

original scope of the policy. There would be little basis for objection to a joint declaration by the United States and the other American republics regarding the preservation of the American continents from European aggression. There would probably be no objection in the United States to a joint declaration of policy against interference in European political affairs. Such a declaration could be phrased in such a way as to keep within the spirit of the Covenant and therefore League members could avoid conflicts with their obligations under that instrument. The Leticia and Chaco affairs have shown that the League can interest itself in American disputes without opposition from the United States. On the other hand, it is extremely doubtful whether public opinion in the United States would agree to any declaration regarding the Monroe Doctrine which could be interpreted as a limitation upon the right of self-defense upon which the Monroe Doctrine rests. The abrogation of the Platt Amendment suggests a willingness on the part of the present Administration to rest upon its general rights under international law rather than upon special treaty rights even in the Caribbean area where we have been most jealous of our special interests.

It should be quite possible to phrase a joint declaration which would strengthen rather than weaken the basic policy of the Monroe Doctrine. The discussions attending the final conclusion of the Briand-Kellogg Pact show that a reservation of self-defense is greeted with suspicion. The danger is that such a reservation on behalf of the United States might counteract in the rest of the Americas the advantages of the proposed joint declaration. The problem is not insoluble. It ought to be recognized in the United States that our Latin American policy is a matter of primary importance and as fundamental in United States foreign policy as any part of the Monroe Doctrine itself. The negotiations would require great tact and skill in draftsmanship. The recent trend of United States policy in Latin America, both in the latter part of the Hoover Administration and under the present Roosevelt Administration, offers the most favorable basis for such a step which has ever existed. Even if immediate difficulties should prove insuperable, the continuing consideration of such a new policy should make its fruition increasingly more feasible.

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AFGHANISTAN, ECUADOR AND THE SOVIET UNION IN THE LEAGUE OF NATIONS

The membership of the League of Nations has been increasing progressively since 1920. When the First Assembly met on November 15, 1920, the League had 42 members. Six States—Albania, Austria, Bulgaria, Costa Rica, Finland and Luxemburg—were admitted to membership in 1920; three—Estonia, Latvia and Lithuania—in 1921; Hungary in 1922; Abyssinia and the Irish Free State in 1923; the Dominican Republic in 1924; Germany in 1926; Mexico in 1931; and Iraq and Turkey in 1932. The procession was joined, in September, 1934, by Afghanistan, Ecuador and the

Union of Soviet Socialist Republics, and as on previous occasions¹ the event seems to call for some analysis of the process by which the result in each case was effected.

(1) AFGHANISTAN

Afghanistan was not one of the States originally invited to accede to the Covenant in 1920. Its frontiers with British India were agreed upon in 1919. Since the signature on November 22, 1921, of a treaty by which Great Britain and Afghanistan each recognized the complete internal and external independence of the other,² Afghanistan has unquestionably been master of its own international policy, and numerous treaties have been made with other States.³ Since 1923, the government is that of a constitutional monarchy.⁴

On September 24, 1934, the Minister of Afghanistan in London sent the following telegram to the Secretary-General of the League of Nations:⁵

According my Government telegraphic instructions I submit you following:

In accordance with the terms of Article I of the Covenant of the League of Nations, I have the honour to request that the Afghan Government may be admitted as a Member of the League of Nations, and that this request may be placed on the agenda of the present meeting of the Assembly of the League.

The Government of Afghanistan is prepared to accept the conditions laid down in Article I of the Covenant and to carry out all obligations involved in membership of the League.

