Council meetings between 12 and 14 March 1924 within its 28th session as they were not able to accomplish any approximation between Lithuania and Poland. However, initially the Commission's chairman, Norman Davis, opened the meeting on 12 March with a few remarks to the elaborated report and the new draft convention. First of all, he assured the Council that the convention would be in accordance with the Conference of Ambassadors' decision of 16 February. Davis emphasised that the Commission and the Lithuanian delegation could achieve a proper agreement on the autonomy status of the Memel Territory as well as on the internationalisation of the port of the city of Memel and the free traffic on the Niemen River. He claimed that the previous negotiations with the Conference of Ambassadors failed due to a political controversy, namely the conflict over the Vilna Region. During the Commission's negotiations with the Lithuanian delegation, Davis received the impression that negotiations primarily were unsuccessful, because the Conference of Ambassadors tried to connect their agreement on the Memel Territory with Lithuania with its acceptance of the status-quo of the Polish-Lithuanian frontier. Considering this, he argued that the Lithuanians feared that they have to give up their

¹⁹⁸ Report of the Commission Submitted to the Council on March 12th, 602.

claims on the Vilna Region. Therefore, Davis explained that the Commission realised that in order to achieve a settlement on the Memel Dispute, any agreement has to be separated as far as possible from other from the conflict over the Vilna Region. Thus, the commissioners assured the Lithuanian delegation, that they would not propose the Council any solution, which is connected with other conflicts in any way. During the negotiations, they urged the delegations, that the resumption of commercial relations with Poland does not mean that they have to end their state of war or give up their claims, but it lies in Lithuania's own interest in order to improve its own economy and that of the Memel Territory. Additionally, the commissioners made it clear to the Lithuanian delegation that their country could only obtain full sovereignty over the region, if it were to open the Niemen River and the port of the city of Memel for international traffic. Considering this, Davis argued that the Commission's draft convention was a success, because it fulfils these economic demands and touches no other conflict, primarily that over the Vilna Region. Furthermore, he claimed that the Commission also consulted the Polish government in its examinations due to its economic interests on the Niemen River and the port of city of Memel, although Poland was no direct party in the negotiations. The Commission frequently informed the government of the progress of its work and listened to its arguments and objections. Considering this, Davis emphasised that the Commission tried its best to respect the Polish economic interests in its draft convention. At the end of his statement, he argued that he considered the draft convention not as a perfect one, but he tried his best to fulfil the interests of the powers of the Conference of Ambassadors and to improve the economic situation and political stability of the region.¹⁹⁹

The Polish representative argued that his government was dissatisfied with this draft convention, because according to it, Poland would have, in contrast to that of the Conference of Ambassadors, insufficient privileges in the Memel Territory to fully secure its trade on the Niemen River and from the port of the city of Memel. He claimed that his government felt offended by this as it was only treated like every other state, although the Polish hinterland of the Memel Territory was crucially dependent on its trade through it. Furthermore, Skirmunt criticised parts Davis' speech, because he considered that what he said about the Polish-Lithuanian relations as incorrect. The representative argued that for the Polish government the Vilna Dispute is already settled as the Conference of Ambassadors already recognised the Polish frontiers and he defined Lithuania as the aggressor, because it was upholding the state of war with Poland and hindered the economic relations between the two countries. Finally, Skirmunt asserted that he did not want to delay the negotiating process in

¹⁹⁹ The Question of Memel. Fourth Meeting (Public). Twenty-Eighth Session of the Council, In: League of Nations Official Journal, Vol. 5, No. 4 (1924) 514-517.

reaching a final agreement any longer, but he appealed to the Council that it should recognise the Polish interests in its decision.²⁰⁰

The Lithuanian representative admitted that his government could not be contended with every provision of the negotiated convention as he stated:

“Without wishing to examine in detail the clauses of the Convention submitted to-day for the approval of the Council, it is impossible for me to pass over in silence the fact that a great number of these clauses do not realise the legitimate hopes of the Lithuanian nation.”²⁰¹

In this context, Galvanauskas means, on the one hand, that it was very difficult for his government to accept any foreign influence on the port administration of the city of Memel, even it is an expert, who was chosen by the chairman of the Advisory and Technical Committee for Communication and Transit of the League. On the other hand, it was very problematic for the Lithuanian government to allow the Polish wood trade on the Niemen River as long as Poland occupies the Vilna Region. In this context, he emphasised that the relations between Poland and Lithuania could not normalise, so long as the frontier between them would be accepted by both of the countries. However, the representative asserted that his government nevertheless accepted the Commission's draft convention in order to settle this dispute and to contribute to international stability.²⁰²

Subsequently, the president of the Council, Alberto Guani, asked the representatives of the member states of the Conference of Ambassadors (which are also represented in the Council), if they would accept the draft convention by the Commission of Enquiry and all of them agreed. Therefore, the Council issued its final resolution in the settlement of this conflict by adopting the convention,²⁰³ on 14 March 1924. Thus, it was possible for the Council to adapt the draft convention of the Commission of Enquiry, although it was not possible to achieve a compromise between the actual conflict parties Poland and Lithuania. This displays again the role of direct and indirect negotiating parties in these proceedings. Although the Polish government did not consider the draft convention by the Commission of Enquiry as the fulfilment of its demands, this did not influence the course of the deliberations as Poland was no direct negotiating party. It was finally the direct negotiation parties, the Lithuanian government and the Conference of Ambassadors, who agreed on this

²⁰⁰ The Question of Memel, Fourth Meeting, Twenty-Eighth Session, 517-519.

²⁰¹ The Question of Memel, Eighth Meeting (Public), Twenty-Eighth Session of the Council, In: League of Nations Official Journal, Vol. 5, No. 4 (1924) 541.

²⁰² The Question of Memel, Eighth Meeting, Twenty-Eighth Session, 541.

²⁰³ The Question of Memel, Eighth Meeting, Twenty-Eighth Session, 542.

convention and hence the official sovereignty over the Memel Territory could be transferred from the Conference to Lithuania.

4.5 Aftermath

The relations between Poland and Lithuania stayed very tense until the beginning of World War II, although the Council successfully adopted the convention of the Commission of Enquiry, which was officially signed on 17 May 1924 between the conflict parties and came into force on 25 August 1925.²⁰⁴ There were still many contentious issues between the two countries due to their non-existent diplomatic relations. Considering the recently adopted convention on the Memel Territory, Poland tried to tie stronger economic links with Lithuania by building up an appropriate infrastructure through the establishment of, for example, mail- and train-connections between the two countries. However, the Lithuanian government blocked this effort due to the conflict over the Vilna Region.²⁰⁵ The Council of the League of Nations continued to try to mediate between the disputants and could at least achieve the official ending of the state of war among them in 1927.²⁰⁶ In the course of the 1930s, the Polish government frequently tried to open direct diplomatic relations with Lithuania in order to finally clear several economic and infrastructural questions, but it always refused. Finally, at the beginning of 1938 the Polish government gave the Lithuanian government an ultimatum to either open normal diplomatic relations or incur hostilities. Due to a lack of alternatives, the Lithuanian government accepted the ultimatum.²⁰⁷

4.6 Conclusion

In case of the dispute over the Memel Territory, the Council succeeded in contributing to solve a conflict which was embedded into extraordinary circumstances, namely the presence of direct and indirect negotiating parties as well as the further advancement of the deliberations before the Council became involved. In general, this conflict was de-facto a dispute between Lithuania and Poland and was influenced heavily by the dispute over the Vilna Region, which lasted the whole Interwar period. However, the conflict was not brought before the Council as a struggle between those two countries, but among the Lithuanian government and those of the United Kingdom, France, Japan and Italy, namely the Conference of Ambassadors. Therefore, the actual controversy in which the Council became involved, was the failing negotiations between the Lithuanian

²⁰⁴ Cienciala, Komarnicki, *From Versailles to Locarno*, 221.

²⁰⁵ Isabel Röska-Rydel, *Polnisch-litauische Beziehungen zwischen 1918 und 1939*, In: *Jahrbücher für Osteuropäische Geschichte*, Vol. 36, No. 4 (1987) 565f.

²⁰⁶ Lloyd, *The League of Nations*, 165.

²⁰⁷ Röska-Rydel, *Polnisch-litauische Beziehungen*, 571-577.

government and the Conference of Ambassadors on the conditions of transferring the sovereignty over the Memel Territory. Hence Poland was no official negotiator in the deliberations of the Council. Furthermore, the negotiations before the Council did not began from scratch, as the course of deliberations between the Lithuanian government and the Conference of Ambassadors was already very advanced. The disputants agreed on several points, but the draft convention of the Conference of Ambassadors could not become finally adopted due to a couple of disagreements on the issues of the internationalisation of the port of the city of Memel and the free transit on the Niemen River.

As the deliberations with the Conference of Ambassadors had been already far proceeded, the League's Council was concerned especially with those points of the draft convention in which there was no agreement possible. Therefore, the negotiations before the Council were limited to a few meetings in which the appointment of the Commission of Enquiry was prepared and after its examinations, its findings were discussed. The main instrument to further the negotiations in the settlement of this conflict was the appointment of the Commission of Enquiry itself. Besides that, the Council also instructed a Rapporteur in order to further the deliberations, who played an essential role in the Council meetings in which the resolution for the appointment of the Commission of Enquiry was prepared.

During the negotiations before the Council, the Lithuanian government frequently received the possibility to state its opinion on the particular steps of the negotiations. At the beginning of the proceedings, the Lithuanian representative presented a comprehensive statement about the standpoints of his government on this issue. Consequently, influenced by the standpoints of the Lithuanian government, the Rapporteur proposed the appointment of a Commission of Enquiry in order to determine the obstacles for an agreement with the Conference of Ambassadors. In general, the Lithuanian representative was in favour of this plan but criticised that Guani's suggestions on the composition of the Commission and that its investigations should be based on the draft convention of the Conference of Ambassadors. Galvanauskas demanded that the Commission's examinations should be grounded in the principles of the Conference of Ambassadors' decision of 16 February and he wanted to be granted that the Commission does not include any members of the member states of the Conference or its allies, especially from Poland. In reaction to that, the Rapporteur prepared a new draft resolution, in which he considered these objections of the Lithuanian representative. Thus, the criticisms of Galvanauskas were able to influence the course of the deliberations.

The Polish government also sent a representative to the proceedings before the Council, although it was not an official negotiating party. The Polish representative Skirmunt participated in these negotiations twice. At first, he joined the deliberations during the preparations for the resolution for

the appointment of the Commission of Enquiry, at which he emphasised the interests of his government in this conflict and criticised the demanded modifications the Lithuanian government demanded of the Rapporteur's draft resolution. Subsequently, he presented the standpoints of his government on the report of the Commission of Enquiry and its draft convention, which did not meet the Polish interests. However, in both cases, the Council did not react to these criticisms due to Poland's status within the proceedings.

The approach of the Commission of Enquiry consisted, on the one hand, out of examinations in the Memel Territory as well as consultations with high-ranking Polish and Lithuanian representatives and, on the other hand, of intense negotiations with the Lithuanian delegation on the draft convention. These consultations with the representatives especially supported the Commission of Enquiry in clarifying the reasons for the failure of the negotiations between the Conference of Ambassadors and the Lithuanian government. In this context, the Commission argued that the main reason for this was the connection of this controversy with conflict over the Vilna Region. Thus, it was possible that the Commission negotiated a new draft convention with the Lithuanian government that eschewed said dispute to the greatest feasible extent and focused on the internationalisation of the port of the city of Memel and the freedom of transit on the Niemen River without guaranteeing any special privileges to Poland. Additionally, the Commission succeeded in fulfilling the demands of parts of the inhabitants of the Memel Territory, which was based on its meetings with several delegations, by improving the minority rights of the autonomous region, although this was not the actual issue of controversy in these proceedings.

In the settlement of this dispute, the commissioners themselves played an active role within the negotiations before the Council, which is especially grounded in the speech that was held by the Commission's chairman Norman Davis. In his speech, he presented the Commission's report and its draft convention. In doing so, Davis gave an insight to the Council into the negotiations with the Lithuanian delegation and showed how they eventually came to an agreement. Considering this, it has to be emphasised that the Commission appears to be the key factor in these deliberations, because its report was the later accepted agreement and therefore it was itself, who primarily negotiated the settlement on this dispute.

After all, the Council and its Commission of Enquiry could achieve to conclude negotiations on an agreement, which were already far proceeded. The deliberations on the settlement of this dispute were heavily dominated by the Commission of Enquiry, which deliberated itself the draft convention with the Lithuanian government. The Commission accomplished to successfully negotiate an agreement on the Memel Dispute by focusing on the factors, which were necessary for carrying out a stable settlement. Therefore, as the negotiations on this dispute lasted between December 1923 and March 1924, the Council and its Commission of Enquiry were able to conclude

the deadlocked deliberations and the sovereignty over the Memel Territory could officially be transferred from the Conference of Ambassadors to Lithuania.

5. Mosul Dispute 1924-26

5.1 Historical Background

The dispute over the Vilayet of Mosul (the area surrounding the city of Mosul) is based on the defeat of the Ottoman Empire together with the allied Central Powers against the Entente in World War I, who consequently occupied its territory.²⁰⁸ Already during the war, France and the United Kingdom determined the dismemberment of the Ottoman Empire in the Sykes-Picot Agreement in May 1916.²⁰⁹ Based on this agreement, both of the countries administered the territories of the former Ottoman Empire in the Middle East outside of Anatolia in the context of the Mandate system of the League of Nations. Considering this system, primarily the United Kingdom and France should assist former colonies to become functioning states.²¹⁰ In this context, the victorious powers of World War I decided on the San Remo Conference in 1920 that France should establish a Mandate administration over Lebanon and Syria and the United Kingdom over Palestine and Iraq.²¹¹ They officially determined this in the Treaty of Sèvres, which was signed on 10 August 1920 between these states and the Ottoman Empire. This treaty left the Ottoman Empire only as a small rump state in central and northern Asia Minor. In reaction to the occupation and the Treaty of Sèvres, the National Resistance Movement under the leadership of Mustafa Kemal²¹² evolved which provoked the Turkish War of Independence from 1921/22 against the occupying Entente powers. The aims of the movement were laid down in the so-called “National Pact” that was decided by the Ottoman parliament which was led by a nationalist majority on 28 January 1920. This manifesto indicated that the territories which are inhabited by a Turkish majority, should constitute the Turkish nation state and the other former territories of the Ottoman Empire, such as those which are inhabited by an Arab majority or Western Thrace, should decide in a referendum about their own future. Finally, it won the Independence War in September 1922 and subsequently on 1 November the Ottoman Sultanate and with it the Ottoman Empire were officially abolished. Soon after the end of the war, the Entente invited Turkey to negotiate a new treaty on the Conference of Lausanne, which opened on 20 November 1922. After difficult deliberations, the Treaty of Lausanne was signed on 24 July 1923. The newly formed Turkish state now consisted of

²⁰⁸ Erik J. Zürcher, *Turkey: A Modern History* (London 2017) 33.

²⁰⁹ The Editors of the *Encyclopaedia Britannica*, Sykes-Picot Agreement, In: *Encyclopaedia Britannica*, available at: <https://www.britannica.com/event/Sykes-Picot-Agreement> (Accessed 30.3.2020).

²¹⁰ Housden, *The League of Nations*, 86f.

²¹¹ D.K. *Fieldhouse*, *Western Imperialism in the Middle East 1914-1958* (Oxford/New York 2006) 61f.

²¹² Mustafa Kemal (1880-1938) was the first President of the Turkish Republic in 1923 until his death in 1938. He played an essential role in Turkey's transformation into a secular state. See: van Ginneken, *Historical Dictionary*, 117.

Anatolia and Eastern Thrace and thus the National Resistance Movement was able to achieve one of its major aims of the “National Pact”, namely to unite the territories with a Turkish majority in one state. After this, the Turkish Republic was officially proclaimed on 29 October 1923.²¹³

However, the question about the future of the Vilayet of Mosul remained unanswered at the negotiations in Lausanne. Turkey demanded the territory due to ethnic, political, economic, historical, geographic as well as military and strategic reasons. Thus, the disputing states, Turkey and the United Kingdom, which administrated the region within the League’s Mandate for Iraq, left this question for upcoming bilateral negotiations.²¹⁴ In this context, Article 4 of the Treaty of Lausanne determined:

“The frontier between Turkey and Iraq shall be laid down in friendly arrangement to be concluded between Turkey and Great Britain within nine months.

In the event of no agreement being reached between the two Governments within the time mentioned, the dispute shall be referred to the Council of the League of Nations.

