

Appendix 4.

LETTER ADDRESSED BY THE SECRETARY-GENERAL TO THE REPRESENTATIVE  
OF JAPAN ON BEHALF OF THE COMMITTEE OF NINETEEN.

Geneva, February 9th, 1933.

The Committee of Nineteen considered most carefully the new proposals which Your Excellency submitted to it yesterday. The Committee desired me to express to Your Excellency its sincere appreciation of the efforts made by the Japanese Government to meet the Committee's views.

There is, however, one essential point on which the Committee desires further information. The Japanese Government declares its willingness to accept as the basis of conciliation the principles and conclusions set out in Chapter IX of the Report of the Commission of Enquiry. Principle 7 of that Report is as follows:

"7. *Manchurian Autonomy*:

"The Government in Manchuria should be modified in such a way as to secure, consistently with the sovereignty and administrative integrity of China, a large measure of autonomy designed to meet the local conditions and special characteristics of the Three Provinces. The new civil regime must be so constituted and conducted as to satisfy the essential requirements of good government."

The Committee therefore assumes that, as by the acceptance of this principle the Japanese Government recognises that the continuance of the existence of the "Manchukuo", which it has recognised as an independent State, cannot afford a solution of the present dispute, it agrees that when the Committee of Conciliation meets its task will be to find a solution, which, while being neither the continuance of the "Manchukuo", nor the return to the previously existing state of affairs, will secure, consistently with the sovereignty and administrative integrity of China, good order in Manchuria, and the proper protection of Japanese rights and legitimate interests in Manchuria.

The Committee would be grateful if Your Excellency would inform it at the earliest possible moment if it has correctly interpreted the attitude of the Japanese Government in this vital question.

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Appendix 5.

LETTER FROM THE REPRESENTATIVE OF JAPAN.

Geneva, February 14th, 1933.

I have the honour to acknowledge receipt of your note of the 9th instant, regarding the proposed resolution and the draft declaration by the President under discussion in the Committee of Nineteen.

In reply I beg to state that the point you raise is one on which the Japanese Government have made repeated and unequivocal declaration, and on which I myself have taken pains to make full explanations to you, to the President of the Committee of Nineteen and to the Council and the Assembly of the League of Nations not only verbally but also in writing.

In my explanations, I laid emphasis on the point that while the Japanese Government were not in a position to have their recognition of the independence of Manchukuo made a subject of contentious discussion, they would nevertheless be able, I was and remain confident, to make the world understand the fairness and unassailable character of their position, provided that ample time were given for the thorough explanation of this and other relevant points. I understood from you that the members of the Committee of Nineteen had been fully apprised of the tenor of our conversations and that there could be no misunderstanding on their part of the Japanese attitude in this matter.

I would further call your attention to the fact that the time when the Committee of Nineteen expressed their agreement to the deletion from the proposed resolution and draft declaration by the President of the portion relating to the invitation of non-member States, while expressing the wish that the Japanese Government would see their way to accepting the rest, you and the President of the Committee of Nineteen made to me, on January 18th last, a suggestion that the Japanese Government might make an *ex-parte* declaration or reservation in elucidation of Japan's attitude in regard to the last paragraph of the draft declaration by the President.

I was then given to understand that the Committee of Nineteen would not object to Japan's taking such a course. The suggestion, I am confident, would never have been made if the Committee

of Nineteen had not acquired a clear conception of Japan's position as regards the question raised by your note under acknowledgment. But it was not only made, but was actually confirmed, by the official *communiqué* of February 4th.

The Japanese Government have no objection to inclusion in the draft Resolution and Declaration of the principles of Chapter IX of the Report of the Commission of Enquiry, on the understanding that they will be applied with due regard to the actual development of events, and with like regard to the principle that the very nature of conciliation involves an impartial abstention from prejudgment of the issues.

In taking this conciliatory stand, the Japanese Government have naturally been acting on the assumption that the Committee of Nineteen were fully aware of their attitude in the matter—namely, that the Japanese Government are convinced that the maintenance and recognition of the independence of Manchukuo are the only guarantee of peace in the Far East and that the whole question will eventually be solved between Japan and China on that basis. They have also entertained throughout a just expectation that the Committee of Conciliation would give ample time to have these and other points fully explained, and that they could finally convince every impartial mind of the justice and moral strength of their position.