On the following day, the Fifteenth Assembly decided to place the question of the entry of Afghanistan into the League of Nations on its agenda, and to refer it to the Sixth Committee. On September 26, the Sixth Committee approved a report of a subcommittee and unanimously recommended the admission. The subcommittee found:⁶ (1) that the application was in order; (2) on the point of recognition, that a "majority of European and

¹ See the writer's studies: "Membership in the League of Nations," this JOURNAL, Vol. 18 (1924), p. 436; "Mexico's Admission to the League of Nations," *id.*, Vol. 26 (1932), p. 114; "Admission of Turkey to the League of Nations," *id.*, Vol. 26 (1932), p. 813; "Admission of Iraq to the League of Nations," *id.*, Vol. 27 (1933), p. 133; "The Argentine Republic and the League of Nations," *id.*, Vol. 28 (1934), p. 125.

² British Treaty Series No. 19 (1921), Cmd. 1786; 14 League of Nations Treaty Series, p. 47.

³ Treaties have recently been made by Afghanistan with the following States: Persia, June 22, 1921, 33 L. N. Treaty Series, p. 285; France, April 28, 1922, 105 *id.*, p. 147; Germany, March 3, 1926, 62 *id.*, p. 115; Poland, Nov. 3, 1927, 74 *id.*, p. 83; Latvia, Feb. 16 1928, 78 *id.*, p. 99; Switzerland, Feb. 17, 1928, 73 *id.*, p. 323; Belgium, June 16, 1928, 97 *id.* p. 97; Finland, July 17, 1928, 112 *id.*, p. 9; Japan, Nov. 19, 1930, 121 *id.*, p. 237.

⁴ For a history of constitutional development in Afghanistan and the text of the Constitutional Law of Nov. 11, 1931, see 5 Dareste, *Les Constitutions Modernes* (4th ed. by Delpech and Laferrière, 1933), pp. 499, 501.

⁵ League of Nations Document, A.46.1934.VII.

⁶ *Id.*, A.54.1934.VII.

Asiatic countries have diplomatic representatives at Kabul"; (3) that Afghanistan's Government was "regularly established," and its frontiers "regularly delimited," the area being 760,000 square kilometers and the population "some 10 millions"; (4) that it was "an independent sovereign State"; and (5) that Afghanistan had stated its willingness to fulfil its obligations, and that in view of its participation in the Disarmament Conference there was no occasion to raise the issue of armaments before the League's Advisory Committee on Military, Naval and Air Questions. On September 27, 1934, the Assembly voted unanimously (47 votes being cast) for the admission; representatives of Afghanistan thereupon assumed seats in the Assembly.⁷ On September 27, 1934, the contribution of Afghanistan to the expenses of the League of Nations for 1935 was fixed, "in view of the material impossibility of referring the question . . . to the Allocation Committee for a detailed study" and "without prejudice to any decision that may be reached next year," at one unit.⁸

In this case, the normal procedure established in 1920⁹ was followed, and no difficult legal questions arise. Afghanistan's assumption of the obligations of the Covenant was informal, but it was in accordance with the precedents.

(2) ECUADOR

The Republic of Ecuador became a signatory to the Treaty of Versailles of June 28, 1919, but to date it has not deposited a ratification at Paris. On September 27, 1934, the following telegram, signed by the President and the Minister for Foreign Affairs of Ecuador, was sent to the Secretary-General of the League of Nations:¹⁰

By the authority of the Senate of the Republic I have the honour to inform you and through you the League of Nations that Ecuador has decided to become a Member of that distinguished Institution which is generously and continually working for peace among the peoples. I take this opportunity of extending a greeting on behalf of the Government and people of Ecuador to the great friendly nations which are so worthily represented in the Assembly. His Excellency M. Gonzalo Zaldumbide, Envoy Extraordinary and Minister Plenipotentiary will represent Ecuador in the League and I hope that the latter will believe what he will say in the name of the Republic especially when he expresses the earnest desire of the people of Ecuador for peace freedom and justice.

The Fifteenth Assembly having adjourned, this telegram was placed before the Council on September 28, 1934, and the Secretary-General stated:

⁷ Verbatim Record of the Fifteenth Assembly, Sept. 27, 1934, p. 3.

⁸ League of Nations Document, A.60.1934.X.