The Turkish and British Governments reciprocally undertake that, pending the decision to be reached on the subject of the frontier, no military or other movement shall take place which might modify in any way the present state of the territories of which the final fate will depend upon that decision.”²¹⁵

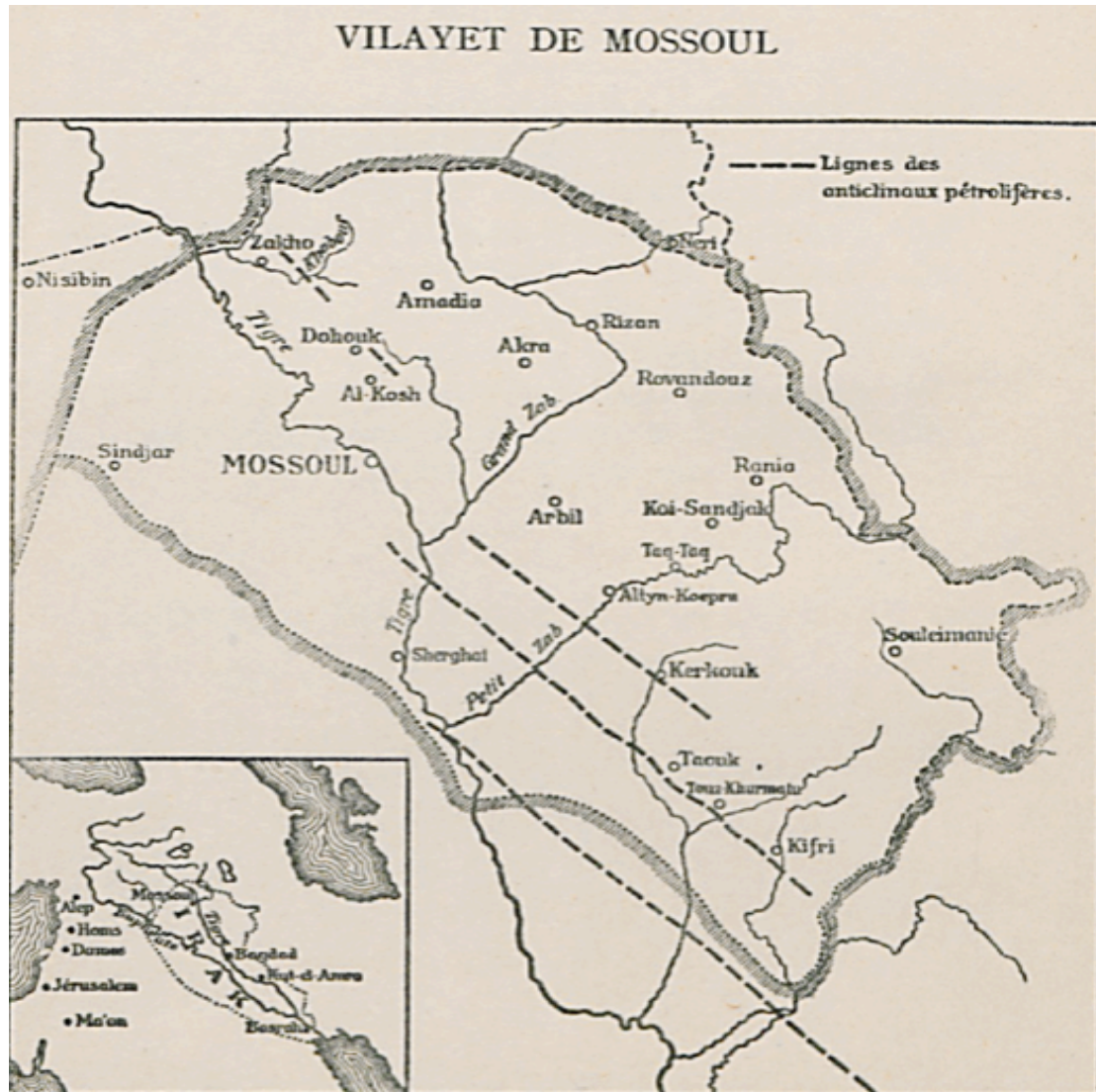
According to this clause of the treaty, the conflict parties received the chance to solve this dispute among each other before it would be submitted to the Council of the League. But during these proceedings, they had to pay attention to not change the status quo by, for example, making any military movements near the disputed territory. Still, the British and Turkish government unsuccessfully tried to reach an agreement at the Golden Horn Conference in Constantinople from 19 May to 5 June 1924 on this matter. These deliberations proved to be very problematic, because both of the disputants had absolutely contrary standpoints on this conflict. While the Turkish government claimed the whole Vilayet of Mosul for itself, the British government was not up for discussion whether the region stays under its control or not. On the contrary, it considered it as more important to establish a stable frontier between the Vilayet of Mosul and Turkey. Therefore, the British government argued, on the one hand, that there was a small region north of the frontier of the region that was neither under effective British nor under Turkish control. On the

²¹³ Zürcher, Turkey, 138-168.

²¹⁴ Nevin Coşar, Sevtap Demirci, The Mosul Question and the Turkish Republic: Before and after the Frontier Treaty, 1926, In: Middle Eastern Studies, Vol. 42, No. 1 (2006) 125f.

²¹⁵ Article 3, § 2, Treaty of Lausanne, In: The World War I Document Archive, available at: https://wwi.lib.byu.edu/index.php/Treaty_of_Lausanne (Accessed 10.3.2020).

other hand, it asserted that the current frontier would be difficult to defend.²¹⁶ As the disputing governments were not able to achieve an agreement within the predetermined time-limit of nine months, the British government fulfilled the provisions of Treaty of Lausanne and brought the dispute before the League's Council on 6 August 1924. However, it officially defined the issue as a conflict over the drawing of the frontiers of the Mandate of Iraq and did not mention that the dispute actually concerned the question, to which country the Vilayet of Mosul should be part of in the future.²¹⁷



Map 4: The Disputed Vilayet of Mosul

Source: P.E.J Bomli, *L'Affaire de Mossoul* (Amsterdam 1929) Preface.

²¹⁶ Ranjdar Azeez Al-Jaf, *British Policy towards the Government of the Mosul Vilayet 1916-1926* (doctoral dissertation University of Leicester 2018) 170-172.

²¹⁷ Coşar, Demirci, *The Mosul Question and the Turkish Republic*, 126.

5.2 The Begin of the Council's Involvement

After the Council's involvement began when the British government submitted the dispute to it, in the opening phase of the proceedings it requested memoranda from both disputants with their standpoints on this issue in order to prepare its next steps. Furthermore, the Council appointed the Swedish representative, Hjalmar Branting,²¹⁸ as Rapporteur in its proceedings on this conflict.²¹⁹

In order to emphasise that the frontier that was proposed by the British government is the fairest solution to solve this dispute, it delivered several ethnic, political, historical, economic and strategic reasons to underline its argument in its memorandum. The government argued that it would be illegitimate to fulfil the Turkish claim to unite the Vilayet of Mosul with Turkey due to the rather small Turkish population in the region. Based on this, it continued that it would be very difficult to integrate the disputed territory, because other ethnic groups like the Arabs or the Assyrians would not be respected in this context. In this context, the government stated further that, besides the wishes of the Turkish minority, especially the Arabs, the Christians and the Yezidis, which made up nearly half of the population of the Vilayet, desired to stay within Iraq. Furthermore, it asserted that there have been strong economic ties between the region and the rest of Iraq, which was particularly evident from their intensive trade. Strategically, it considered the proposed frontier as ideal, especially because the frontier region is mostly uninhabited and it would be easier to defend.²²⁰

Against that, the argumentation of the Turkish government in its memorandum was specifically based on the falsification of the British assertions. Therefore, it first of all claimed that the conflict between the disputants is not based on the question about the frontier of Iraq, but whether the Vilayet of Mosul should be a part of Turkey or Iraq. Furthermore, the Turkish government considered that all ethnographical, political, historical, geographic, economic and strategic factors would support that the Vilayet should stay a part of Turkey. It grounded its considerations primarily on the centuries-long belonging of the region to the Ottoman Empire. Additionally, according to Turkish estimations, the majority of the population was Turkish and Kurdish. Hence the government claimed that these ethnic groups would desire to be part of Turkey. Based on this, the only solution for the Turkish government to settle this conflict would be a plebiscite about the future belonging of this territory in order to fulfil the desire of the population.²²¹

²¹⁸ Sweden was at that time a non-permanent member of the Council. See List of Representatives. Thirtieth Session of the Council, In: League of Nations Official Journal, Vol. 5, No. 10 (1924) 1283.

²¹⁹ Makko, Arbitrator in a World of Wars, 635.

²²⁰ Memorandum on the Frontier between Turkey and Iraq. Frontier between Turkey and Iraq. Annex 680, In: League of Nations Official Journal, Vol. 5, No. 10 (1924) 1566-1573.

²²¹ Memorandum from the Turkish Government regarding the Frontier between Turkey and Iraq. Frontier between Turkey and Iraq. Annex 680a, In: League of Nations Official Journal, Vol. 5, No. 10 (1924) 1574-1583.

The memoranda by the disputing governments revealed the Council that the conflict parties totally diverged on their demands, as the British government claimed to fix a frontier between Turkey and the Vilayet of Mosul, while the Turkish considered a plebiscite about the future of the territory as the only answer to the conflict. Based on this, the negotiations before the Council began on 20 September 1924 within its 30th session in order to answer several preliminary questions that had to be solved so that the Council was able to plan its further actions. On this occasion, the involved parties received again the possibility to present their standpoints on this conflict at the beginning of the meeting. Therefore, the British representative, Lord Parmoor, interpreted the clause of the Treaty of Lausanne concerning the Vilayet of Mosul and commented the Turkish idea of a plebiscite. First of all, he argued that there would be a difference in opinion between the Turkish and his government concerning the clause of the treaty, which states that the frontier between Turkey and Iraq should be laid down in an agreement after the conclusion of the Treaty of Lausanne. The representative emphasised that his government interpreted this as a necessity to clearly define the frontier between Turkey and Iraq north of the Vilayet of Mosul. However, he regretted that the Turkish government considered that this dispute was not about the frontier line, but whether the region should be part of Turkey or Iraq. Hence Lord Parmoor remembered the Council that its task within the settlement of this conflict was the definition of a clear frontier between Turkey and the Vilayet of Mosul. Furthermore, concerning the question of the upcoming procedure of the Council, he rejected the idea of a plebiscite, which was proposed by the Turkish government in its memorandum, and favoured the appointment of a Commission of Enquiry that should investigate the conflict in order to contribute to its settlement.²²²

The Turkish representative, Fethi Bey, emphasised in his statement that the Vilayet of Mosul had been an integral part of Turkey, until the British government appended it to Iraq. Considering this, he argued that the opposing government did not submit the factual dispute to the Council, as this would actually be the question about the future belonging of the region and not the definition on the frontier line. Subsequently, he repeated the content of the memorandum that his government had already sent to the Council. At the end of his statement, the representative repeated that his government considers a plebiscite as the only solution for this dispute. Thus, he regarded the appointment of a Commission of Enquiry as not appropriate, because it would not be possible for such a Commission to examine the actual desires of the population.²²³

After both representatives had ended their statements, Branting asked them a few more questions about the clause of the Treaty of Lausanne in order to examine the Council's position in these

²²² The Question of the Frontier between Turkey and Iraq. Article 3 (2) of the Treaty of Lausanne. Ninth Meeting (Public). Thirtieth Session of the Council, In: League of Nations Official Journal, Vol. 5, No. 10 (1924) 1318f.

²²³ Frontier between Turkey and Iraq. Ninth Meeting. Thirtieth Session, 1320-1323.

deliberations to determine its capability to settle this dispute. First of all, he was interested to find out how the British and Turkish delegations at the Conference of Lausanne did understand the role of the Council in case of failure of bilateral negotiations would fail. The second question concerned the meaning of the words used in the Treaty of Lausanne “*the frontier between Turkey and Iraq*”, because that decided whether this clause meant that either the northern frontier between the Vilayet of Mosul and Turkey would have to be redefined or that the Council would have to decide if the region were to be part of Turkey or Iraq. Finally, the Rapporteur asked both, if the Council is only able to choose between these two proposals or if it can examine any other solutions.²²⁴

The British representative answered the first question by asserting that his government considers the role of the Council in connection with the Treaty of Lausanne as an arbitrator whose judgement has to be accepted in advance by both parties. Regarding the second question, Lord Parmoor argued that it should be up to the Council to determine the exact meaning of this provision. Finally, the representative claimed that according to his government, the Council is according to the Treaty of Lausanne competent to find a solution for this conflict.²²⁵

Fethi Bey answered the first question by arguing that his government recognises the power of the Council to solve such disputes according to the Covenant of the League of Nations, which he interprets as those of a mediator. Then he criticised the interpretation of the British government regarding the clause of the Treaty of Lausanne and he emphasised that the British annexation of the Vilayet was unlawful as the Turkish government never agreed with this approach. Considering Branting’s last question, Fethi Bey claimed that his government insists on defining the southern border of the Vilayet as a frontier between Turkey and Iraq or it would preferentially support any solution that was decided based by the will of the population of the region.²²⁶

According to the representatives’ answers, the Rapporteur got the impression that both of the disputants would be willing to accept the Council’s decision on settling this dispute in advance. Touching on the answers of the two other questions, he concluded that for the next steps of the negotiations it would be essential to define the exact subject of the dispute that was submitted to the Council is exactly and which limits to its actions to settle the conflict are to be set. In order to find out the precise duties of the Council, he asserted that he has to consult the disputants on this matter to prepare the next moves of the Council.²²⁷

²²⁴ The Question of the Frontier between Turkey and Iraq. Article 3 (2) of the Treaty of Lausanne. Eleventh Meeting (Public). Thirtieth Session of the Council, In: League of Nations Official Journal, Vol. 5, No. 10 (1924) 1337.

²²⁵ Frontier between Turkey and Iraq. Eleventh Meeting. Thirtieth Session, 1337f.

²²⁶ Frontier between Turkey and Iraq. Eleventh Meeting. Thirtieth Session, 1338f.

²²⁷ Frontier between Turkey and Iraq. Eleventh Meeting. Thirtieth Session, 1339.

Branting's consultations with the representatives confirmed again that the conflict parties would be ready to accept the decision of the Council in the settlement of this conflict, but only under particular terms. Lord Parmoor claimed that his government would accept the Council's solution, if it will determine the best possible frontier between Turkey and Iraq. Against that, Fethi Bey emphasised that his government requires the recognition of the wishes of the Vilayet's population for their consent on the Council's future decision. Based on these statements, Branting suggested that the conflict should be investigated by a Commission of Enquiry in order to prepare a settlement. This plan was accepted by both of the representatives. Therefore, the Council adopted a resolution on 30 September 1924 at the suggestion of Branting, which determined that a Commission of Enquiry should be appointed in order to gather information and conclude suggestions to assist it in reaching a decision. Furthermore, the resolution indicated that the Commission should fix its own approach as well as that its composition should be set up by the president of the Council and the Rapporteur.²²⁸

5.3 De-escalating Measures

However, although the negotiations before the Council proceeded, the relations between Turkey and the United Kingdom remained very tense, because there was still no defined frontier between Turkey and Iraq. At the beginning of October 1924, there were hostilities in the border region among Turkish infantry and British troops, which clearly contradicted Article 3 of the Treaty of Lausanne. This provision indicated that no military movement is allowed to take place near the disputed region until the exact status about the Vilayet of Mosul was determined. Therefore, the Turkish government accused the United Kingdom of violating the status quo with their military movements. However, it has to be taken into account that there was still no defined frontier between the two countries, so it was difficult to say whether any military movements violated the status quo or not. Reacting on this, the Secretary-General, Drummond, initiated an extraordinary Council session on 27 October in order to cease the hostilities.²²⁹

At the beginning of this session, Lord Parmoor made a statement in which he described the current situation at the frontier region between Turkey and Iraq. Regarding the prevailing military movements by the Turkish army, he argued that it would be impossible for the appointed Commission of Enquiry to fulfil its task under these insecure circumstances. The British representative continued by asserting that his government regarded these movements as a violation

²²⁸ The Question of the Frontier between Turkey and Iraq. Article 3 (2) of the Treaty of Lausanne. Seventeenth Meeting (Public and then Private). Thirtieth Session of the Council, In: League of Nations Official Journal, Vol. 5, No. 10 (1924) 1358-1360.

²²⁹ Makko, Arbitrator in a World of Wars, 636.

of the Treaty of Lausanne. The representative accused the Turkish government of having sent troops to the frontier region, which also crossed the Iraqi frontier. He further claimed that his government sent their aeroplane patrols to the conflict region in order to observe the activities of the Turkish troops in the occupied area, where they were attacked by the Turkish army.²³⁰

Contrary to this, the Turkish representative claimed that it was not his government that acted in contradiction to the Treaty of Lausanne, but the British did. On the one hand, he accused the British government of violating the status quo by the military occupation of further parts of the Vilayet of Mosul after the conclusion of the Treaty of Lausanne on 24 July 1923, which violated as well Article 3 of the Treaty of Lausanne.²³¹ On the other hand, Fethi Bey tried to defend the movements of the Turkish troops by arguing that it was the British government that illegally occupied territory north of the frontier of the Vilayet of Mosul. Consequently he insisted that the Turkish military operations were only focused on maintaining the status quo.²³²

When Branting examined these statements by the representatives, he deduced the non-existent definition of the territorial status quo between the two countries at the time of the conclusion of the Treaty of Lausanne as the primary source of these hostilities. In order to clarify this and to maintain peace during the further deliberations, he suggested a provisional frontier that should be in force until the conflict was finally settled. Both of the representatives agreed on this and the Council adopted a resolution that included the definition of this provisional frontier on 29 October.²³³

5.4 Wirsén Commission

As the Council accomplished to prevent a war, the appointed Commission of Enquiry was now able to start its examinations. Initially the Council and the Rapporteur had to determine its members in accordance with the resolution of 30 September 1924. Therefore, Sweden played an essential role within the Commission of Enquiry as its government appointed Carl Einar Thure af Wirsén, former Swedish military attaché in Constantinople and Sofia during World War I and well-known expert of Middle Eastern Affairs, as its member. The two other members of the Commission were Pál Teleki

²³⁰ The Question of the Frontier between Turkey and Iraq. Interpretation of the Council's Resolution of September 30th, 1924. First Meeting (Public). Thirty-First (Extraordinary) Session of the Council, In: League of Nations Official Journal, Vol. 5, No. 11 (1924) 1648-1650.

²³¹ Article 3 of the Treaty of Lausanne prohibited any military movement in the region and therefore any shift of British troops in the Vilayet of Mosul would be illegal.

²³² Frontier between Turkey and Iraq, Interpretation. First Meeting. Thirty-First Session, 1650-1653.