I trust that from the above the standpoint of Japan as regards the subject of your enquiry has been made clear and I may add that the Japanese delegation also sincerely appreciate the efforts which you and the Committee of Nineteen are exerting in the matter.

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#### Appendix 6.

### LETTER ADDRESSED BY THE SECRETARY-GENERAL TO THE REPRESENTATIVE OF JAPAN ON BEHALF OF THE COMMITTEE OF NINETEEN.

Geneva, February 14th, 1933.

The Committee of Nineteen desire me to acknowledge the receipt of your letter of February 14th.

The Committee is grateful for the statements contained in that letter, which indicate the attitude of your Government as to the "Manchukuo".

Your communication makes it clear that the Japanese delegation, in accepting as a basis for the settlement of the dispute the ten principles and conclusions set out in Chapter IX of the Report of the Commission of Enquiry, intended that the additional words proposed by the delegation, "applying such principles and conclusions to the events which have developed", should modify the scope of Principle 7. The Committee understands that, if a Committee of Conciliation had been constituted, the Japanese representative at such a Committee would not, in fact, have been prepared to accept, as part of the basis of its work, that, as stated in the Report of the Commission of Enquiry, the maintenance and recognition of the existing regime would not afford a satisfactory solution of the Manchurian problem. This being so, the Committee, to its deep regret, feels bound to hold that the Japanese proposals put forward on February 8th do not afford an acceptable basis for conciliation. The Committee has given full consideration to the various points raised in your letter, but in the circumstances it does not feel that to enter into a discussion of them could lead to any fruitful result. The Committee is, of course, willing to examine with the greatest care, up to the date of the final meeting of the Assembly, any further proposals which your Government may wish to make, but the Committee feels sure that your Excellency will realise that any aggravation of the existing situation must render more difficult, if not indeed frustrate, fresh efforts at conciliation.

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VI. CORRESPONDENCE EXCHANGED BETWEEN THE PRESIDENT OF THE SPECIAL COMMITTEE AND THE CHINESE AND JAPANESE DELEGATES TO THE SPECIAL ASSEMBLY IN CONNECTION WITH THE DISCUSSION BY THE SPECIAL COMMITTEE OF THE REPORT OF THE COMMISSION OF ENQUIRY AND WITH THE ATTEMPTS OF THE SPECIAL COMMITTEE TO NEGOTIATE A SETTLEMENT.

1. MEMORANDUM OF THE CHINESE DELEGATION PROPOSING CERTAIN AMENDMENTS TO THE RESOLUTION AND STATEMENT OF REASONS DRAWN UP BY THE DRAFTING COMMITTEE.<sup>1</sup>

(See Appendix 2 to Annex V.)

A.(Extr.)10.1933.VII.

2. LETTER, DATED JANUARY 16TH, 1933, FROM THE DELEGATE OF CHINA TO THE PRESIDENT OF THE SPECIAL COMMITTEE OF THE ASSEMBLY.

Geneva, January 16th, 1933.

On December 15th, 1932, His Excellency the Count Carton de Wiart, acting President of the Committee of Nineteen, was good enough to transmit to me, in the presence of Sir James Eric Drummond, Secretary-General, certain texts drawn up by the Committee to deal with the Sino-Japanese dispute on the basis of conciliation under paragraph 3 of Article 15 of the Covenant. These texts, which embodied two draft resolutions and a statement of reasons,<sup>2</sup> were duly communicated to my Government for comment as requested.

Under instructions from Nanking, the Chinese delegation had the honour to present to the Secretariat a memorandum, under date of December 26th, 1932,<sup>3</sup> embodying certain amendments, verbally communicated on previous occasions, to the draft resolution No. 1 and to the statement, for consideration by the Committee of Nineteen.

In view of the imminent reunion of the Committee, the Chinese delegation feels it necessary to call Your Excellency's attention once more to the very great importance which the Chinese Government attaches to the amendments referred to above.

The Chinese delegation has now learnt with deep concern that certain modifications have been introduced into the original texts, upon which the Chinese amendments were based, but no copy of these modifications has been received by the delegation. I hasten to add that these modifications, as they are reported, would, in view of their manifest unfairness to China, render conciliation unacceptable to the Chinese Government.