⁹ Records of First Assembly, Committees, II, p. 159.

¹⁰ League of Nations Document, C.444.M.191.1934; Minutes of the Council, Sept. 28, 1934, p. 5.

"Ecuador, an original Member of the League of Nations, was now acceding to the Covenant. There was therefore no question of an admission or election." Hence, the Secretary-General expressed his confidence "that the Council would be willing to consider Ecuador forthwith as a member of the League, with all the rights and duties arising out of this capacity." After satisfaction with this course had been expressed by members of the Council, the President of the Council invited the representative of Ecuador to the Council table and extended to him a personal welcome.¹¹

This seems to have been a very informal method of admission. Article 1 of the Covenant provides that the signatories named in the annex to the Covenant shall be original members of the League of Nations; while it does not expressly set as a condition the ratification of any of the treaties of peace in which the Covenant is embodied, such a condition would seem to result from the concluding paragraphs of the peace treaties (*e.g.*, those following Article 440 of the Treaty of Versailles). Heretofore many people have assumed that ratification of one of the treaties of peace is a condition precedent to acceptance of membership by any of the signatories named in the annex.¹² Only three signatories named in the annex have not ratified one of the treaties of peace, namely, the United States of America, Ecuador and Hedjaz. The action taken with reference to Ecuador therefore sets a precedent which might in the future prove useful to the United States, and possibly to Saudi Arabia (as the successor of the Hedjaz).

(3) UNION OF SOVIET SOCIALIST REPUBLICS

None of the Soviet Republics was named in the Annex to the Covenant, and the Union was formed only in 1922.¹³

On September 15, 1934, the following telegram was sent to the People's Commissariat for Foreign Affairs at Moscow by delegates representing the thirty States named:¹⁴

The undersigned, delegates to the fifteenth Assembly of the League of Nations from the States hereinafter enumerated: Abyssinia, Albania, Australia, Austria, United Kingdom, Bulgaria, Canada, Chile, China, Czechoslovakia, Estonia, France, Greece, Haiti, Hungary, India, Iraq, Italy, Latvia, Lithuania, Mexico, New Zealand, Persia, Poland, Roumania, South Africa, Spain, Turkey, Uruguay, and Yugoslavia,

¹¹ Minutes of the Council, 82d session, 5th meeting, pp. 5-7.

¹² See, however, the admirable paper by Clyde Eagleton, "The Problem of the Admission of the United States into the League of Nations," 10 *New York University Law Quarterly Review* (1932), p. 58; 13 *Revue de Droit International et de Législation Comparée* (1932), p. 632.

¹³ On the constitutional evolution of the Union, see 2 Dareste, *Les Constitutions Modernes* (4th ed.), p. 381 ff.

¹⁴ League of Nations Document, A.34.1934. An excellent account of events leading up to this situation is to be found in 11 *Bulletin of International News* (London, 1934), pp. 215-224.

Bearing in mind that the mission of maintaining and organising peace, which is the fundamental task of the League of Nations, demands the coöperation of all the countries of the world,

Invite the U.S.S.R. to join the League of Nations and give the League its valuable collaboration.

This telegram is being communicated to the President of the Assembly of the League of Nations.

On the same date the Governments of Denmark, Finland, Norway and Sweden "confirmed to the Soviet Government, through the ordinary channel, their decision to vote in favor of the admission of the U.S.S.R. to the League of Nations." The Swedish delegate to the Assembly notified the President of the Council of this action on September 15, 1934, adding "that the delegations in question would have been authorized to associate themselves with an invitation to that effect, had such an invitation been issued by the Assembly itself." On September 15, 1934, M. Maxim Litvinov, People's Commissar for Foreign Affairs, addressed to the President of the Assembly the following letter:¹⁵