²³³ The Question of the Frontier between Turkey and Iraq. Interpretation of the Council's Resolution of September 30th, 1924. Provisional Boundaries between the Territories Occupied and Administered by the two Governments Concerned. Third Meeting (Public). Thirty-First (Extraordinary) Session of the Council, In: League of Nations Official Journal, Vol. 5, No. 11 (1924) 1659-1662.

and Albert Paulis. Teleki was a prominent geography professor and former Hungarian prime minister and Paulis was a captain in the Belgian army who served in Congo. As the Commission was finally composed, it asked the governments of the disputants to send them assistants who should support them in their task. The British government sent Robert Jardine and the Turkish appointed General Cevat Pasha Cobanli. Additionally, Professor Johannes Hendrik Kramers of the University of Leiden was delegated as the Commission's official translator.²³⁴

Once the Commission of Enquiry was constituted, it began its work on 13 November 1924 by analysing in a first step all the essential documents in order to gather information about the dispute, at which it especially examined the minutes of the Conference of Lausanne and the Council sessions as well as the memoranda that were sent to the Council by the disputing governments. Based on this, the commissioners prepared a general plan of their further examinations. They came to that conclusion that it was at first necessary to gather information from the concerned governments itself and some of them had to be collected on the spot in the conflict region. Before the Commission had departed from Geneva, it sent a questionnaire to both of the governments in order to collect the necessary information from them. Additionally, at this meeting, the Commission elected Wirsén as its president.²³⁵

Thus, in a next step, the Commission arrived in London on 24 November, where they started the first phase of gathering information with consultations with the British government. There, it was received by the foreign ministry and the colonial ministry. The commissioners had several meetings and interviews with experts of these ministries. During these meetings, they examined the questions of their questionnaire. After the Commission fulfilled its task in London, it continued its journey to Ankara, which it reached on 3 January 1925. In Ankara, the commissioners met several representatives of the Turkish government with which they discussed the same questionnaire. Furthermore, the Commission continued to Konieh, where it met the Turkish president, Mustapha Kemal.

Subsequently, the second phase of its examinations began when the Commission left Turkey and arrived in Baghdad on 16 January 1925. At first, the commissioners met the British High Representative of Iraq, Henry Dobbs, and King Faisal,²³⁶ who shared with them their views on the conflict. In the further course of their visit, they studied the economic relations between Vilayets of Mosul and Baghdad within the Ottoman Empire as well as the current administrative methods and

²³⁴ Makko, *Arbitrator in a World of Wars*, 636f.

²³⁵ Question of the Frontier Between Turkey and Iraq. Report Submitted to the Council by the Commission Instituted by the Council Resolution of September 30th, 1924 (Geneva 1925) 5.

²³⁶ King Faisal (1883-1933) was appointed as King of Iraq by the United Kingdom in 1921 in order to end the riots in the country which occurred in consequence of the establishment of the British Mandate administration by the League. See: van Ginneken, *Historical Dictionary*, 83.

the political situation of Iraq. In this context, they visited several public institutions for the political part along with markets, granaries and wood depots in the commercial centres of Baghdad for the economic aspect of the examinations. After it finished this task, the Commission left Baghdad for Mosul, which it reached on 27 January. As they arrived there, the commissioners started to speak incognito with different inhabitants of the city in order to gather information about their views of the population on this conflict.²³⁷ They described this approach in their report as follows:

“In the meantime, however, the Commissioners had been able privately – incognito, so to speak – to form some idea of the views of the population. (...) With the object of acquiring general information, they had visited the bazaars and the different quarters of the town, as well as the prison. They visited unaccompanied certain persons in the town whose experience and knowledge of the country were well known. They were thus enabled to form a general idea of the situation, while at the same time obviating the possibility of pressure or propaganda by either party.”²³⁸

Thus, the Commission primarily tried to integrate the desires of the population in their examinations by only asking a limited number of people in the streets in the city of Mosul. So, the wishes of the population played only a negligible role for the Commission.

When they finished their examinations in Mosul, they split up to continue their enquiries in various regions of the Vilayet of Mosul. There, the commissioners visited especially different Arab and Kurdish tribes and had consultations with representatives of them. Subsequently, the Commission reunited in Mosul and departed to the region where the provisional frontier between Turkey and Iraq runs. First of all, the population residing there was questioned. Furthermore, they made several flights across the frontier region in order to make geographic observations on this area. Subsequently, they returned to Mosul on 18 March and finalised their examinations. In the end, the Commission met back in Geneva on 20 April and began to outline its report.²³⁹

Finally, the Commission’s report was presented on 7 August 1925 to the public.²⁴⁰ Its examinations delivered the basis for considerations on several aspects of the conflict, namely geography, ethnicity, history, economy, strategy and politics. First of all, the report engaged with the aspect of geography, at which the Commission examined the proposed frontiers by the conflict parties as well as the geographical constitution of the territory. On the one hand, it defined the frontier between Turkey and Iraq, that was proposed by the British government, as a good one, because it runs south

²³⁷ Frontier Between Turkey and Iraq. Report, 6-9.

²³⁸ Frontier Between Turkey and Iraq. Report, 9.

²³⁹ Frontier Between Turkey and Iraq. Report, 10-13.

²⁴⁰ Makko, Arbitrator in a World of Wars, 640.

of a mountain range, which it considered as an effective line of delimitation. On the other hand, the Commission regarded the frontier that was proposed by the Turkish government (the southern border of the Vilayet of Mosul) as geographically considerable, as it proceeds partly through the desert and is partly demarcated by great rivers. In general, the commissioners argued that the Vilayet consists out of two geographic regions, whereby the northern region has more affinities with South-Eastern Anatolia, while the southern region is more closely connected to Iraq.²⁴¹

Considering the ethnic composition of the disputed territory, the Commission claimed that the population of the Vilayet was neither Turkish nor Arab, but Kurdish. For this conclusion it used other statistics than the British and Turkish government had provided, namely the latest that were surveyed by the Iraqi government. The commissioners deemed them as the most accurate. The report continued by asserting that the Kurds and the Arabs were the only ethnic groups which form a majority of population in larger territories, while the others, such as the Turks, were more scattered. Based on this, the Commission argued that the only frontier that could be drawn based on ethnic reasons, would be between the Kurds and the Arabs. However, it advised against the realisation of this frontier, because it would bring economic and social disadvantages, as it, for example, separates the city of Mosul from its fruitful hinterland. Furthermore, the report claimed that those parts of the region, which are populated by Turks, are located in the south of the Vilayet and therefore they are considered to be far away from Anatolia. Hence it would be difficult to integrate them into Turkey.²⁴²

Historically, the Commission argued that, although the Vilayet of Mosul was for centuries part of the Ottoman Empire, that rule was in fact executed by the Pashas of Baghdad (the local administrators of the region within the Ottoman Empire). Thus, it claimed that it has to be respected that the disputed region and Baghdad have strong historical links to each other. However, the Commission argued that in general frontiers do not always have to be determined by historical links as, for example, South-Eastern Anatolia has as well historical ties to Baghdad, but it stayed anyway a part of Turkey. Therefore, it concluded that both of the frontiers that were proposed by the disputing governments would break historical connections.²⁴³

From an economic perspective, the Commission recommended that the Vilayet of Mosul should remain a part of Iraq. According to its report, the two most important trade channels of the disputed region led to Baghdad and Syria and there was only little trade with Anatolia. Considering this, every frontier between Turkey and Iraq within the Vilayet of Mosul or between it and Iraq would lead to economic problems. On the one hand, it would be difficult to separate Mosul from its

²⁴¹ Frontier Between Turkey and Iraq. Report, 86.

²⁴² Frontier Between Turkey and Iraq. Report, 86f.

²⁴³ Frontier Between Turkey and Iraq. Report, 87.

hinterland next to the provisional Turkish border, because the Commission regarded this region as the natural economic sphere of the city. On the other hand, there are other areas of the Vilayet, such as Kirkuk, which are far more economically connected with Baghdad as with the city of Mosul, because they exclusively trade with it. Therefore, the Commission concluded that any separation of these areas from Baghdad would be economically difficult. Considering these findings, from an economic point of view the Commission concluded that the most acceptable frontier should be drawn north of the river Lesser Zab (in the north of Kirkuk), in case of the Council would decide for a partition of the region.²⁴⁴

In a next step, the report occupied itself with strategic aspects on the frontiers which were proposed by the disputants. Strategically, the Commission considered the British proposal as an excellent one due to its mountainous landscape which would be better defensible. Furthermore, it determined that the current provisional frontier delivers approximately the same advantages as the British proposal. Regarding the frontier that was claimed by the Turkish government, namely the southern frontier of the disputed territory, which would run through the desert and then along the Tigris, the Commission was biased. It considered the part which would run through the desert as strategically good. However, the report continued that this would not be the case for the other section along the Tigris, because there runs an important road for military movements which would make it difficult to defend. Additionally, the Commission argued that it would not be possible to draw a strategic good frontier through the Vilayet of Mosul in order to part it due to its geographic constitution.²⁴⁵

After that, the report concerned with the political aspects of this conflict. First of all, the Commission asserted that from a legal point of view, the Vilayet of Mosul must be defined as a part of Turkey until it officially renounces its lawful claim. It was not possible that Iraq claimed the territory based on the right of conquest or on any other right. The Iraqi government could only rely on moral arguments such as the integration of the region into Iraq which would allow the country a better development. Consequently the Commission emphasised the British support in form of the Mandate administration, which especially brought progress in the fields of general security, public health and education. In order to guarantee the continuance of these developments, the Commission recommended that Iraq should stay 25 more years under the British Mandate administration. Furthermore, the Commission addressed the wishes of the population. Regarding this, it came to the conclusion that the interrogated persons desired that the territory should stay a part of Iraq and not become one with Turkey. However, the commissioners argued that most of them saw advantages in the Mandate administration and did not prefer to stay with Iraq directly. At the end of this section, the Commission noted that based on these political considerations, it was of the opinion that the

²⁴⁴ Frontier Between Turkey and Iraq. Report, 72.

²⁴⁵ Frontier Between Turkey and Iraq. Report, 74.

partition of the Vilayet of Mosul between Turkey and Iraq would not lead to political difficulties between them.²⁴⁶

Finally, based on all of the examined aspects, the Commission concluded that it would not be of advantage for the population of the disputed territory, if it were partitioned. By regarding especially economic and geographic aspects as well as the desires of the population, the commissioners decided that it would be better, if the Vilayet of Mosul were to stay a part of Iraq. However, they recommended that for this outcome certain terms should be fulfilled. On the one hand, Iraq should stay under the Mandate administration for 25 more years. On the other hand, the desires of the Kurdish population should become more respected. It emphasised that serious political difficulties will occur, if these terms are not be implemented. In this case, the Commission recommended to still attach the territory to Turkey due to its more stable political situation. At the end, the Commission claimed, that in case the Council were to decide to part the territory, the best frontier would be along the Lesser Zab. Subsequently, it added several special recommendations which were not in accordance with its actual task according to the Council's resolution, but it considered them as essential for stable conditions in the disputed territory. First of all, in order to ensure peace, any complaints by the population should be taken care of and those wishing to emigrate due to reasons such as being affiliated to a neighbouring nation, should become supported. Furthermore, the different minorities of the Vilayet of Mosul need to be protected, especially religious freedom should be assured. Additionally, commercial measures ought to be implemented. Whether the territory will be a part of Turkey or Iraq, or it will be parted, economic agreements should be concluded between the two countries as well as with Syria in order to secure their existing trade relations.²⁴⁷

Although the Wirsén Commission argued in the final conclusions of its report that it would favour the remaining of the Vilayet of Mosul with Iraq, it doubted the legitimacy of such a solution in its considerations on the different aspects of this conflict. Indeed it argued on the one hand that the territory should remain part of Iraq due to the wishes of the population as well as economic and geographic reasons. But on the other hand, the report questions this as it for example claimed that the separation of the Vilayet from Turkey had no legal foundation or that the ethnographical composition of the region is neither Turkish nor Arab though primarily Kurdish. Thus, the Commission was not able to clearly approve the affiliation of the Vilayet of Mosul with Iraq and consequently indicated the Council's other solution for the settlement of the dispute in addition, namely the partition of the territory and its attachment to Turkey. The report mentioned the possibility of partitioning the Vilayet of Mosul on several occasions, but without directly

²⁴⁶ Frontier Between Turkey and Iraq. Report, 88.

²⁴⁷ Frontier Between Turkey and Iraq. Report, 88-90.

recommending it. For example, it advised against this from an economic perspective, though it claimed that in case of the Council were to decide for a partition, the best possible frontier would be along the Lesser Zab. Concerning the attachment of the Vilayet to Turkey, the Commission advocated such a scenario only if the British Mandate administration for Iraq was not prolonged for 25 more years. It argued that otherwise the political conditions in Iraq would be much more instable than in Turkey and therefore it would be better for the disputed territory to be part of the latter. Hence the report provided the basis for different solutions for this conflict and it was now up to the Council to decide with which of these possibilities a stable agreement would be possible.

5.5 Negotiations in Reaction to the Report of the Wirsén Commission

While the Wirsén Commission fulfilled its task in the conflict region, military activities on both sides however continued and the situation stayed very tense. The Turkish army was at that time occupied with putting down a Kurdish rebellion in the south-east of the country. At the same time, the British Army faced Kurdish demonstrations militarily on the other side of the frontier. The publication of the Commission's report on 7 August 1925 could not ease the tensions, rather a new outbreak of violence occurred. In this context, many incidents between Turkish border guards and British soldiers took place and both of the disputants mobilised their troops.²⁴⁸ Therefore, as the Council concerned itself again with the dispute over the Vilayet of Mosul on 3 and 4 September 1925 within its 35th session, it discussed at first the circumstances of the frontier region. In this context, the Turkish representative, Tefkiv Rouschdy Bey, argued that his government was provoked by British military movements, as they were violating Turkish territorial waters and air space. On the other hand, the British representative, Leo Amery, did not see these allegations as justified, he on the contrary rather accused Turkish soldiers of violating the provisional frontier on several occasions.²⁴⁹

In a next step, the president of the Council, Aristide Briand,²⁵⁰ channelled the discussion in the direction of the report of the Commission of Enquiry. In this context, he argued that the efforts of the representatives of the disputing governments to clear the nature of these incidents showed that they are both interested in the de-escalation of the situation. Therefore, Briand demanded that they should now discuss the main reason of this incident, namely the dispute over the Vilayet of

²⁴⁸ Makko, *Arbitrator in a World of Wars*, 641.

²⁴⁹ Question of the Frontier between Turkey and Iraq. Third Meeting (Public). Thirty-Fifth Session of the Council, In: *League of Nations Official Journal*, Vol. 6, No. 10 (1925) 1307f.

²⁵⁰ Aristide Briande (1862-1932) served as France's prime minister as well as foreign minister. He was a strong supporter of the League and played an essential role in the conclusion of the Locarno Treaties. See: van Ginneken, *Historical Dictionary*, 50.

Mosul.²⁵¹ Accordingly, the new Rapporteur, Östen Undén,²⁵² invited the representatives in his speech to discuss the findings of the Wirsén Commission.²⁵³

The British representative was not really able to criticise the report as it was strongly in favour of the standpoints of his government. This was also evident as Amery complimented very explicitly the Commission to its examinations and its report. Considering the terms which the report set for the continuance of the union between the disputed territory and Iraq, he claimed that his government would be willing to fulfil them. On the one hand, he asserted that the British government would be ready to prolong its support for the Iraqi government in order to further the development and stability of the country, as long as the Council would support this. On the other hand, it would also support the second provision, which concerns the desires of the Kurdish population. In this context, he argued that the current system, which already includes several of the positions of the Commission, should be advanced.²⁵⁴

On the contrary to this, the Turkish representative, Tefkiv Rouschdy Bey, criticised the report heavily. First of all, he condemned the conclusions by the Commission. Although he argued that the facts on the different aspects of this conflict are mostly correct, he accused the Commission of gathering false conclusions out of them. He was of the opinion that these facts would actually support that the disputed territory should be a part of Turkey and not of Iraq. Furthermore, he denounced the Commission's approach in gathering the wishes of the population. He argued that the number of interrogated people was way too little to determine the desires of the population and that they have surely responded in favour of Turkey, if the prolongation of the British Mandate had not been part of its questions.²⁵⁵

In reaction to this discussion, Undén proposed the appointment of a Sub-committee of the Council in order to plan the next steps of the deliberations in consideration of the findings of the Wirsén Commission and the reactions of the representatives. The president of the Council supported this idea and suggested that the committee should consist out of the Rapporteur as well as the Spanish representative, José María Quiñones de León, and the Uruguayan representative, Alberto Guani.

²⁵¹ Frontier between Turkey and Iraq, Third Meeting, Thirty-Fifth Session, 1310.

²⁵² Branting's compatriot Undén was appointed as his successor, because he died on February 24th 1925 after illness. Undén was former Swedish foreign minister as well as representative of his country in the Council, See Makko, *Arbitrator in a World of Wars*, 639.

²⁵³ Report by M. Undén, Adopted by the Council on September 3rd, 1925. Question of the Frontier between Turkey and Irak. Annex 789, In: *League of Nations Official Journal*, Vol. 6, No. 10 (1925) 1434f.

²⁵⁴ Question of the Frontier between Turkey and Iraq. Third Meeting (Public). Thirty-Fifth Session of the Council, In: *League of Nations Official Journal*, Vol. 6, No. 10 (1925) 1310-1314.

²⁵⁵ Question of the Frontier between Turkey and Iraq. Fourth Meeting (Public). Thirty-Fifth Session of the Council, In: *League of Nations Official Journal*, Vol. 6, No. 10 (1925) 1318-1327.