I shall be obliged to Your Excellency if you will inform me of the actual situation.

(Signed) W. W. YEN.

A.(Extr.)10.1933.VII.

3. LETTER, DATED JANUARY 16TH, 1933, FROM THE PRESIDENT OF THE SPECIAL COMMITTEE OF THE ASSEMBLY TO THE DELEGATE OF CHINA.

Geneva, January 16th, 1933.

I have the honour to acknowledge receipt of your letter of to-day's date.<sup>4</sup>

As regards the amendments contained in the memorandum which you addressed to the Secretariat on December 26th, I have duly called the attention of the Committee of Nineteen to-day to the very great importance your Government attaches to those amendments.

With reference to the second part of your letter, I have the honour to enclose a copy of the *communiqué* drawn up at the close of the meeting of the Committee that has just been held, which accurately summarises the situation in regard to the proposals submitted to the Committee.

(Signed) Paul HYMANS,  
President of the Special Committee  
of the Assembly.

<sup>1</sup> See Annex V, Section 13.

<sup>2</sup> See Annex V, Section 13.

<sup>3</sup> See Annex V, Appendix 2.

<sup>4</sup> See Communication No. 2 above.

### Appendix.

The President of the Committee of Nineteen, in his statement of December 20th, declared that the Committee felt that it would not be fulfilling its duty if it did not exhaust every effort for conciliation and show the utmost patience in its endeavours to reach a settlement.

The Committee of Nineteen to-day confirmed that view, but considered that, if the procedure under paragraph 3 of Article 15 unhappily failed, it was their duty to proceed as rapidly as possible to fulfil the task laid upon them by the Assembly resolution of March 11th, 1932 : " To prepare, if need be, the draft of the report provided for in Article 15, paragraph 4, of the Covenant ".

At its meeting of December 20th, the Committee had noted that the conversations entered into with the parties by its President and the Secretary-General would need a certain time.

Since then, these conversations have been continued. No fresh proposal has been received apart from those of the Chinese Government. The Japanese delegation, in its conversations with the President and the Secretary-General, has declared that it is communicating with its Government concerning fresh proposals that may be submitted to the Committee, and has announced that it will be in a position to inform the Committee of its point of view within forty-eight hours.

Deeming it necessary to consider finally and as soon as possible whether it is possible for the Assembly to fulfil its mission under paragraph 3 of Article 15 of the Covenant, the Committee thought it necessary to accept this short adjournment.

A.(Extr.)20.1933.VII.

#### 4. PROPOSALS HANDED TO THE SECRETARY-GENERAL BY THE DELEGATE OF JAPAN ON FEBRUARY 8TH, 1933.

(See Appendix 3 to Annex V.)

A.(Extr.)20.1933.VII.

#### 5. LETTER, DATED FEBRUARY 9TH, 1933, ADDRESSED BY THE SECRETARY-GENERAL TO THE DELEGATE OF JAPAN ON BEHALF OF THE SPECIAL COMMITTEE OF THE ASSEMBLY.

(See Appendix 4 to Annex V.)

A.(Extr.)20.1933.VII.

#### 6. LETTER, DATED FEBRUARY 14TH, 1933, FROM THE DELEGATE OF JAPAN TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

(See Appendix 5 to Annex V.)

#### 7. LETTER, DATED FEBRUARY 14TH, 1933, FROM THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS TO THE DELEGATE OF JAPAN.

(See Appendix 6 to Annex V.)

### VII. OBSERVATIONS OF THE JAPANESE DELEGATION ON THE DRAFT REPORT SUBMITTED BY THE SPECIAL COMMITTEE TO THE ASSEMBLY UNDER THE TERMS OF ARTICLE 15, PARAGRAPH, OF THE COVENANT.

A.(Extr.)27.1933.VII.

LETTER, DATED FEBRUARY 21st, 1933, FROM THE JAPANESE DELEGATION TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

Geneva, February 21st, 1933.

I have the honour to transmit to you attached herewith the observations of the Japanese delegation on the draft of the report<sup>1</sup> submitted by the Special Committee of the Assembly on the 16th instant.

I shall be obliged to you if you will be good enough to circulate the above among the members of the Special Assembly.

(Signed) Y. MATSUOKA.

<sup>1</sup> See Annex V.