The Soviet Government has received a telegram signed by a great many members of the League of Nations, namely, South Africa, Albania, Australia, Austria, Gt. Britain, Bulgaria, Canada, Chile, China, Spain, Estonia, Abyssinia, France, Greece, Haiti, Hungary, India, Iraq, Italy, Latvia, Lithuania, Mexico, New Zealand, Persia, Poland, Roumania, Czechoslovakia, Turkey, Uruguay and Yugoslavia, in which, pointing out both that the mission of the League of Nations is the organisation of peace, and that this necessitates the general coöperation therein of all nations, they invite the U.S.S.R. to join the League of Nations and add its coöperation. Simultaneously the Soviet Government has been officially informed by the Governments of Denmark, Finland, Norway and Sweden, of their favourable attitude to the entry of the U.S.S.R. into the League.

The Soviet Government, which has made the organisation and consolidation of peace the main task of its foreign policy, and has never been deaf to proposals for international coöperation in the interests of peace, considering that, coming as it does from an overwhelming majority of members of the League, this invitation represents the real will to peace of the League of Nations, and their recognition of the necessity of coöperation with the U.S.S.R., is willing to respond to it, and become a member of the League, occupying therein the place due to itself, and undertaking to observe all the international obligations and decisions binding upon members in conformity with Article 1 of the Covenant.

The Soviet Government is especially glad to be coming into the League at a moment when the question of the amendment of the Covenant in order to bring it into harmony with the Briand-Kellogg Pact, and to banish completely international warfare, is being considered by it.

Since Articles 12 and 13 of the Covenant leave it open to States to submit disputes to arbitration or judicial settlement, the Soviet Gov-

¹⁵ League of Nations Document, A.34.1934.

ernment considers it necessary to make it clear that, in its opinion, such methods should not be applicable to conflicts regarding questions arising before its entry into the League.

I venture to express the hope that this declaration will be accepted by all members of the League in that spirit of sincere desire for international coöperation and for ensuring peace to all nations, in which it is made.

On September 15, 1934, the Council adopted the following resolution:¹⁶

The Council,

Having had communicated to it the letter of September 15th, 1934, which has been addressed by the Union of Socialist Soviet Republics to the President of the Assembly with regard to that State's entering the League of Nations,

Decides, in virtue of the powers which it derives from Article 4 of the Covenant, to appoint the Union of Socialist Soviet Republics to be a permanent Member of the Council as soon as its admission into the League of Nations has been agreed to by the Assembly,

Invites the Assembly to approve this decision.

This resolution was communicated to the President of the Assembly, and on September 17, 1934, the Assembly decided to place the question of the entry of the U.S.S.R. into the League of Nations on its agenda and to refer this question to the Sixth Committee. When the matter was discussed in the Sixth Committee on September 17, no disposition was shown to regard M. Litvinov's letter as containing any reservation. The admission was opposed by representatives of Portugal, Switzerland and the Netherlands, and representatives of Belgium and the Argentine Republic stated that they would abstain from voting. The following resolution was adopted by the Sixth Committee,¹⁷ with 38 votes in favor of the admission,¹⁸ three votes against it and seven abstentions:

The Sixth Committee,

In consideration of the invitation addressed by thirty delegations to the Government of the Union of Soviet Socialist Republics on September 15th, 1934, with a view to the entry of the Union of Soviet Socialist Republics into the League, and of the communication on the same subject from the Governments of Denmark, Finland, Norway and Sweden;

In consideration of the communication addressed to the President of the Assembly by the Government of the Union of Soviet Socialist Republics on the same day, in reply to those referred to above;

And in consideration of the fact that the Soviet Government states in its reply that it undertakes "to observe all the international obligations and decisions binding upon Members in conformity with Article 1 of the Covenant":

Recommends the Assembly to admit the Union of Soviet Socialist Republics to the League of Nations.

¹⁶ League of Nations Document, A.35.1934.

¹⁷ League of Nations Document, A.36.1934.VII.

¹⁸ On Sept. 18 the representative of Finland stated to the Sixth Committee that if he had been present on the previous day he would have voted for the admission of the Soviet Union.