None of the representatives had any objections to make on this plan and thus the Council adopted its resolution on the appointment of the Sub-committee.²⁵⁶

5.6 The Sub-committee and its Consequences

When the Sub-committee finished its examinations, it proposed that the remaining unclear questions on the Council's position in the proceedings should be submitted to the Permanent Court of International Justice (PCIJ) for an advisory opinion. As Undén presented the Sub-committee's report in the Council's meeting on 19 September 1925 still within its 35th session, he justified this proposal by arguing that there are still preliminary questions to be clarified in order to finally settle this dispute. He further stated that, on the one hand, it has to be defined, which sort of decision the Council should take according to the Treaty of Lausanne, namely if it has the character of an arbitral award, a recommendation or a mediation. On the other hand, he claimed that it has to be determined, if the decision of the Council has to be unanimous or taken by a majority and if the representatives of the concerned parties will be able to vote on that or not.²⁵⁷ This conclusion by the Sub-committee was heavily influenced by the growing unwillingness of the Turkish government to accept a disadvantageous decision of the Council, which, for example, became more and more apparent in the statements of its diplomats. Considering this, the Sub-committee aimed to clarify, if the Turkish government was legally bound to accept any decision by the Council in accordance with the Treaty of Lausanne.²⁵⁸

The British representative received this report by the Sub-committee quite negatively due to the resulting delay of an agreement. Amery regretted that by submitting this question to the PCIJ, the final settlement of this conflict will be further postponed. The representative indicated that as long as the Council's decision on this issue will be postponed, the incidents in the frontier region will continue. He additionally referred to the deportation of Christian inhabitants on the Turkish side of the provisional frontier, which violated again the status quo. Furthermore, Amery claimed that the first question regarding the character of the Council's decision should already be clarified, because in an earlier step of the negotiations, the representatives of both disputing states assured that they would accept its decision.²⁵⁹

Tefkiv Rouschdy Bey was also very sceptical about the Sub-committee's conclusions, because his government refused to accept any decision by the Council which would contradict its interests. He

²⁵⁶ Question of the Frontier between Turkey and Iraq. Sixth Meeting (Public). Thirty-Fifth Session of the Council, In: League of Nations Official Journal, Vol. 6, No. 10 (1925) 1337.

²⁵⁷ Question of the Frontier between Turkey and Iraq. Fourteenth Meeting (Public). Thirty-Fifth Session of the Council, In: League of Nations Official Journal, Vol. 6, No. 10 (1925) 1377.

²⁵⁸ Makko, Arbitrator in a World of Wars, 641.

²⁵⁹ Frontier between Turkey and Iraq. Fourteenth Meeting. Thirty-Fifth Session, 1377f.

argued, concerning the affected clause of the Treaty of Lausanne, that his government did not have the intention to give the Council absolutely freedom in making a decision about the settlement of this conflict. Regarding this, the representative clarified that the Turkish government interpreted the role of the League as a mediator and not as an arbitrator. Therefore, he saw no reason for submitting these questions to the PCIJ. Furthermore, he underlined that his government will not accept that the Vilayet of Mosul will be a part of Iraq without its consent.²⁶⁰

Considering these statements by the representatives, the president, Briand, argued that the Council cannot value them, because its aim to settle this conflict on the legal basis of the Treaty of Lausanne would make it necessary to clarify these questions. Therefore, the Council ratified the conclusions of the Sub-committee anyway. In the further course of this meeting, the president initiated a discussion on another issue, namely the military movements of the disputants in the frontier region. He emphasised that this issue should not be neglected until the Council reached a final decision on this conflict. Regarding this, the Sub-committee did also prepare a report on this issue, in which it proposed that one or more representatives of the Council should be in the frontier region in order to investigate the situation and to report the occurrence of any incidents in the future. This proposal was based on a suggestion by the British government. The Sub-committee argued that this should contribute to de-escalate the situation until the PCIJ answered the raised questions and the deliberations on this conflict can continue.²⁶¹

Subsequently, the British representative explained his intentions to propose such a plan to the Sub-committee. As he already had reported in several letters to the Council, Amery stated again his concerns about the military actions against Christian villages by the Turkish army on both sides of the provisional frontier which he interpreted as a clear violation of the agreed status quo. Subsequently, the Turkish representative supported the proposal of such an investigation, but he argued that it should only take place south of the provisional frontier. Tefkiv Rouschdy Bey claimed that he does not define any territory north of this frontier as a disputed one and he sees no reason why the representatives of the Council should also examine this. The representative tried to legitimise the military actions against these villages by implying that rebellious activities had occurred there. Furthermore, he argued that this would be an internal Turkish affair and thus this issue has to be separated from the here discussed conflict over the Vilayet of Mosul. Therefore, he claimed that he has to request his government for the authority to discuss such an enquiry before the Council.²⁶²

²⁶⁰ Frontier between Turkey and Iraq. Fourteenth Meeting. Thirty-Fifth Session, 1379-82.

²⁶¹ Question of the Frontier between Turkey and Iraq. Fifteenth Meeting (Public). Thirty-Fifth Session of the Council, In: League of Nations Official Journal, Vol. 6, No. 10 (1925) 1382f.

²⁶² Frontier between Turkey and Iraq. Fifteenth Meeting. Thirty-Fifth Session, 1383-1386

At the end of this discussion, the president asserted that based on the statements of the representatives, it appeared to him that they were both in favour of carrying out such an investigation as it was proposed by the Sub-committee. He further claimed that such an investigation could definitively take place south of the provisional frontier and there would be a possibility for an investigation in the north, if the Turkish government were to agree on this. Thus, the Council adopted the conclusions of the Sub-committee in a resolution on 25 September.²⁶³

5.7 Decision by the PCIJ and its Discussion before the Council

When the PCIJ published its advisory opinion on 21 November 1925, it clearly increased the Council's position within the deliberations as it replied to the Council's questions as follows:

“The Court is of opinion:

1. That the decision ‘to be taken’ by the Council of the League of Nations in virtue of Article 3, paragraph 2, of the Treaty of Lausanne will be binding on the Parties and will constitute a definitive determination of the frontier between Turkey and Iraq;
2. That the ‘decision to be taken’ must be taken by unanimous vote, the representatives of the Parties taking part in the voting but their votes not being counted in ascertaining whether there is unanimity.”²⁶⁴

Thus, the PCIJ decided that the Council is able to settle this conflict by an arbitral decision, which has to be taken unanimously whereat the votes of the two disputing parties would not be counted. Hence this advisory opinion totally countered the Turkish standpoints on this matter. However, it has to be considered that the Turkish government did not even try to convince the PCIJ from its interpretation of the clause of the Treaty of Lausanne concerning the Council's role within the negotiations as it denied to support it in its examinations in any way.²⁶⁵

In consequence of these definitive answers on the raised preliminary questions by the PCIJ, the proceedings before the Council continued in its meeting on 8 December within its 37th session. At the beginning of the meeting, the Rapporteur presented the answers of the PCIJ on the submitted questions and proposed the Council to adopt it. In reaction to this, the British representative, Amery, emphasised again that his government will accept any decision of the Council in order to

²⁶³ Frontier between Turkey and Iraq. Fifteenth Meeting. Thirty-Fifth Session, 1386.

²⁶⁴ Question of the Frontier between Turkey and Iraq: Advisory Opinion of the Permanent Court of International Justice. Fourth Meeting (Public). Thirty-Seventh Session of the Council, In: League of Nations Official Journal, Vol. 7, No. 2 (1926) 121.

²⁶⁵ Makko, Arbitrator in a World of Wars, 643.

solve this dispute and he prompted the Turkish government to do the same as representative Fethi Bey had already reassured this during the Council meetings in September 1924.²⁶⁶

However, the Turkish representative, Munir Bey, clarified in his statement that his government was not ready to fulfil this demand. Regarding the advisory opinion of the PCIJ, he initially emphasised again that his government does not accept the Council as an arbitrator and that it was against the call of the PCIJ. He argued that the court only decided in favour of the British government, because his government refused to cooperate with it. After this, the representative repeated again in detail that his government never agreed on the Council's role as an arbitrator during the negotiations on the Treaty of Lausanne and later, which contradicted all the commitments of earlier stages of the negotiations in which other Turkish representatives stated that their government would accept the decision by the Council. Finally, Munir Bey closed his statement by emphasising that the Turkish government would only accept the Council as a mediator. Additionally, he criticised very harshly the opinion of the PCIJ that the interested parties should not vote on the final resolution for this conflict.²⁶⁷

When the Council subsequently wanted to vote on the adaption of the advisory opinion of the PCIJ, a dispute broke out between Munir Bey and the Rapporteur whether the interested parties should be allowed to participate in this vote. The Turkish representative argued that this vote has to be taken unanimously, which would mean that the advisory opinion could only be accepted if his government were to accept it. However, Undén claimed that in this vote the interested parties should not be included just as in the settlement of the main dispute. Munir Bey countered this argument by indicating that he does not see any legal basis for this whether in the Covenant of the League of Nations nor in the Treaty of Lausanne. But the president of the Council, Vittorio Scialoja, asserted that according to the Covenant, it would be up to the Council to set any questions of procedure concerning a vote and thus it would be possible to exclude the interesting parties from the vote. Munir Bey criticised this harshly and emphasised that his government never accepted that any negotiating steps should become concluded without its consent. Subsequently, the Council adapted the advisory opinion of the PCIJ without the Turkish acceptance.²⁶⁸ Thus, the decision of the PCIJ had finally succeeded in clarifying the preliminary questions on the Council's position within the deliberations. Consequently the Council was now able to determine an agreement on this conflict without the consent of the conflict parties.

²⁶⁶ Frontier between Turkey and Iraq. Fourth Meeting. Thirty-Seventh Session, 120f.

²⁶⁷ Frontier between Turkey and Iraq. Fourth Meeting. Thirty-Seventh Session, 121-127.

²⁶⁸ Frontier between Turkey and Iraq. Fourth Meeting. Thirty-Seventh Session, 127f.

5.8 Report from the Frontier Region by the Laidoner Commission

While the PCIJ worked on its advisory opinion, Johan Laidoner composed a Commission of Enquiry²⁶⁹ which fulfilled its investigations in the region of the provisional frontier in accordance with the Council's resolution of 24 September 1925.²⁷⁰ Laidoner himself was an Estonian general. He was assisted by the Czechoslovak Lieutenant-Colonel Jac and the Spaniard Ortega Nunez. Additionally, the Commission was assisted by two secretaries, the Estonian Markus and Charrère from the League's Secretariat. It started its examinations once it reached Baghdad on 26 October 1925 and finished its report on 23 November. Its investigations were limited to the area south of the provisional frontier, because the Turkish government still did not allow any investigations taking place on its territory. In Baghdad, the Commission analysed all the official documents concerning the frontier incidents such as the protests from the British against the Turkish government. Then they travelled to the Vilayet of Mosul, where they investigated the incidents in detail by gathering information from British and Iraqi authorities as well as interrogating refugees from Turkey.²⁷¹ Subsequently, Laidoner presented the report in the Council's meeting on 10 December 1925 within its 37th session. The Turkish government refused to send any representative to the Council as an act of defiance, because in its former meeting on this dispute the Council adopted the advisory opinion of the PCIJ against its will.²⁷²

In general, the Commission's report confirmed most of the British accusations against Turkey, namely the deportations of Christians by the Turkish army. However, the Commission examined different sorts of frontier incidents. On the one hand, raids by several tribal and village chiefs from one side of the provisional frontier to the other frequently occurred across the provisional frontier. Nevertheless, the Commission argued that this is especially grounded in the provisional character of the frontier and that these incidents should decrease as the frontier will be properly marked. On the other hand, it certified that there were Turkish military activities south of the provisional frontier as

²⁶⁹ The Laidoner Commission was not officially defined as "Commission of Enquiry", but only as "Commission". The study defines it still as a Commission of Enquiry, because it was as well sent by the Council in the conflict area to investigate the situation. However, it has to be considered that there are differences to other Commissions of Enquiry as the Laidoner Commission was primarily restricted to make observations and therefore its role within the Council's proceedings stayed limited.

²⁷⁰ Makko, *Arbitrator in a World of Wars*, 642.

²⁷¹ Situation in the Locality of the Provisional Line fixed fixed at Brussels on October 29th, 1924. Report submitted to the Council on December 10th 1925, by General J. Laidoner in accordance with the resolution of September 24th, 1925. Question of the Frontier between Turkey and Iraq. Annex 829, In: League of Nations Official Journal, Vol. 7, No. 2 (1926) 302-305.

²⁷² Question of the Frontier between Turkey and Iraq: Report by General Laidoner on the Situation in the Locality of the Provisional Line Fixed at Brussels on October 29th, 1924. Seventh Meeting (Public). Thirty-Seventh Session of the Council, In: League of Nations Official Journal, Vol. 7, No. 2 (1926) 145.

well as deportations of Christians. The commissioners claimed that the Turkish army sent troops to some villages which they supposed to be on their side of the frontier, but it considered that this must have been a misinterpretation of the exact course of the provisional frontier. Furthermore, they asserted that there were already 3000 deported Christians from Turkey who arrived in Iraq. As the commissioners interrogated some of these refugees, they confirmed that Turkish soldiers occupied their villages, committed acts of violence against them and deported them. Finally, the Commission concluded that most of these events were ordinary frontier incidents that were based on the unsettled dispute over the course of the frontier. Nonetheless, it defined the deportations as the far more important issue as it had caused intense unrest within the population south of the provisional frontier.²⁷³

However, the Laidoner Commission was not comparable with the Wirsén Commission in its task and outcome. Its examinations focused primarily on observations, which were in addition limited as the Commission was only able to gather information south of the provisional frontier due to the refusal of the Turkish government. Thus, the Commission only reported what they were able to find out concerning the frontier incidents and the deportations of Christians in accordance with its task, but it did not propose any recommendations to de-escalate the situation. Hence, as the next negotiating step will show, the report of the Laidoner Commission did not have any consequences for the further proceedings as, for example, the final resolution of the Council did not refer to it in any way.

5.9 Conclusion of the Final Resolution

In the end, the Council finalised the deliberations by setting the border between Turkey and Iraq in its meeting on 16 December 1925 within its 37th session. At the beginning of the meeting, the Secretary-General read a telegram of the Turkish representative, Rouschdy Bey, in which he argued:

“I should add that, as all the proposals which I have previously made with the object of reaching an agreement and of facilitating the role of mediator and conciliator which we have always recognised the Council to possess have had no result, and as the Council has decided not to carry out this role, I find myself obliged to inform you that these proposals are now ipso facto null and void.

²⁷³ Situation in the Locality, Report Laidoner, Frontier between Turkey and Iraq, 302-305.

I desire further to declare that the sovereign rights of a State over a territory can only come to an end with its consent, and that therefore our sovereign rights over the whole of the Vilayet of Mosul remain intact.”²⁷⁴

Therefore, the Turkish government continued to abstain from negotiations before the Council as long as it still defined itself as an arbitrator and it consequently even denied its role of a mediator. Thus, with this telegram, the Turkish government officially withdrew from the proceedings. Nevertheless, the deliberations continued without the Turkish representative and in a next step, the Rapporteur presented his report in order to prepare the adaption of the Council’s final resolution. Undén argued that the Council’s Sub-committee, of which he was also a member, came to the final conclusion, that a considerably solution of this conflict could only be based on the findings of the Wirsén Commission. Based on this, there were two solutions for the Sub-committee: the fixation of the provisional frontier as a fixed frontier between Turkey and Iraq or the partition of the Vilayet of Mosul along the course of the Lesser Zab. Therefore, it decided that the first solution would be the best to solve the conflict. Consequently the first point of the resolution determined the provisional frontier as the fixed border between Turkey and Iraq. Furthermore, the resolution adopted the further recommendations of the Wirsén Commission. On the one hand, the Mandate treaty between the United Kingdom and Iraq should be extended for 25 more years, unless Iraq should become a member of the League of Nations before the expiration of this time-limit. On the other hand, the British government should enforce measures to support the Kurdish population of the Vilayet of Mosul. Additionally, it should also implement the special recommendations of the Commission, especially the economic ones.²⁷⁵

When Undén ended his presentation, the Council adopted the proposed resolution unanimously. Subsequently, there was no discussion about the resolution, primarily due to the absence of the Turkish representative. The British representative, Amery, accepted the resolution and thanked the Council for its work.²⁷⁶

5.10 Aftermath

Although the Council’s involvement in this dispute ended with the adaption of its resolution on 16 December 1925, it still took until March 1926 that the conflict parties concluded a final agreement.

²⁷⁴ Question of the Frontier between Turkey and Iraq: Decision of the Council. Fifteenth Meeting (Public). Thirty-Seventh Session of the Council, In: League of Nations Official Journal, Vol. 7, No. 2 (1926) 187.

²⁷⁵ Frontier between Turkey and Iraq, Fifteenth Meeting, Thirty-Seventh Session, 187-192.

²⁷⁶ Frontier between Turkey and Iraq, Fifteenth Meeting, Thirty-Seventh Session, 192f.

Initially the Turkish government insisted to refuse the Council's resolution, but it soon changed its position and began bilateral negotiations with the British government. In the end, they were able to complete their deliberations and signed the Treaty of Ankara on 11 March 1926, which was primarily based on the Council's resolution. This change of the Turkish position might have been a reaction to its lack of alternatives, because Turkey had no international support whether to fight the Council's resolution nor to start a war against the United Kingdom.²⁷⁷ Therefore, with the Treaty of Ankara the Turkish government accepted the Council's resolution and officially renounced its claim on the Vilayet of Mosul.²⁷⁸ Besides the provisions of the Council's resolution, the treaty included several other points. The most essential of them was that the exact delineation of the border should be fixed by a special boundary commission. Turkey officially recognised the Iraqi state and the British Mandate administration. Additionally, a demilitarised zone should be established within 75 kilometres from each side of the frontier.²⁷⁹ In return to this concessions, the Turkish government should obtain 10 per cent of the Iraqi oil revenues for the next 25 years. In this context, the Turkish government received payments from Iraq until 1952.²⁸⁰ However, Iraq did not stay under the British Mandate administration for 25 more years as the Council's resolution had stated and the Treaty of Ankara had determined, because it became independent in 1932, primarily as a consequence to the urging of King Faisal.²⁸¹

5.11 Conclusion

The settlement of the Mosul Dispute proved to be a challenge for the League's Council as the negotiations for the final resolution lasted over a year from September 1924 until December 1925 and were accompanied by several military escalations in the frontier region. Additionally, the Council was faced with several new challenges, at which especially its struggle, to be recognised as an arbitrator and not only as a mediator, has to be emphasised. In the settlement of previous conflicts, the role of the Council was only that of a mediator. However, its role as an arbitrator was quite unclear at the beginning of the deliberations. It was only loosely defined in the Treaty of Lausanne as it included the clause that the dispute would be referred to the Council, if the disputants did not achieve an agreement within a specific time-limit. Thus, a very essential task in the settlement of this conflict was to clear some preliminary questions in order to define its actual role. In this context, the Rapporteur which was chosen by the Council to further the negotiations (at

²⁷⁷ Azeez Al-Jaf, *British Policy towards the Government of the Mosul Vilayet, 195-197*.