OBSERVATIONS OF THE JAPANESE DELEGATION<sup>1</sup> ON THE DRAFT REPORT SUBMITTED TO THE ASSEMBLY BY THE COMMITTEE OF NINETEEN.

I. The Japanese delegation deeply regrets to find itself unable to agree to the draft report submitted to the Assembly to-day by the Committee of Nineteen. There are a number of points in the report which Japan cannot regard as statements of fact. Much of the report is derived from the report of the Commission of Enquiry. The Japanese Government has already made observations regarding this report of the Commission of Enquiry. It feels, therefore, that there is no further use in labouring the argument with regard to the facts.

II. The present Sino-Japanese dispute is primarily due to the absence of authoritative and efficient Central Government in China. For the past twenty-one years, since the Monarchy was overthrown and the contest for power began among the military leaders, there has been no such Government in China, and conditions have gone from bad to worse.

It was the condition of China, the anti-foreign, and particularly anti-Japanese, activities of the Nationalist Party and Government, the persistent and repeated acts of provocation on the part of Chinese official and semi-official agitators in Manchuria (which is vital to Japan's security and existence) that brought about the state of affairs leading to the unfortunate incident of September 18th, 1931. It was not the intention or desire of the Japanese Government to see Manchuria separated from nominal Chinese sovereignty; and, had the League been fully and well apprised of the facts, it probably would not have acted in haste in the early stages of the trouble, assuming an attitude of condemnation and rallying Western opinion against Japan precipitately and with unfortunate effect. To this attitude at least a measure of the blame is due for what has subsequently occurred.

III. Events which have transpired since the incident have given opportunity to leaders in Manchuria to establish the independence of the country. The military action which Japan took until September 15th, 1932 (the date of the recognition of Manchukuo) was an act of self-defence necessitated by conditions existing in China. The actions which Japan has taken since that date are based upon the Protocol signed by the two countries on that date. The undoing of this Treaty, as the Japanese delegation have repeatedly stated, cannot be considered. This attitude on the part of Japan is based on the conviction that it is the only way to consolidate peace and security, not only in the region of Manchukuo, but throughout the whole Far East. Japan persists in her hope that, in the course of time, China will come to terms with Manchukuo and Japan on this basis, which cannot fail to be also of benefit to China.

IV. Japan's policy in Manchukuo is to assure the protection of her rights and interests by assisting in the maintenance of order in that country and the preservation of its security against external aggression. This will, in turn, contribute to the maintenance of peace throughout the Far East. For Japan to accept the draft report would create uncertainties and probably disorders in Eastern Asia.

Japan implicitly believes in the sanctity of treaties, including the Covenant of the League, the Pact of Paris and the Nine-Power Treaty. These treaties, however, only set forth general principles, and, in practical application, the realities of the situation with which we have to deal must be duly taken into consideration. This should be the attitude of the League. In the case of the present Sino-Japanese dispute, Japan is convinced that, having regard to the exceptional conditions existing in China, a fundamental and conclusive solution of the dispute cannot be realised unless the principles of these treaties are applied in a way to harmonise with realities. Japan, in her endeavours to secure peace and welfare in the Far East, has had to reconcile these treaties with actions essential to the purpose.

V. Manchukuo, since its establishment as an independent State, has gone forward steadily on the road of progress. Relieved of the blight of misgovernment, the industrious and thrifty Manchu, Mongol and Chinese peoples have already begun to reap the benefits of their labours, where formerly they were robbed of much of them. Under the authority of civil government such as they never knew before, these people have already made progress in the domain of finance, railway administration, commerce and industry. Practically all of the hostile elements, largely composed of the remnants of Chang Hsueh-Liang's armies, have been suppressed. Only in the Province of Jehol does organised opposition continue.