On September 18 the President of the Assembly placed before it the following proposal of the General Committee:¹⁹

(a) The report of the Sixth Committee would be, without further delay, submitted to the Assembly, and, if the Assembly agrees, under the conditions provided for under the Rules, to deal immediately with the matter, a vote would be taken at once on the admission of the Union of Soviet Socialist Republics into the League of Nations;

(b) That vote having been taken, and provided it agreed with the Sixth Committee's recommendation, the Assembly would decide, without further procedure, to deal with the Council resolution of September 15th concerning the granting of a permanent seat on the Council to the Union of Soviet Socialist Republics;

(c) If the Assembly so decided, it would immediately proceed to the vote necessitated by the resolution of the Council, under Article 4, paragraph 2, of the Covenant.

After some debate a vote was taken. Thirty-nine delegates voted in favor of the admission, and three delegates voted against it; the delegates of the Argentine Republic, Belgium, Cuba, Luxemburg, Nicaragua, Peru and Venezuela abstained,²⁰ but the abstentions were not taken into account for calculating the majority; the necessary two-thirds majority would have existed even if they had been counted. The President then declared that the admission of the Soviet Union had been decided by the necessary majority. On the same day the Assembly voted to approve the decision of the Council "appointing" the Union of Soviet Socialist Republics to be permanently represented on the Council; on this proposition fifty ballots were cast, of which forty were favorable and ten were abstentions; the delegates of the Argentine Republic, Belgium, Cuba, Luxemburg, Nicaragua, Netherlands, Peru, Portugal, Switzerland and Venezuela abstained from voting. On September 18 also the Soviet delegation, responding to an invitation of the President, took its place in the Assembly.

On September 27, 1934, the contribution of the Union of Soviet Socialist Republics to the expenses of the League of Nations for 1935 was fixed "in view of the material impossibility of referring the question . . . to the Allocation Committee for a detailed study" and "without prejudice to any decision that may be reached next year," at 79 units.²¹

In this case, an irregular procedure was followed for the admission of a new member to the League of Nations. No subcommittee was created, and the usual questions do not seem to have been investigated. The procedure is interesting because of the invitation extended by the various delegations. It is to be noted that the invitation was extended not by the Assembly, but by thirty States represented in the Assembly; this was because it was not possible to foresee a unanimous vote in the Assembly. In some quarters in

¹⁹ Verbatim Record of the Fifteenth Ordinary Assembly, 9th meeting, p. 1.

²⁰ *Id.*, p. 4.

²¹ League of Nations Document, A.60.1934.X.

Geneva unanimity was thought to be necessary for an invitation by the Assembly. Article 1, paragraph 2, of the Covenant provides:

Any fully self-governing State, Dominion or Colony not named in the Annex may become a Member of the League if its admission is agreed to by two-thirds of the Assembly, provided that it shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments.

Under this text it would seem competent for the Assembly by two-thirds vote to deal with all stages of the problem of admission of a new member, and since only two-thirds of the Assembly need agree to admission in its final stage it ought to be possible for two-thirds of the Assembly to approve an invitation to be sent by the Assembly. This view was opposed in certain quarters on the ground that any departure from the established process of admission required a unanimous vote. The thirty States whose delegates sent the invitation of September 15, 1934, together with the four States which on the same day announced their intention to support the admission, were not quite two-thirds of the members represented in the Fifteenth Assembly.²² As it could not be known in advance how many States' delegates would abstain from voting, a departure from the procedure previously followed²³ was necessary.

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²² Fifty-two members of the League of Nations were represented in the Fifteenth Assembly at the time.

²³ Mexico and Turkey had previously been invited by the Assembly to become members, and on both occasions the invitation had been voted unanimously. See Records of Twelfth Assembly, Plenary, p. 37; Records of Special Assembly, League of Nations Official Journal, Special Supplement No. 102, p. 21.