²⁷⁸ Coşar, Demirci, *The Mosul Question and the Turkish Republic*, 127.

²⁷⁹ Azeez Al-Jaf, *British Policy towards the Government of the Mosul Vilayet*, 199.

²⁸⁰ Coşar, Demirci, *The Mosul Question and the Turkish Republic*, 127-131.

²⁸¹ Fieldhouse, *Western Imperialism*, 94f.

first Branting and then Undén), began to fulfil his task very actively as he especially examined if the disputing governments accept any solution that was determined by the Council which they had accepted at first. During the course of negotiations, this question continued to be unclear due to the unwillingness of the Turkish government to accept any solution in its disadvantage. Considering this, the Sub-committee, which was appointed by the Council planned the next steps of the negotiations, examined this question again as it considered this as decisive for the settlement of this conflict. Thus, it decided to ask the PCIJ for an advisory opinion to clear this question. The decision of the court clearly defined the role of the Council as an arbitrator, hence in disfavour of the Turkish government, because the Council could consequently conclude its decisions without the consent of the governments of the concerning states.

However, the clarification of the Council's role was only the preparative part of the proceedings. Another essential challenge for the Council was the de-escalation of the conflict while hostilities in the frontier region increased. Considering these hostilities, the Secretary-General initiated an extraordinary Council session to discuss the de-escalation of the situation. During this session it turned out that the main reason for these hostilities was the not clearly defined frontier between Turkey and Iraq. In reaction to this, the Rapporteur proposed a provisional frontier between the countries which was accepted by the disputing governments. Furthermore, the Council appointed two Commissions of Enquiry, whereby the Wirsén Commission had the task to examine the conflict as a whole and the Laidoner Commission to take on through investigations at the frontier region.

The two Commissions fulfilled their examinations very differently as their task was also a very divergent one. The Wirsén Commission should assist the Council in the preparation of a settlement by gathering information about the conflict and based on this make some suggestions. So, its function was defined very widely. In this context, it fulfilled its examinations by using several different sources and methods. On the one hand, the Commission analysed official documents and interviewed several high-ranking representatives of the disputing governments. On the other hand, it accomplished very detailed investigations on the spot in the Vilayet of Mosul, which was the actual main part of its work. Here, the Commission specifically interrogated different persons whether they are in favour of the current situation or if they want that the Vilayet of Mosul will become a part of Turkey. But the commissioners also used other methods, like visiting the markets of the city of Mosul to analyse the economic ties of the territory or it flew over the frontier region in an aeroplane for geographic and strategic considerations. Based on this, the considerations and recommendations of the Commission heavily aimed to achieve a considerable agreement. Founded especially on its economic and geographic considerations as well as on wishes of the population, it recommended that the territory should remain with Iraq, but only if certain demands, such as the prolongation of the British Mandate administration, were to be fulfilled. Therefore, it also advised

against the partition of the territory. However, it has to be also considered that the Commission not only provided one solution for the conflict, it also delivered recommendations for alternative scenarios. The report for example proposed that if the British Mandate administration over Iraq was not prolonged, it would be better if the Vilayet become part of Turkey or that in case of the Council decided for a partition of the territory, the frontier along the Lesser Zab would be the best possible frontier, although the Commission did not actually recommend this solution at all. Later, the recommendations of this Commission constituted the main part of the Council's final resolution to solve this conflict as it included all of them.

On the contrary, the Council appointed the Laidoner Commission to investigate the military incidents in the frontier region and the deportations of Christians by the Turkish army. The Commission's approach was generally akin to that of the Wirsén Commission, but on a limited scale, as it should primarily observe the situation. On the other hand, it was restricted in the fulfilment of its task due to the prohibition of the Turkish government to investigate in its territory. It analysed official documents, gathered information by the British and Iraqi authorities as well as interrogated refugees from Turkey. The Commission's report generally confirmed the British allegations concerning the deportation of Christians and it determined that there will be more frontier incidents as long as the frontier between the two countries are not finally defined, but it did not include any recommendations to ease the tensions. However, this report did not actually have any impact on the further course of the negotiations.

The negotiating process before the Council was heavily shaped by the Rapporteur. It was he who moderated most of the discussions and who was responsible for the elaboration of the next steps of the deliberations. In the part of the proceedings, in which the preliminary questions were cleared, the Rapporteur asked the representatives of the disputing governments several detailed questions. The members of both of the Commissions did not play any essential role during the deliberations of the Council. Although the president of the Laidoner Commission, General Laidoner, presented his report before the Council, no one else of the commissioners took part in any further negotiations or discussions. Additionally, the Council's Sub-committee played a decisive role in the negotiating process. It had to fulfil the task, that was usually handled by the Rapporteur, namely the preparation for the next steps of the proceedings. It should finally clarify the lengthy discussed question, if the Council's position in these deliberations is that of an arbitrator or a mediator. After its examinations on this question, the Sub-committee decided that this question should be submitted to the PCIJ.

The handling of the Council with any criticisms of the representatives changed during the course of the negotiations. Indeed, the representatives regularly received the opportunity to state their opinion at different negotiating steps, but the Council did not always react to them. At the beginning of the deliberations, while it was still unclear if the Council was a mediator or an arbitrator, it responded

more to the objections of the disputants as it, for example, respected the wish of the Turkish government to consider the desires of the population of the Vilayet of Mosul. But as the negotiations advanced and the Council's role as an arbitrator was encouraged more and more, especially by the advisory opinion of the PCIJ, it disregarded the criticisms of both sides in order to prepare and implement a possible agreement.

Thus, within the negotiations on the settlement of this conflict, the Council appointed different actors, namely the Rapporteur, the Wirsén Commission and the Sub-committee, who distinctively furthered the negotiations. All these actors were able to contribute to the adoption of a final resolution that delivered the basis for the final settlement of this dispute, namely the Treaty of Ankara of 1926.

6. Greco-Bulgarian War of 1925

6.1 Historical Background

The relations between Greece and Bulgaria were already tense long before the war of 1925, which was shaped heavily by the fact that years before this incident, both were opponents in two different wars. On the one hand, they fought against each other in the Second Balkan War²⁸² in 1913.²⁸³ On the other hand, during World War I Bulgaria was allied with the Central Powers and Greece with the Entente. Bulgaria was defeated in both of these wars and lost much of its territories. Especially afflicting for the Greco-Bulgarian relations after World War I was that Bulgaria had to cede Western Thrace to Greece in accordance with the Peace Treaty of Neuilly.²⁸⁴ This cessation was problematic for their relations, because there was a large minority of Bulgarians residing in Western Thrace and Bulgaria demanded autonomy for them.²⁸⁵

Several years prior to the war of 1925, the League of Nations already unsuccessfully tried to mediate between the countries concerning the controversy about the Bulgarian and Greek minorities in the respective country. With the acceptance of the Treaty of Neuilly, both agreed to protect the minorities within their lands. Additionally, the minorities obtained the right of voluntary emigration. Greece also accepted the Treaty of Sèvres concerning the clauses of the protection of minorities,²⁸⁶ which should hinder a radical demographic change in its newly gained lands. In connection with these clauses, Bulgaria and Greece started negotiations on the issues of emigration and minorities. However, both countries had different intentions on these matters. Bulgaria was interested in preserving its minorities in other countries in order to maintain the possibility to request a revision on the territorial terms of the Treaty of Neuilly. Against that, Greece wanted to uphold the Greek administration in its new territories in order to prevent the wartime opponents from using their minorities for their gain. Considering these contrary standpoints, the League of

²⁸² Subsequently to the First Balkan War of 1912/13, in which Bulgaria, Greece, Montenegro and Serbia fought together against the Ottoman Empire, in the Second Balkan War of 1913, the former allies battled each other over the occupied territories of the previous one. See: The Editors of Encyclopaedia Britannica, Balkan Wars, In: Encyclopaedia Britannica, available at: <https://www.britannica.com/topic/Balkan-Wars> (Accessed 10.3.2020).

²⁸³ John S. *Koliopoulos*, Thanos M. *Veremis*, Modern Greece. A History since 1821 (A New History of Modern Europe, Oxford 2010) 73.

²⁸⁴ R.J. *Crampton*, A Concise History of Bulgaria (Cambridge 2005) 135-144.

²⁸⁵ Theodora *Dragostinova*, Between Two Motherlands. Nationality and Emigration among the Greeks of Bulgaria, 1900-1949 (Ithaca/London 2011) 119.

²⁸⁶ The Treaty of Sèvres was basically the peace treaty between the victorious powers of World War I and the Ottoman Empire. However, Greece accepted these clauses, because according to this treaty, it gained Thrace and territories in Asia Minor. See: The Editors of Encyclopaedia Britannica, Treaty of Sèvres, In: Encyclopaedia Britannica, available at: <https://www.britannica.com/event/Treaty-of-Sevres> (Accessed 10.3.2020).

Nations tried to mediate in this controversy about the minorities. In a first step, the disputants deliberated about a population exchange. For this matter, a mixed commission, consisting of representatives of both countries and neutral delegates by the League of Nations, should observe the voluntary emigration and the liquidation of property. Thus, the situation remained stable until 1923 as 1.2 Million Greek refugees came from Minor Asia in the aftermath of the cessation of the Greek territories in Asia Minor in accordance with the Treaty of Lausanne and were settled in Western Thrace. In reaction to this, many Bulgarians from this region were expelled. Consequently the conditions for Greeks in Bulgaria became more and more insecure and they began to emigrate to Greece. This led to an atmosphere of aggression, in which violent attacks on the minorities in both countries accumulated.²⁸⁷

The League's efforts to settle this minority controversy failed fiercely as several enquiries of the mixed commission were not able to enforce any measures in order to improve the situation. The commission argued that the mutual distrust between the two countries made it impossible to implement any minority protection. Additionally, the Council of the League proved to be unable to mediate on this issue. As the Greek government decided that it would cancel the minority rights in its territories, the Minority Section of the League released it from its obligations, because the great powers were strongly in favour to support Greece rather than Bulgaria in this conflict as it was a wartime-ally. Thus, this unsolved controversy finally led to extreme worsened relations between the two countries right before the war of 1925.²⁸⁸ However, its outbreak also had a domestic Greek dimension, namely the Pangalos Dictatorship.²⁸⁹

The Pangalos Dictatorship evolved in a time of political instability. In 1924, the kingdom was abolished and a republic was established. As the new republic was quite unstable at the beginning, the military considered it necessary to intervene several times. General Theodore Pangalos used this time of instability for a coup in order to establish a dictatorship in 1925.²⁹⁰ Pangalos' foreign policy distanced itself that of the former government, especially by trying to revise the Treaty of Lausanne, in which Greece lost many territories it gained with the former Treaty of Sèvres. But besides this, in conflicts with neighbouring states he desired instinctive solutions which often caused serious consequences. One of these solutions was the war with Bulgaria in October 1925.²⁹¹

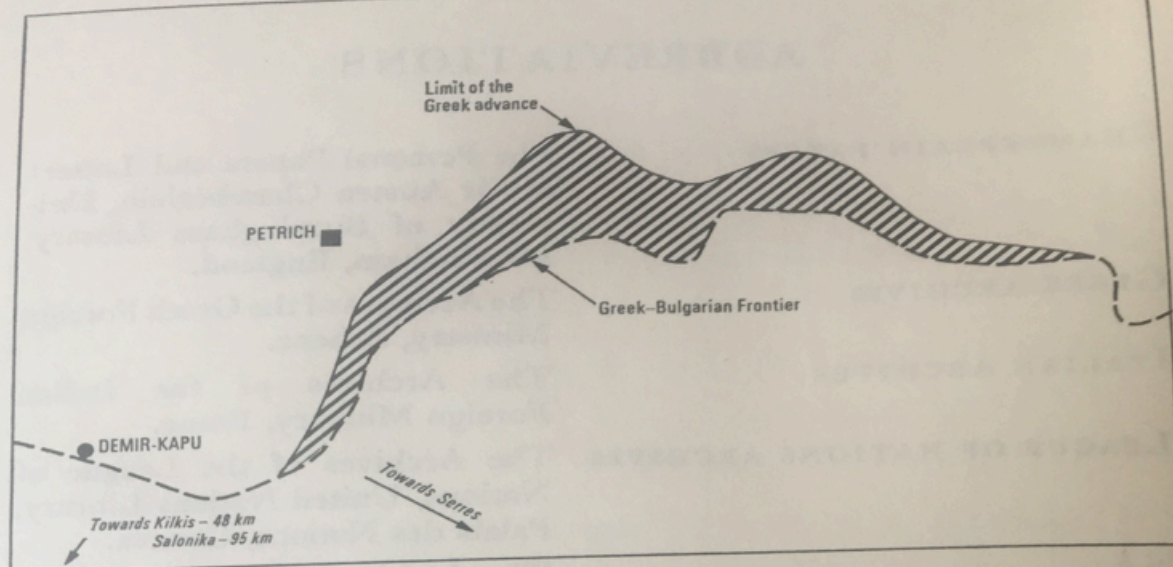
²⁸⁷ Dragostinova, *Between Two Motherlands*, 119-152.

²⁸⁸ Dragostinova, *Between Two Motherlands*, 155f.

²⁸⁹ Antonis *Klapisis*, *Attempting to Revise the Treaty of Lausanne: Greek Foreign Policy and Italy during the Pangalos Dictatorship, 1925-1926*, In: *Diplomacy & Statecraft*, Vol. 25, No. 2 (2014) 241.

²⁹⁰ Koliopoulos, Veremis, *Modern Greece*, 101.

²⁹¹ Klapisis, *Attempting to Revise the Treaty of Lausanne*, 241f.



MAP 1 Limit of the Greek advance



Map 5: Area of the Greco Bulgarian War

Source: James Barros, *The League of Nations and the Great Powers: The Greek-Bulgarian Incident* (Oxford 1970) xiii.

6.2 The Incident and the Consequent War

In October 1925 the accumulated worse relations between Greece and Bulgaria mixed with the aggressive foreign policy of the Pangalos Dictatorship led to an escalation of an ordinary border incident into a war, whereby the actual reasons for this initiating episode stayed unclear. The most common explanation for this is, that the incident was provoked by a game of cards between border soldiers. This scene arose in the Demir Kapou region next to the Greco-Bulgarian border on 19 October 1925.²⁹² In the course of these events, a Greek border sentry and an officer were killed and the following exchange of fire caused the retreat of the other Greek border guards. As the news of this incident reached the Greek government on the next day, the events were exaggerated in such a way that it seemed for it that the Bulgarian government would plan to launch an invasion on Greece.²⁹³ In reaction to this, Pangalos ordered an attack on Bulgaria and Greek troops invaded Bulgarian territory near the frontier region. With these actions, he wanted to force the Bulgarian government to make amends for this border incident. Pangalos demanded that the commanders of the troops that were responsible for the death of Greek soldiers should become exemplary punished, the Bulgarian government should officially apologise for the incident as well as pay 6 million Greek Drachma indemnity for the families of the victims.²⁹⁴

6.3 The Begin of the Council's Involvement

As the war between Greece and Bulgaria had already begun, the first task of the League's Council was to end the hostilities in order to provide the basis for further proceedings on the settlement of this dispute. At first, the League was officially informed of this conflict as the Bulgarian foreign minister, Kalfoff, reported this affair to the Secretary-General of the League, Eric Drummond, on 22 October 1925. Kalfoff argued that Greek troops had entered Bulgarian territory and Bulgarian troops were ordered to stand down. In reaction to these events, Kalfoff requested the Council to deal with the conflict in relation to Article 10 and 11 of the Covenant.²⁹⁵ Subsequently, Drummond acted under Article 11 and told the president of the Council, Aristide Briand, to hold an extraordinary Council session on 26 October. Briand telegraphed to the governments of both of the disputants to inform them about the Council session as well as prompt them to cease hostilities and

²⁹² Housden, *The League of Nations*, 42.

²⁹³ Barros, *The League of Nations and the Great Powers*, 1f.

²⁹⁴ Klapsis, *Attempting to Revise the Treaty of Lausanne*, 242.

²⁹⁵ Article 10 invoked the member states of the League to respect each others territorial integrity and political independence. Article 11 gave them the possibility to report any threat of peace to the League's Council.

withdraw their troops back to their own territories.²⁹⁶ However, both of them maintained their position.²⁹⁷ In a telegram to the Secretary-General, the Greek foreign minister, Hadjikyriakos, condemned the Bulgarian behaviour as very aggressive and he claimed that it is not possible to withdraw the Greek troops at the moment, because the shooting still continued. Nonetheless, he accepted the competence of the League of Nations to settle this conflict.²⁹⁸

Therefore, as the deliberations before the Council began on 26 October within its 36th session, its president made efforts to enforce his demands that the disputants should end hostilities and withdraw their troops. In a first step, Briand summarised the present situation concerning the conflict. According to the first telegrams he obtained by the disputants, he concluded that there are diverging opinions about the course of events of this conflict which have to be examined. Considering that the militant actions between the two disputants were escalating more and more, the president already prompted the belligerents to cease hostilities. Briand determined that there were two questions to be answered in order to solve the conflict of which one required more time to find a solution and the other one had to be clarified immediately. The long-term question concerned the facts and responsibilities of the incident and the resulting reparations. The more urgent question regarded the cessation of hostilities as well as the withdrawal of troops. In this connection, the president asked the representatives of the disputing states, what their governments had done already to fulfil these demands to cease hostilities and withdraw their troops and what was the present status of these issues.²⁹⁹

The Bulgarian representative, Maroff, at first tried to evade the question by seeking to describe the incident from his point of view. But he was exhorted by the president to simply answer the raised question. Then Maroff argued that Bulgarian troops did never occupy any Greek territory. He desired to prove that by suggesting an enquiry that should analyse the course of events of this incident. He assured that the Bulgarian government will fulfil the demand of Briand to withdraw their troops, but the representative affirmed that Bulgarian troops never crossed the Greek frontier. On the other side, the Greek representative guaranteed that his government would withdraw its troops, but only in case of the Bulgarian troops were to leave Greek territory.³⁰⁰

²⁹⁶ Appeal by the Bulgarian Government under Article 10 and 11 of the Covenant. First Meeting (Public). Thirty-Sixth (Extraordinary) Session of the Council, In: League of Nations Official Journal, Vol. 6, No. 11 (1925) 1696f.

²⁹⁷ Housden, *The League of Nations*, 43.

²⁹⁸ Appeal by the Bulgarian Government. First Meeting. Thirty-Sixth (Extraordinary) Session of the Council, 1697.

²⁹⁹ Appeal by the Bulgarian Government. First Meeting. Thirty-Sixth (Extraordinary) Session of the Council, 1697f.

³⁰⁰ Appeal by the Bulgarian Government. First Meeting. Thirty-Sixth (Extraordinary) Session of the Council, 1698f.

In a next step, the Council appointed the British representative, Austen Chamberlain,³⁰¹ as Rapporteur in order to promote the further negotiations. He investigated the situation and prepared a report which proposed the next steps of deliberations. In this report, Chamberlain argued that before any further steps in settling this conflict could be taken, the demands of Briand had to be fulfilled. He continued by asserting that in order to achieve this, the Council should request the disputing governments to inform it within 24 hours that they gave orders to withdraw their troops behind their own frontiers and this should be completed within 60 hours. Furthermore, the two governments should cease all hostilities and warn their troops that any continuation of firing will be punished harshly. In order to ensure the execution of this request, he proposed that the Council instructed France, the United Kingdom and Italy to send military attachés to the conflict region in order to monitor the fulfilment of these requests. Subsequently, the president asked the representatives of the disputants if they had any concerns with this decision. Both of them did not have any objections and therefore the Council adopted the Rapporteur's report.³⁰²

After this, both of the disputants received the chance to present their standpoints on this dispute, whereas their opinion on the origin of the frontier incident and the following course of events was very diverging. At the beginning of his statement, the Bulgarian representative argued that the firing began as a Greek soldier began to shoot on Bulgarian soldiers which subsequently continued between the two border posts. However, he tried to emphasise the efforts of his government to preserve peace during the confrontation. The Bulgarian troops started several initiatives to stop the hostilities by, for example, raising white flags or contacting the commander of the Greek battalion, but it did not help. On the contrary, he claimed that Greece started a larger offensive against Bulgaria and began to occupy its territories. The representative emphasised that his government also tried to contact the Greek government in order to propose an enquiry commission to examine the reasons for the incident, but it came to no reply. Marfoff continued by claiming that the Greek government tried to portray Bulgaria as the aggressor, but according to him this was not the case as it is very visible on the fact that it never tried to occupy Greek territory. He continued that the Greek argument is also untrue that so called "Comitadjis"³⁰³ were stationed next to the frontier, there were only regular soldiers stationed. At the end of his statement, the representative made several demands to the Council. The representative demanded that the incident and the following

³⁰¹ Austen Chamberlain (1863-1937) was British foreign minister from 1924 until 1929. His foreign policy specifically aimed to not entangle the United Kingdom too much into international obligations. See: van Ginneken, *Historical Dictionary*, 57.

³⁰² Appeal by the Bulgarian Government. First Meeting. Thirty-Sixth (Extraordinary) Session of the Council, 1699f.

³⁰³ Collins Dictionary generally defines „Comitadjis“ as rebels or revolutionaries, who belong to a guerilla group in the Balkans. See: Comitadji, In: Collins Dictionary, available at: <https://www.collinsdictionary.com/dictionary/english/comitadji> (Accessed 1.2.2020).

events should be examined by a neutral enquiry that clarifies all responsibilities. Considering that several soldiers and civilians were killed and wounded as well as property was damaged, Marfoff demanded that the Greek government should pay reparations for this. Furthermore, in addition to the cessation of the hostilities and the withdrawal of troops, the Council should give orders to set free prisoners immediately.³⁰⁴

The Greek representative, Carapanos, started his statement as well with the viewpoints of his government concerning the outbreak of the incident, which were shaped heavily by the impression that Greece was a victim of Bulgarian aggression. According to the representative, the Bulgarian soldiers began to shoot, and the Greeks only reacted appropriately. In reaction to this, Carapanos argued that the Greek troops tried to cease the firing by sending Captain Vassiliades to deliberate an armistice, though the Bulgarians killed him and did not end the hostilities. Thus, he claimed that the following actions of the Greek army happened only in terms of self-defence. Therefore, they bombed certain points on Bulgarian territory in order to stop their enforcements. The representative emphasised that the Greek troops occupied Bulgarian territory not until the Bulgarians violated Greek territory. He continued by claiming that this attack by the Bulgarians must have been prepared, because there have been too many soldiers stationed next to the frontier. Additionally, he considered the “Comitadjis” as an essential factor for the frequent border incidents, which according to him should be condemned regarding the military clauses of the Treaty of Neuilly.³⁰⁵ At the end of his statement, Carapanos emphasised again that the Greek troops acted only in self-defence and they did not wish to attack Bulgaria and establish a long lasting military occupation over it. He promised that the Greek troops will withdraw once the hostilities are ending. In order to settle this conflict, Carapanos also desired to hold an enquiry to clarify the facts of this incident. However, he demanded that Bulgaria has to pay compensations to Greece, especially for the killing of Greek border guards and the officer, who was killed by trying to negotiate with the Bulgarian troops.³⁰⁶

After these statements of the disputants, the Rapporteur asked the Greek representative, how deep the Greek troops had advanced into Bulgarian territory and how far the Bulgarian troops penetrated

³⁰⁴ Appeal by the Bulgarian Government under Article 10 and 11 of the Covenant. Second Meeting (Public). Thirty-Sixth (Extraordinary) Session of the Council, In: League of Nations Official Journal, Vol. 6, No. 11 (1925) 1701-1704.

³⁰⁵ According to Article 70 of the Treaty of Neuilly, Bulgaria was only allowed to maintain those armed formations, that were prescribed by its provisions, such as the regular army forces or policemen. This means that the Bulgarian government would have been obliged to condemn any group of armed civilians like the “comitadjis”. See: Article 70, Treaty of Neuilly, In: The World War I Document Archive, available at: https://wwi.lib.byu.edu/index.php/Treaty_of_Neuilly (Accessed 1.2.2020).

³⁰⁶ Appeal by the Bulgarian Government. Second Meeting. Thirty-Sixth (Extraordinary) Session of the Council, 1704-1706.

into Greek territory. Carapanos answered that the distance of the Greek troops into the other territory was about 500 meters and that of the Bulgarian troops nearly 8 kilometres. Subsequently, the Bulgarian representative presented a telegram from the Bulgarian foreign minister, in which he argues that there was a dispute at the Bulgarian frontier post where the Greek soldier was shot at the beginning of the incident. The Greek soldiers could not occupy their post, because the position was in control of Bulgarian troops. However, he assured that there are no Bulgarian troops on Greek territory. In order to smooth the tensions, the foreign minister proposed to withdraw his troops from this post, but only if the Council approved this measure.³⁰⁷

On the following day, the Council discussed if the disputing government followed the 24 hours deadline it set for the withdrawal of their troops. The Bulgarian representative presented a telegram that he had received from his foreign minister, Kalfoff, the day before. The minister assured that strict orders had been given to the soldiers to abstain from any military action. He emphasised that there should be no Bulgarian soldier on Greek territory and if there were to be one, the military command would receive again the order to withdraw any troops. Additionally, he indicated that Greek troops still occupied Bulgarian territory and the Greek artillery was still firing. On the other hand, the Greek representative argued that his government had already given orders to cease hostilities. To underline this argument, he presented a telegram by the Greek foreign minister, Hadjikyriakos, which proved that the military command had ordered the troops' withdrawal from the occupied territory for the following day. Thus, the president of the Council declared himself satisfied that the first part of his demand was accomplished.³⁰⁸

In respect to the taken actions by both parties, the Council had succeeded in de-escalating the situation by accomplishing the end of the military conflict. Thus, it was now able to open a new chapter of proceedings, namely the clarifying of the facts of this incident and the following hostilities. Therefore, the president of the Council initiated a discussion on the appointment of a Commission of Enquiry, which was desired by both disputants. Briand proposed that such an enquiry should in addition examine the question if all prisoners who were captured during this incident could be set free. The representatives of the disputants as well as those of the Council members agreed on this further procedure.³⁰⁹

After this debate, the Council received a telegram from the military attachés, who were sent to the conflict region to monitor the cease-fire as well as the withdrawal of the troops. The attachés got in

³⁰⁷ Appeal by the Bulgarian Government. Second Meeting. Thirty-Sixth (Extraordinary) Session of the Council, 1706f.

³⁰⁸ Appeal by the Bulgarian Government under Article 10 and 11 of the Covenant. Third Meeting (Public). Thirty-Sixth (Extraordinary) Session of the Council, In: League of Nations Official Journal, Vol. 6, No. 11 (1925) 1707f.

³⁰⁹ Appeal by the Bulgarian Government. Third Meeting. Thirty-Sixth (Extraordinary) Session of the Council, 1709f.

touch with several Greek and Bulgarian commanders and assured that both disputants refrained from any hostilities and they also warned their troops that any reopening of fire would be punished harshly. They observed that the Greek troops began to evacuate their military from the occupied territory. In order to avoid any more incidents, the attachés decided that the Bulgarian troops should reoccupy their positions only in a few days. Then the Council received telegrams from the Greek and Bulgarian government, which confirmed that the Greek troops had left the Bulgarian territory before the end of the deadline.³¹⁰

Considering that the hostilities were ended by the disputing governments, the negotiations in settling the conflict advanced to another stage. So, the Rapporteur presented a report to the Council in which he drafted a resolution. Chamberlain argued that as the hostilities had ended it was now the time to set up a Commission of Enquiry in order to examine the reasons for the border incident and the subsequent hostile acts. Such a Commission should also deliver recommendations to prevent such an incident in the future. Additionally, it has also to pursue the status of the prisoners that were captured during the incident as well as any questions of compensation and restoration of damaged property. The Commission should be composed of Horace Rumbold, British ambassador in Madrid, as its president, a French military officer, an Italian military officer as well as a civilian from Sweden and the Netherlands. On the basis of this report, the Council concluded its resolution.³¹¹

After the conclusion of the resolution, the president asked the representatives of both parties, if they would like to make any comments on this course of action. Both representatives accepted the resolution with all its provisions. Furthermore, at the end of its session the Council received one more telegram from the military attachés, which confirmed that the evacuation of Greek troops from Bulgarian territory had already concluded and both countries started to restore the ordinary situation at the frontier by reoccupying their posts.³¹²

6.4 Commission of Enquiry

On 6 November 1925 the Commission of Enquiry began its work, whereby it tried to clarify the facts of this dispute by consulting high representatives of both conflict parties as well as doing examinations on the spot in the conflict region. Besides Rumbold, the Council appointed the other

³¹⁰ Appeal by the Bulgarian Government under Article 10 and 11 of the Covenant. Fourth Meeting (Public). Thirty-Sixth (Extraordinary) Session of the Council, In: League of Nations Official Journal, Vol. 6, No. 11 (1925) 1711.

³¹¹ Appeal by the Bulgarian Government. Fourth Meeting. Thirty-Sixth (Extraordinary) Session of the Council, 1711-1713.

³¹² Appeal by the Bulgarian Government. Fourth Meeting. Thirty-Sixth (Extraordinary) Session of the Council, 1713f.

members of the Commission according to the established criteria, which prescribed that it should consist out of a French as well as an Italian military officer along with a civilian from the Netherlands and Sweden. The military members were the French general Serrigny and the Italian general Ferrario. As civilian members the Council chose H.E. de Adlercreutz, Swedish minister at The Hague, and Droogleever Fortuyn, member of the Netherlands Parliament. Major Abraham from the League Secretariat became the Commission's secretary. At the beginning of its work, it cooperated with the military attachés that were sent in the conflict region. They conducted a preliminary enquiry concerning the circumstances of the incident and delivered a report on their findings to the Commission. The attachés met the Commission in Belgrade on 9 November and together they travelled to Bulgaria which they reached on 13 November. There, they visited the city of Petrich and surrounding villages where the military operations took place. After that, they reached the frontier post at which the incident occurred, where the Commission met with a representative of the Greek government and several deputations. The military members of the Commission and the attachés examined the events of this incident and the advance of the Greek troops into Bulgarian territory. For this, they interrogated several members of the posted staff as well as military officers. Subsequently, they proceeded to Athens which they reached on 16 November. In Athens they interviewed the foreign minister, the chief of staff of the Greek army, the General Commanding the 1st Army Corps and the prime minister. In a next step they returned to Bulgaria and reached Sofia on 21 November, where the commissioners had several meetings with the foreign minister, the minister of war, the chief of the general staff, the prime minister and the King. On 26 November they returned to Belgrade in order to finish the report. Finally, they left Belgrade for Geneva on 28 November.³¹³

At the beginning of its report, the commission tried to clarify the questions on the course of the events beginning with the frontier incident, which were most controversial between the conflict parties. In order to achieve this, it described its approach in the report as follows:

“In order to form an opinion on this incident the Commission utilised the statements sent to the Council by the two governments and the subsequent letters modifying these statements, the enquiries conducted on the spot by the Military Attachés in co-operation with the Greek and Bulgarian officers, who had either been witnesses of the incident or had been personally concerned therein, and the statements made in the course of further examinations conducted

³¹³ Report of the Commission of Enquiry into the Incidents on the Frontier between Bulgaria and Greece. Annex 815, In: League of Nations Official Journal, Vol. 7. No. 2 (1926) 196f.

by the Commission with a view to clearing-up certain points which still remained in doubt.”³¹⁴

Thus, the Commission’s examinations aimed to analyse the most contentious points regarding the course of events of the frontier incident and the subsequent war by consulting military officers who were witnesses of these episodes or were concerned by them. This displayed that the commissioners attempted to provide an objective as possible account on this matter. According to its findings, the Commission began its conclusions on the course of events by arguing that on 19 October about noon, shoots were exchanged between a Bulgarian and a Greek soldier, but as there were no witnesses, it is impossible to say which one of them began to shoot. The report continues by claiming that after this incident, the two frontier posts began to fire at each other and thus the incident started to become serious. While this shooting took place, the Commission argued that it is possible that Bulgarian soldiers advanced into Greek territory for a few meters, but probably only in order to improve their field of fire. As the firing increased, both posts called for reinforcements. The Bulgarian troops were supported by a number of armed civilians. Furthermore, the Commission determined that there were differences in opinion concerning the Greek Captain Vassiliadis and the Greek efforts to stop hostilities. The Greek government claimed he was killed as he tried to negotiate with the Bulgarian troops about a cessation of fire while a soldier in front of him waved a white flag. However, the Bulgarian soldiers neither recognised a white flag nor the will of the Greek soldiers to cease firing. On this point the Commission was not able to form a definite conclusion. Subsequently, the report asserted that more and more Bulgarian civilians were armed in order assist the troops, but this contradicted the Treaty of Neuilly. The Commission emphasised that there were not only efforts from the Greek side, but also from the Bulgarian side to negotiate on the cessation of hostilities. However, it argued that on both sides there must have been a lack of confidence on the intentions of the respective other side which prevented an instant conciliation. Additionally, the Commission argued that the Bulgarian reinforcements of armed civilians led to the incorrect report of the Greek troops to their military command that the Bulgarian troops were strengthened by a battalion. It continued by claiming that due to these misunderstandings, the Greek government feared a larger Bulgarian attack and thus the incident escalated.³¹⁵

After examining the incident, the Commission drew several conclusions on many problems in the region which caused such frontier incidents. It asserted that this incident was only one of many similar events. According to its considerations, an essential factor for this was, that on both sides of the frontier refugees had been settled. In this connection, the Commission assumed that due to the

³¹⁴ Report of the Commission of Enquiry into the Incidents on the Frontier, 197f.

³¹⁵ Report of the Commission of Enquiry into the Incidents on the Frontier, 198f.

potential restlessness of these refugees, they would be more likely to fight when their government armed them and told them to be ready for battle at any moment. Furthermore, it regarded various factors in connection with the organisation of the frontier posts as responsible for such incidents. It claimed that this organisation was defective as the separate posts were located far from each other and the communication between them was very bad. The soldiers were trained poorly for their functions and many problems would arise due to lack in morality and discipline when they were stationed too long at the same post. It further argued that the instructions for the soldiers were very dangerous as their rifles always had to be loaded and they had to be ready to defend at any time. Besides this, the soldiers did not get any instructions on how they should properly engage in such an incident. Finally, the report determined that the frontier incidents increased as flocks of sheep came to occur in the frontier region. In this context, it claimed that soldiers stole many sheep or intervened when other thefts occurred, whereupon hostilities were probable to break out.³¹⁶

In a next step, the Commission examined the Greek military actions on Bulgarian territory, which it defined as a result of a misunderstanding. According to its report, the Greek army command received the incorrect report that the Bulgarian troops obtained strong reinforcements by a battalion, therefore they set according steps. In order to prevent a Bulgarian attack, the Greek ministry of war ordered an invasion of the frontier region on the Bulgarian side. On 23 and 24 October the Greek troops finally occupied this region and consolidated their position until they received orders for withdrawal on 28 October. In reaction to this, the Bulgarian troops were reinforced especially by civilians. However, the Commission investigated that the general order of the Bulgarian army to the troops was that they should only offer slight resistance in order to protect the population, because the dispute was already laid before the Council which was expected to stop the invasion. Finally, on 24 October the Bulgarian ministry of war ordered to abstain from any resistance in case of the Greek troops should attack.³¹⁷

Considering the course of the incident and the following military actions, the Commission concluded that this case was an ordinary frontier incident which could have been settled immediately. The escalation of this conflict was based on many misunderstandings between the disputants. Any hostilities could have been prevented, if an investigation of these events had been carried out instantly on the spot. Therefore, the Commission argued that the military actions of the Greek army were legitimate as they really feared a Bulgarian attack, but it was not necessary to enter Bulgarian territory for this matter. There was no evidence that one of the parties had already prepared a military attack, because the troops on both sides were only formed out of small detachments which did not seem to deliver the base for any hostile acts. However, the Commission

³¹⁶ Report of the Commission of Enquiry into the Incidents on the Frontier, 199f.

³¹⁷ Report of the Commission of Enquiry into the Incidents on the Frontier, 201f.

condemned the Greek government for acting hastily, because it would have been possible to control their military actions in order to limit its consequences. Indeed, there would not have been this misunderstanding of Bulgarian reinforcements, if the Bulgarian troops were not strengthened by armed civilians in contradiction of the Treaty of Neuilly, but the Greek government should have checked the report of the troops more thoroughly. Considering all these facts, the Commission did not define the military actions of the Greek army as technically justified.³¹⁸

Regardless that both sides contributed to the escalation of this conflict in a certain way, the Commission compelled the Greek government to pay compensation to Bulgaria for any expenses, losses and suffering that was caused to the Bulgarian population during the Greek invasion. Hence the Bulgarian government claimed 52,5 million Bulgarian Levas. This sum was based on the government's own examinations. All claims for compensation by the Greek government were rejected by the commissioners. Only for the killing of Captain Vassiliadis they considered compensation as possible, but they postponed this matter. The Commission also examined itself the damages that were done to the Bulgarian population. However, it considered the sum that was demanded by the Bulgarian government as exaggerated as its own investigations revealed that the losses due to the removal of portable property and the damages on buildings were much smaller. Therefore, it concluded that the Greek government had to pay 20 million Bulgarian Levas for any killings and ill-treatment of civilians and soldiers, the removal of portable property (such as cattle or agricultural products) as well as the damages on buildings.³¹⁹

In the final section of its report, the Commission made several recommendations in order to prevent such frontier incidents in the future. These were divided into political and military propositions. But before the Commission elaborated on its recommendations, it proclaimed another source of conflict in the region in connection with the refugees. Therefore, it argued that on both sides of the frontier, refugees have been settled and as all of them were expelled and thus a lot of hatred and restlessness prevailed among them. Considering this atmosphere, the Commission was worried about the growth of armed groups such as the "Revolutionary Macedonian Committee", that aimed to create an autonomous region of Macedonia, as well as the "Comitadjis", which were characterised in the report as a sort of Bulgarian franc-tireur. The Commission defined them as essential causes of conflict, because they were responsible for many frontier incidents.³²⁰

Concerning the military recommendations, the Commission foremost proposed several organisational changes to prevent future frontier incidents. These recommendations included provisions such as that the soldiers should get better trained and paid, the frontier guards should not

³¹⁸ Report of the Commission of Enquiry into the Incidents on the Frontier, 202f.

³¹⁹ Report of the Commission of Enquiry into the Incidents on the Frontier, 203-205.

³²⁰ Report of the Commission of Enquiry into the Incidents on the Frontier, 205f.

become subordinated under military command but under civilian authorities and that the single frontier posts should be better connected to each other by telephone. The reorganisation of the troops should be arranged by an external neutral officer. Furthermore, in order to limit the effects of such incidents, the presence of neutral officers or the establishment of a conciliation commission could help. The Commission also gave thought to a more rapid reactivity of the League's Council in comparable serious conflicts. Possibilities for that might be special facilities for communication and transit that should offer governments the possibility to report any threat of war to the Council or the Secretariat in order to accelerate the intervention of the League.³²¹

Within its political recommendations, the Commission proposed to clarify any questions regarding property of emigrants from Bulgaria to Greece and vice versa. The previous measures of liquidating their former property were too slow and ineffective. Emigrants had the possibility to migrate according to the Treaty of Neuilly, which in addition enabled the particular minorities to emigrate in the respective country. Consequently the people lost the nationality of their former country and their properties were liquidated. However, the provisions for this opportunity expired on 31 December 1924. Therefore, the Commission proposed that there should be a special agreement between the two states, which should enable the emigrants a proper compensation for the property that they left or the time-limit of the Convention of 1919 should become extended. Such a measure could help to decrease the discontent and grievances in the population of the frontier area and thus contribute to smooth the tensions.³²²

Altogether, the report of the Commission of Enquiry formed a considerably basis for further proceedings on the settlement of this conflict as it was very balanced and did not privilege one of the conflict parties in any way and therefore it strongly improved the Commission's impartial character. First of all, the report's description of the frontier incidents and the subsequent war had aimed to be as objective as possible, because it ruled that both of the conflict parties made mistakes that contributed to an escalation of the situation. On the one hand, it condemned the Bulgarian government for enforcing its troops by armed civilians in contradiction of the Treaty of Neuilly, especially as it consequently led to a misunderstanding on the Greek side that feared a Bulgarian invasion. On the other hand, it considered the Greek reactions on the Bulgarian reinforcements as comprehensible, but the commissioners blamed the Greek government for the escalation of their military actions as they had regarded it as not necessary that its troops crossed the frontier. Therefore, the Commission achieved to primarily accuse Greece for its actions, but without clearly defining who the aggressor and who the victim was. In a further step, the report delivered the basis

³²¹ Report of the Commission of Enquiry into the Incidents on the Frontier, 207f.

³²² Report of the Commission of Enquiry into the Incidents on the Frontier, 208f.

for a future agreement, because it distinctly clarified the question of reparation as well as it provided conceived recommendations to prevent such an escalation in the future.

6.5 Negotiations in Reaction to the Report of the Commission of Enquiry and the Conclusion of the Final Resolution

Considering that the report of the Commission of Enquiry gave both of the conflict parties more or less liability on the escalation of the frontier incident, the representatives of the disputing states praised as well as criticised its findings as the deliberations proceeded within the Council's 37th session on 7 December 1925. At the beginning of the session, the representatives of both disputants received the possibility to make statements on the report of the Commission. The Bulgarian representative, Kalfoff, presented his statement at first. He argued that the Commission's conclusions about the course of events of the incident are corresponding strongly with the views of his government. However, Kalfoff tried to downplay the accusation of the Commission that they had armed civilians in contradiction to the Treaty of Neuilly by arguing that it was not that many men, they were not or not heavily armed and the extraordinary circumstances of this situation made this necessary. Furthermore, the Commission recognised correctly that Bulgarian troops never invaded any Greek territory. Concerning the Greek accusation that the "Comitadjis" are an essential cause for the border incidents, Kalfoff countered that the Greek government tried to cloak their own responsibilities on this matter. He further argued that the Commission did not find any serious evidence that the "Comitadjis" directly provoked these incidents. Concerning the proposed compensation that Greece should pay to Bulgaria, the representative was dissatisfied, because they were a lot lower than the Bulgarian government had originally demanded. Considering the military recommendations of the Commission, the Bulgarian government would be ready to accept all of them in principle, except the employment of neutral officers. It refused this point, because it feared that they could diminish the direct contact between the commanding officers and this could reduce their sense of responsibility. The only task that neutral officers should fulfil is to help by the installation of new frontier posts. Finally, the representative addressed the political recommendations of the Commission. He refused to prolong the possibility to liquidate the property of emigrants from their former home as they already had four years time. According to him, this could lead to more emigration from Greece and Bulgaria again, which would not achieve the

intention that those who already emigrated and did not asked for liquidation would be compensated appropriately. Kalfoff claimed that Bulgaria was already overstrained with its refugees.³²³

Subsequently, the Greek representative, Rentis, presented his statement, in which he stated that his government accepted the military recommendations of the Commission and considered the presence of neutral officers as an appropriate instrument to maintain peace. Concerning the political recommendations, Rentis admitted that the liquidation of property of emigrants was a very difficult procedure and thus his government agreed with the prolongation of the time-limit for it. Furthermore, the representative tried to explain why the relations between his country and Bulgaria were very difficult. However, for these poor relations he especially regarded Bulgaria as responsible. An essential reason for that was, that Bulgaria never gave up the demand of an access to the Aegean Sea. The Bulgarian government often tried to realise the provisions of the Treaty of Neuilly which ensured the country's economic outlet to the Aegean Sea. Consequently the Greek government feared that Bulgaria could put forward any territorial claims. Therefore, Rentis emphasised that the Bulgarian government also moved many infantry and artillery to the south of the country as well as it violated the military clauses of the Treaty of Neuilly by arming civilians, because they defined the frontier as a demilitarised zone. Facing this violation, he claimed that the Greek government should also have a right for reparations, especially for the killed Captain Vasilliadis and all the other soldiers who were killed or wounded during the fight. Rentis tried to support this argument by claiming that it was the Bulgarians who attacked. Thus, the representative argued that the Bulgarian demand for reparations should be set aside and Greece should receive reparations of 50 Million Greek Drachmas.³²⁴

According to these statements, the report of the Commission of Enquiry was able to achieve a slight approximation between the conflict parties. Both of them agreed partly on the recommendations of the Commission in order to prevent such a situation in the future, which indicated that they were interested in a further de-escalation. However, its examinations on the course of events seemed to be insufficient for both of the disputing governments as neither of them fully accepted it. Although the Bulgarian government generally accepted its conclusions on this issue, the Greek government refused them and still defined Bulgaria as the aggressor. Therefore, the Commission was not capable of accomplishing a consensus on this matter.

In reaction to the objections of the representatives, the president of the Commission, Rumbold, argued that as he adopted the conclusions of his report unanimously with the other members of the Commission, he did not want to adjust the report. Subsequently, the Rapporteur made proposals for

³²³ Appeal of the Bulgarian Government under Articles 10 and 11 of the Covenant: Examination of the Report of the Commission of Enquiry (Annex 815). First Meeting (Public). Thirty-Seventh Session of the Council, In: League of Nations Official Journal, Vol. 7, No. 2 (1926) 108-111.

³²⁴ Examinations of the Report. First Meeting. Thirty-Seventh Session of the Council, 111-117.

the next steps of the negotiations. Chamberlain suggested to prepare a report that examines the findings of the Commission and the statements of the representatives to form a final resolution to settle this dispute. In order to achieve this, the president recommended that Chamberlain should be assisted in his task by the representative of Japan, Viscount Ishii, and the representative of Belgium, Paul Hymans. The Council accepted these proposals and for the preparation of the Rapporteur's report, the continuation of the session was postponed.³²⁵

After the Rapporteur and the two other representatives considered the findings of the Commission as well as the statements of the Greek and Bulgarian representative and held meetings with the members of the Commission and with the representatives of the disputing states, Chamberlain presented his report in the Council meeting of 14 December. At first, the report concerned itself with the issue of reparations. The Commission recommended to the Rapporteur that the reparations for moral and material damage should become reduced from 20 million to 10 million Bulgarian Levas due to the Greek losses, especially the killing of the Greek Captain Vassiliadis. Moreover, the Greek government had to pay 20 Million Bulgarian Levas in addition, because it violated Bulgarian territory. The sum has to be paid within 2 months and the Council should be informed, after the sum had been paid.³²⁶

Furthermore, both of the disputants should accept the military and political recommendations of the Commission. However, both governments wished to make small modifications on these recommendations. First of all, the command of the frontier guards should remain under military command and not under civilian authorities as the Commission proposed. A neutral officer on each side should assist both countries in the reorganisation of the frontier guards. The procedure of the conciliation process in case of another frontier incident was now more elaborated and slightly changed. In case of an incident, the commanding officers of the frontier guards should be obligated to meet for conciliation as soon as possible. In order to increase the chances of success of the negotiations, neutral officers should be present. This point differentiates from the Commission's initial recommendation of the permanent presence of neutral officers. Then a conciliation commission should be established, composed out of a representative from each of the parties and one of the neutral officers on every side to settle the dispute. The availability of these neutral officers for such deliberations was determined to last for 2 years. After this period, the disputing governments would be able to ask the League for representatives to support any negotiations, if

³²⁵ Appeal of the Bulgarian Government under Articles 10 and 11 of the Covenant: Examination of the Report of the Commission of Enquiry (Annex 815). Second Meeting (Public). Thirty-Seventh Session of the Council, In: League of Nations Official Journal, Vol. 7, No. 2 (1926) 118.

³²⁶ Appeal of the Bulgarian Government under Articles 10 and 11 of the Covenant: Decision of the Council. Twelfth Meeting (Public). Thirty-Seventh Session of the Council, In: League of Nations Official Journal, Vol. 7, No. 2 (1926) 172f.

they cannot achieve an agreement on their own. Concerning the political recommendations, Chamberlain argued that the proposals for the proper liquidation and compensation of the refugees' property should become adopted. In this connection, the time-limit for the submission for such claims should be extended. The two governments should prepare a report to the Council on the progress of the execution of this recommendation. Additionally, the Commission also recommended that both of them should establish special facilities of communication to contact the Council or the League's Secretariat in case of a threat of war.³²⁷

As Chamberlain completed the presentation of his report, the Council adopted the report with its recommendations in its resolution. The representatives of the disputants again received the chance to comment the report, but both of them accepted it.³²⁸

6.6 Aftermath

After the ending of the Council's involvement, the disputing governments implemented the provisions of the resolution, but the relations between the two countries did not improve. In February and March 1926, the governments of Greece and Bulgaria sent letters with their reports to the Secretary-General, in which they argued that they already began to implement the military and political recommendations of the Council's resolution. The Swedish government declared itself ready to instruct two of its officers as neutral officers in order to assist in the fulfilment of the military recommendations.³²⁹ Both governments accepted these officers. For accomplishing the political recommendations, they started again to cooperate with the mixed commission to liquidate the property of the emigrants.³³⁰ Furthermore, Greece paid the prescribed reparations to Bulgaria.³³¹ Although there were no other major crises between Bulgaria and Greece during the Interwar period, the relations between the two countries stayed very tense. In the following years the negotiations between the two countries concerning the financial questions of the emigrants stagnated again.

³²⁷ Decision of the Council. Twelfth Meeting. Thirty-Seventh Session of the Council, 173-175 .

³²⁸ Decision of the Council. Twelfth Meeting. Thirty-Seventh Session of the Council, 176f.

³²⁹ Appeal, Dated October 22nd, 1925, of the Bulgarian Government under Articles 10 and 11 of the Covenant Appointment of Two Swedish Officers to be Placed at the Disposal of the Bulgarian and Greek Governments in Accordance with the Council's Resolution of December 14th 1925. Annex 850, In: League of Nations Official Journal, Vol. 7, No. 4 (1926) 580f.

³³⁰ Appeal, Dated October 22nd, 1925, of the Bulgarian Government under Articles 10 and 11 of the Covenant Execution of the Recommendations of the Council of December 14th, 1925. Annex 851, In: League of Nations Official Journal, Vol. 7, No. 4 (1926) 582f.

³³¹ Appeal, Dated October 22nd, 1925, of the Covenant of the Bulgarian Government under Articles 10 and 11 Execution of the Recommendations of the Council Dated December 14th, 1925. Payment by the Greek Government to Indemnity due to Bulgaria. Annex 851c, In: League of Nations Official Journal, Vol. 7, No. 4 (1926) 584.

Additionally, other factors such as the remaining Bulgarian inability to fully accept the provisions of the Treaty of Neuilly heavily afflicted their relations.³³²

6.7 Conclusion

In order to solve this conflict, the Council of the League used different instruments to enable negotiations and further them in the settlement of the Greco-Bulgarian War. As the Council's involvement began when the hostilities between the disputants had already escalated, it was its first priority to end the war before it was possible to negotiate any solutions for this conflict. Thus, in the first phase of the negotiations, the Council focused on de-escalating measures. In this phase of the Council's involvement, the president of the Council played a major role. He called upon the disputants to cease hostilities and withdraw their troops. However, the representatives of the involved parties did not fulfil this demand and hence the Council set a time-limit of 24 hours for the disputing governments to give orders to withdraw their troops which should be completed within 60 hours. In order to observe this demand, the Council sent military attachés to the conflict region. After the expiration of these time-limits, the attachés reported that the demands of the president were fulfilled. So, negotiations could begin. For this purpose, the Council appointed the British representative, Chamberlain, as Rapporteur, who promoted actively the negotiations until the Council concluded its final resolution on this dispute. Additionally, in order to settle the conflict, the Council appointed a Commission of Enquiry that should clear the facts of the incident and deliver recommendations so that such hostilities will not occur again in this region. After the Commission presented its report and its subsequent discussion before the Council, the final phase of the deliberations began. This phase was dominated by the Rapporteur, who prepared in assistance with other representatives of the Council a report based on the findings of the Commission of Enquiry and the objections of the representatives of the opposing governments to conclude a final resolution for the settlement of this conflict.

The discussions before the Council were heavily shaped by its president and the Rapporteur. Especially in the first phase of the negotiations the president asked the representatives of the disputants many detailed questions about the events of the incident, the cease of hostilities and the withdrawal of the troops. However, in both phases of the negotiations there was space for the disputants to state their opinion. In the first phase they were asked to present their observations on the occurrence and course of the military events. In their statements both of the representatives demanded an enquiry to determine the responsibilities for this crisis, which was subsequently

³³² Penelope *Kissoudi*, *Balkan Politics: Relations between Greece and the Balkan States in the Inter-war Years and the Role of Great Powers in the Region*, In: *International Journal of the History of Sport*, Vol. 25, No. 13 (2008) 1711.

implemented by the Council. After the conclusion of the report of the Commission of Enquiry, the representatives criticised some provisions of the report. Reacting to this, some of these criticisms were considered in the final resolution of the Council.

The negotiations of the Rapporteur to prepare a report in order to form the final resolution proved to be a special instrument to involve the whole negotiating process in the conclusion of an agreement for this conflict. He aimed to prepare an acceptable agreement on the one hand by taking into account the findings and recommendations of the Commission of Enquiry. On the other hand, he respected the criticisms of the disputants and consulted again the members of the Commission. The outcome was finally a slight modification of the recommendations of the Commission of Enquiry.

The Commission of Enquiry fulfilled its task to clear most of the facts of the incident and to deliver recommendations, at which most of the latter was concluded by the Council in its resolution. However, the Commission did not achieve to determine all the facts such as the exact circumstances in which the Greek Captain Vasilliadis died. The commissioners, in assistance of the military attachés, gathered its findings by deliberations with high representatives of both of the disputing countries as well as by examining the incident and the military events on the spot of their occurrence. By interviewing high-ranking representatives from both sides as well as witnesses of the events such as the frontier post staff, they tried to filter out as many objective facts about the occurrence of this incident as possible. By doing this, they ascertained, for example, that the Greek army attacked Bulgarian territory, because they feared a Bulgarian invasion, or they confirmed that Bulgarian troops barely entered Greek territory. The examinations on site also helped the Commission to examine the damages of the military events and thus they could recommend a sum of reparations that Greece should pay to Bulgaria. Based on these findings, the Commission proposed its recommendations. The military recommendations should help prevent any frontier incidents in the future as they had occurred often in the past. Apart from that, the political recommendations should improve the living conditions in the frontier region, because the Commission recognised much discontent within the residing emigrants that further strained the tensions.

During the negotiations the members of the Commission played an essential role. This was particular evident during the examinations of the Rapporteur in preparation for his report that should form a final resolution to solve this conflict. The Rapporteur held meetings with the commissioners as well as with the representatives of the disputants in order to fulfil his task. Thus, it is recognisable that the influence of the commissioners did go beyond the conclusion of its report, they were also involved in the negotiations for the resolution. Against that, during the discussions before the Council, the commissioners were indeed present, but they were rarely participating in them. There was only one noticeable situation, as after the representatives of the disputants stated

their objections on the report of the Commission, its president argued that he and the other commissioners did not intend to adapt the report in any way.

In the settlement of this conflict the Council was in particular able to demonstrate its ability to contribute to the de-escalation of an on-going war, which it had to achieve in a short period of time. Within two months, from October until December 1925, the Council succeeded in de-escalating the conflict, clarifying the facts of the incident and the military actions as well as providing a considerably agreement. It was first of all able to cease the hostilities by frequently demanding the disputants to end them and withdraw their troops as well as it sent military attachés to observe this. In a next step, the appointment of a Commission of Enquiry could clearly fulfil its task of examining the incident and the further hostile acts by providing an as possible as objective description of the events. Furthermore, the Commission's recommendations provided measures to prevent such incidents from happening in the future, which were also mostly accepted by the conflict parties.

7. Conclusion

While the world was at war from 1914 to 1918, the 1920s were a time of increasing international cooperation. In this time, the League of Nations, which was established as a reaction to World War I, accomplished to maintain peace in times of international crisis in several cases. In order to achieve a settlement in such situations, the Council of the League frequently used the instrument of appointing Commissions of Enquiry for clarifying the facts of a particular dispute and assisting its negotiations for a final agreement especially by providing some recommendations based on the gathered information. The aim of this master thesis was to examine what the Council and its Commissions of Enquiry were able to do to further negotiations in order to finally achieve a settlement of conflicts along with the question what the exact function of these two actors had been during these proceedings.

For the evaluation of the Council's as well as the Commission's role in the deliberations, it has to be first of all considered that the chosen conflicts are generally very different, which has an impact on their exact role in the particular negotiating process. The conflicts over the Åland Islands and the Vilayet of Mosul were territorial disputes. The Greco-Bulgarian War of 1925 was an escalating frontier incident, which was partly a result of the tense relations between the states especially after World War I and the conclusion of the Peace Treaty of Neuilly. Furthermore, the Memel Dispute was a very special kind of conflict as it was officially a conflict between the Lithuanian government and the Conference of Ambassadors over the conditions regarding the sovereignty of the Memel Territory being transferred to Lithuania. However, indirectly it was a dispute among Lithuania and Poland in the context of the controversy over the Vilna Region. Another essential factor which has to be considered in this connection is, that some of the conflicts resulted in hostilities and some not. The conflict between Greece and Bulgaria resulted in a war of short duration and the deliberations on the dispute over the Vilayet of Mosul were frequently accompanied by hostilities between Turkish and British troops.

Based on the Covenant of the League of Nations, the Council did not have any clearly defined instruments to further negotiations on the settlement of international conflicts as well as the Commissions of Enquiry itself were not explicitly mentioned in it. Therefore, most of the activities of the Council and its Commissions during these proceedings were based particularly on ad-hoc decisions. Thus, both of them fulfilled their tasks very adaptably in connection with the particular conflicts.

Considering the specific context of these conflicts, the Council and its Commissions fulfilled different purposes. Hence in each of these cases the Council had to fulfil at first certain preparations so that the proceedings on an agreement could proceed. In the Åland Dispute the Council appointed a Commission of Jurists in order to clarify, if the conflict is a matter of International Law or a

Finnish domestic affair, namely whether the Council is competent to decide on this issue. In the conflict over the Vilayet of Mosul, the Council was concerned during the whole course of the negotiations on the preliminary question, if its role in the settlement of this dispute was that of a mediator or of an arbitrator. Within this struggle, it was also engaged with de-escalating measures in consideration of occurring hostilities between the disputants so that the deliberations could be continued. Therefore, the Council set up a provisional frontier between Turkey and Iraq, appointed a Commission of Enquiry to investigate the hostilities as well as invoked both of the parties frequently to cease them. Also in the Greco-Bulgarian conflict, the Council implemented de-escalating measures in order to stop the war. As combat between the two countries already began and the Bulgarian government invoked Article 11 of the Covenant, the president of the Council requested the disputing governments to cease hostilities and to command their troops to withdraw back to their own countries. In order to observe these demands, the Council sent military attachés to the conflict region. In the context of the Memel Dispute, these preparations confined especially on the question, what the appointed Commission of Enquiry actually should investigate, as the deliberations on this matter were specifically conducted by it.

Besides the clarification of these preliminary questions, the Council was also able to further the deliberations by providing a platform for the exchange of opinions of the disputing governments. On this occasion, they frequently received the possibility to state their general opinions on the dispute or on the particular negotiating steps, which was essential at the beginning and at the end of negotiations. As the proceedings were in their initial phase, the Council's function as a platform for the exchange of opinions especially served to determine the most controversial points between the conflict parties. Their governments often sent detailed memoranda with their standpoints on the dispute and in every case their representatives presented them before the Council. Based on this exchange of opinions, the Council and especially the later appointed Commissions of Enquiry were aware of the most contentious subjects among the disputants. Therefore, the Council's and the Commissions' efforts in the settlement of the particular conflict tried to provide solutions on these points. This role of the Council was also important as it had to convert the recommendations of the Commissions of Enquiry into a considerably agreement. In this phase of the proceedings, the disputing governments again received the possibility to state their opinion, now on the report of the Commission of Enquiry and later on the draft resolution which should be the basis for the settlement of the conflict. This was relevant in connection with the aim of achieving a stable agreement, because the Council in most of the cases considered their criticisms. This was for example evident in the case of the Åland Dispute. On this occasion, the Finnish government strongly opposed the recommendations of the Commission of Jurists, which was indeed no ordinary Commission of Enquiry as its task was primarily a judiciary one, but it nevertheless provided

recommendations for an agreement. However, the Council realised that based on the report of the Commission of Jurists, a stable agreement was impossible and therefore it appointed a Commission of Enquiry which was finally able to elaborate a more balanced compromise. In this context, the Mosul Dispute was an exception in connection with the harsh criticisms of the Turkish government on the report of the Wirsén Commission and the further negotiating steps. The Council could not consider its criticisms anymore, because the government completely refused its role as an arbitrator and to take further part in the negotiations. Nevertheless, the Turkish government later accepted the final resolution of the Council in the Treaty of Ankara of 1926.

Within these activities, the Council instructed different actors which were able to further the deliberations. Especially the role of the Rapporteur has to be emphasised, which played an essential part in the deliberations on Greco-Bulgarian War as well as in the Mosul and Memel Dispute. It was the Rapporteur, who heavily shaped the preparations of further negotiating steps in these cases. In the proceedings of these conflicts, he fulfilled his task of preparing the next negotiating steps by examining the current situation. Furthermore, he made efforts in preparing the final resolution of the Council for the settlement of the particular disputes by examining the findings of the Commission of Enquiry and the objections of the conflict parties on them.

Besides the Rapporteur, there were also other essential actors within the negotiations on the particular conflicts who were able to further them. First of all, the Council referred in two cases to judicial advice in order to clarify legal question. This occurred on the one hand with the appointment of the Commission of Jurists in the Åland Dispute, which the Council did to examine its competence in the settlement of this dispute as well as the question if the clauses for the demilitarisation and neutralisation of the islands were still in force. On the other hand, in case of the Mosul Dispute the Council asked the PCIJ for an advisory opinion, if it was occupying in accordance with the Treaty of Lausanne the status of an arbitrator in the settlement of the conflict. In both of these cases the judicial advice strengthened the position of the Council as it clearly defined its role within the negotiations and thus supported its authority to elaborate an agreement.

Furthermore, on many occasions the particular acting president of the Council helped shaping the proceedings. This was especially the case in the settlement of the Greco-Bulgarian War, when at the beginning of the negotiations the acting president of the Council, Briand, attempted to de-escalate the war by demanding from the conflict parties to cease hostilities and withdraw their troops so that the Council would be able to determine an agreement. Besides that, in one case, the Council appointed a Sub-committee to fulfil the Rapporteur's task of doing investigations in order to prepare the next steps of the deliberations. It was instructed in the Mosul Dispute to finally clarify the question if the Council's role in the proceedings was that of a mediator or an arbitrator. It

supported the Council in furthering the negotiations as it recommended to submit this question to the PCIJ.

As a consequence of the Council's efforts to determine the most controversial points of a particular conflict, the Commissions of Enquiry heavily contributed to the clarification of them by gathering facts and providing several recommendations for the settlement of a dispute. However, the approach and the function of these Commissions were very different along with the disputes in which they were appointed. Within the proceedings of the Åland Dispute, the Commission of Enquiry argued for the remaining of the Åland Islands under Finnish sovereignty especially in order to stabilise the region and it suggested that the disputing governments should negotiate bilaterally on the minority rights for the Ålanders. In case of the Greco-Bulgarian War, the Commission was, on the one hand, able to clarify as far as possible the occurrence and course of the frontier incident and the consequent war. On the other hand, it made several recommendations in order to prevent the escalation of such future incidents as well as to smooth the tensions between the disputants. In the proceedings of the Mosul Dispute, the Wirsén Commission provided several considerations on this matter, which supported the Council's final decision to award the Vilayet of Mosul to Iraq. Considering this, it argued that this would be the most stable solution, as it would be very difficult to draw a frontier through the region or to use its southern border as delimitation between Turkey and Iraq and the territory would be more economically connected with the rest of Iraq than with Turkey. The Commission within the negotiations of the Memel Dispute achieved to clearly determine the factors which hindered the conclusion of a convention with the Conference of Ambassadors and based on this it accomplished to negotiate an agreement with the Lithuanian delegation which guaranteed the internationalisation of the port of the city of Memel and the freedom of transit on the Niemen River. In all of these conflicts, findings of the Commissions of Enquiry formed an essential basis or the whole agreement for their settlement. Therefore, their influence on the final settlement of these disputes cannot be denied.

In conclusion, within the negotiating processes on the settlement of these conflicts, the Council of the League of Nations and its Commissions of Enquiry could clearly contribute to a settlement of these conflicts. Based on its efforts in the selected cases, the Council and the Commissions developed a clear division of labour within the negotiations, although there was no defined legal basis in the League's Covenant for this. The Council's efforts in these proceedings emerged as it was possible, on the one hand, to enable the deliberations on an agreement by giving an answer to preliminary questions as well as by executing de-escalating measures. On the other hand, it was able to define the most controversial questions between the conflict parties, as it provided a platform for the exchange of opinions for the disputing governments. The Commissions of Enquiry had to examine these questions by investigating on the spot in the conflict region and by consulting

with high-ranking representatives of the conflict parties. Based on this, they cleared the facts of these conflicts and provided recommendations for a settlement. As the Commissions finished their reports, the Council had again to fulfil its platform function, because the disputing governments now received the possibility to state their observations on the findings of the report. Hereby, the Council sought to adapt the recommendations of the Commissions in an acceptable agreement for the disputants and thus, in most of the cases it considered their proposals for modifications, but only if they were not absolutely contradictory. Therefore, the Council could be defined in this context as a clarifying diplomatic instrument. On the other hand, the Commissions of Enquiry received the role of a preparing instrument as they gathered all the necessary information to answer the raised questions of the Council and based on this, they provided recommendations that could contribute to a settlement of the conflict.

Consequently, in accordance with the statement on the recent research on the League of Nations by Susan Pederson, which was stated above on several occasions, this master thesis was able to show what the Council and its Commissions of Enquiry were able to do in the selected international disputes to further proceedings. Generally, this study is embedded in the field of International History and specifically in the research on the Council of the League of Nations' efforts in the field of international security, at which it was additionally influenced by studies on the UN Security Council on this matter. In this context, this analysis enriched the research on the efforts of the League's Council in this field by analysing the deliberations on the settlement of the particular conflict from the organisation's point of view and by examining a broader spectrum of cases than previous studies.

The application of the perspective of the Council on the proceedings enabled this study to investigate, in what way the organisation was able to provide a framework in mediation processed in international disputes. While earlier studies on this matter concerned more with the interests of the great powers or of particular states in such deliberations, this master thesis examined the role of the Council itself. In this context, the study revealed that once the organisation was able to become involved in the negotiations on the settlement of a dispute, it was capable to set different measures to further negotiations in order to finally achieve an agreement, whereby the appointment of Commissions of Enquiry was an essential diplomatic instrument for.

The study's structure in case studies enabled it to draw broader conclusions on the work of the League as it would have been possible with the analysis of only one specific conflict, which many previous studies did. So, this approach allowed it to analyse how the Council acted in cases in which it appointed Commissions of Enquiry in order to contribute to the settlement of international conflicts. In this context, the master thesis was able to find out that the Council and its Commissions developed particular working patterns within the negotiations of the selected cases. In

this context, as it was already mentioned above, the Council emerged as a clarifying and the Commissions as a preparative diplomatic instrument.

A future research agenda could apply the here used approach in order to analyse the ability of the League's Council in the settlement of international conflicts in a broader context by, for example, increasing the number of analysed cases in which the organisation was involved or examining one of its other diplomatic instruments. This approach could help to establish a more balanced view in the research on the League's ability to settle conflicts as it is primarily interested in what the organisation was able to do, in contrast to earlier studies on this matter, which were still entangled in questions of the organisation's failures and successes. As long as the research in this field does not completely overcome this focus, it cannot establish a better understanding of the role of the League's Council within mediation processes.

Appendix

Abstract

For several times, the Council of the League of Nations used the diplomatic instrument of appointing Commissions of Enquiry in order to clarify the facts of international conflicts and to provide recommendations for its solution. In the 1920s, the Council contributed to the settlement of conflicts by using this instrument in 4 cases: the conflicts over the Åland Islands, the Memel Territory and the Vilayet of Mosul as well as in the Greco-Bulgarian War of 1925. Based on these 4 cases, this master thesis aims to examine the Council's work in mediation processes in international conflicts through historical interpretation. In these cases the Council and its Commissions of Enquiry were able to further negotiations as they developed a division of labour that facilitated the conclusion of an agreement. The Council served as a clarifying instrument, as it enabled negotiations by resolving several preliminary judiciary questions and, if it was necessary, to set de-escalating measures in order to cease military actions. Additionally, it served as a platform for the exchange of opinions for the disputants. The Council fulfilled this function primarily at the beginning of deliberations, as it defined the most controversial points among the disputants, and at the end, when they discussed the adaption of the final resolution. Against this, the Commissions of Enquiry served as a preparing instrument, as their examinations provided most of the information to answer the Council's raised questions and based on that, they delivered recommendations that shaped the final agreement.

Abstract (German Version)

Zur Beilegung internationaler Konflikte setzte der Völkerbundsrat in einigen Fällen Untersuchungskommissionen ein, um die Fakten des jeweiligen Konfliktes zu klären und Empfehlungen für eine Übereinkunft zur Verfügung zu stellen. In den 1920er-Jahren konnte der Rat in vier Fällen durch die Einsetzung solcher Kommissionen zur Beilegung von Konflikten beitragen: in den Konflikten um die Åland Inseln, das Memelland und das Vilayet von Mosul sowie im Griechisch-Bulgarischen Krieg von 1925. Anhand dieser vier Fälle analysiert diese Masterarbeit die Leistungen des Völkerbundsrates in Vermittlungsprozessen von internationalen Konflikten mit Hilfe von historischer Interpretation. Der Rat und die Untersuchungskommissionen waren in diesen Fällen fähig Verhandlungen zu fördern, indem sie eine Arbeitsteilung unter sich entwickelten die ein Abkommen ermöglichten. Der Völkerbundsrat diente als klärendes Organ, welche eine Basis für Verhandlungen ermöglichte um vorausgehende rechtliche Fragen zu klären oder wenn notwendig deeskalierende Maßnahmen setzte, um Kriegshandlungen zu beenden. Andererseits diente er als Plattform zum Meinungsaustausch zwischen den Konfliktparteien, um zu Beginn die strittigsten Punkte zwischen den Disputanten zu ermitteln, und am Ende die Annahme der abschließenden Resolution zu besprechen. Dagegen dienten die Untersuchungskommissionen als vorbereitendes Organ, da sie die vom Rat aufgeworfenen Fragen beantworteten und ihre Empfehlungen die abschließende Übereinkunft prägten.

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³³³ Organised by case study and by chronology of publication.

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