VI. There are bandits and remnants of Chang Hsueh-Liang's troops in Jehol, and recently, encouraged by the attitude the League has been displaying in the Sino-Japanese dispute, and having an eye to the progress of the situation in Geneva, the young Marshal has been concentrating his forces on and within the borders of the province. It must be noted in this connection that bandits and troops directed by Chang Hsueh-Liang have long been thrown out beyond the eastern border of Jehol, threatening the very heart of Manchukuo. In this way China is making a demonstration before the League. The province of Jehol is a part of Manchukuo. Japan is bound by treaty with that country

<sup>1</sup> English text communicated by the Japanese Delegation.

to assure its security and cannot remain inactive in this situation. If Chang Hsueh-Liang should withdraw his forces to within the Great Wall, no military action would be necessary. The adoption of the report by the Assembly will be likely to stiffen further the attitude of the Marshal in refusing to withdraw his forces, thereby aggravating a situation which Japan is anxious to avoid. (A communication on this subject, setting forth the details of the situation, was sent to the League on February 20th.)<sup>1</sup>

VII. (a) The draft report, while emphasising the importance of the principles of the Covenant, does not offer an effective plan of solution for the dispute. The draft proposes that a settlement be based on the principles laid down by the Commission of Enquiry. Yet the Commission stated that nine of the ten principles it proposed could not be fulfilled without a strong Central Government in China. There is no such Government, and, considering, in the light of Chinese history, the conditions actually prevailing in that country, there is no prospect in sight of such a Government coming into being. Japan could not await indefinitely an eventuality so distant and uncertain.

(b) The draft report states that "the sovereignty over Manchuria belongs to China". This is not the Japanese view. It belongs to the people of Manchuria, now Manchukuo. By historic right, by the particular character of the majority of the people, by the fact that China has never held or governed Manchuria except under Manchu Emperors, by the reason of misgovernment under the self-established rule of the Changs, the people have the right to independence. And who could more properly and rightfully be their ruler than the former Emperor of the Manchus?

(c) The draft report recommends the withdrawal of Japanese troops. It is true that Japan agreed to evacuation to the Railway Zone in the Council resolutions of September 30th<sup>2</sup> and December 10th, 1931.<sup>3</sup> But Japan agreed to this withdrawal on condition that the protection of Japanese life and property would be assured. It must be remembered, in this connection, that Japan made a declaration on the occasion of the adoption of the resolution of December 10th, 1931, saying that her acceptance does not "preclude the Japanese forces from taking such action as may be rendered necessary to provide directly for the protection of the lives and property of Japanese subjects against the activities of bandits and lawless elements rampant in various parts of Manchuria. Such action is admittedly of an exceptional nature, called for by the special situation prevailing in Manchuria." It is presumed that the draft report contemplates that the security of the whole of Manchukuo is to be maintained by a local gendarmerie force after the evacuation of Japanese troops. There is no precedent in the history of the world in which the security of such a vast territory was secured by gendarmerie. The proposition is absurd and cannot be put into practice. If the Japanese troops were withdrawn, the country would be quickly overrun by bandits and by Chang Hsueh-liang's troops, resulting in anarchy and disorder. Would the League be prepared to accept responsibility in such a situation, arising from the adoption of the report?

(d) The draft report recommends the organisation of a committee to assist in a settlement of the dispute. It is proposed that this committee include representatives of Soviet Russia and the United States. On constitutional grounds, Japan opposed the inclusion of representatives of non-member States on the proposed committee of conciliation. It is only logical that she should maintain the same attitude regarding the committee envisaged in the draft report.

(e) Finally, the draft report asserts that the maintenance and recognition of the existing regime in Manchuria is no solution of the problem and proposes that the Members of the League and also other States refrain from recognising the present regime either *de jure* or *de facto*. In so pronouncing judgment and proposing to influence, or even bind, if only morally, both Member and non-member States in the matter of recognising or not recognising another State, the League would be acting *ultra vires*. In any case, it would be embarking on an adventure which surely could not contribute to peace or to the happiness and welfare of the thirty million people of Manchukuo, and it might prove to be an obstacle to the good understanding and friendly relations between nations, upon which peace depends.

VIII. As a whole, the draft report encourages the Chinese to reject overtures for peace and to evade a settlement. This is unfortunate. The consequences may be fraught with danger to the welfare of the peoples of the Far East. The adoption of the report will, it is feared, bring about a result contrary to what the League is seeking to accomplish. It will tend to intensify the situation, jeopardise it, and possibly produce consequences of a serious character.

<sup>1</sup> See Annex II, Communication No. 7.

<sup>2</sup> See *Official Journal*, December 1931, page 2307.

<sup>3</sup> See *Official Journal*, December 1931, page 2374.

IX. Japan is responsible for the maintenance of peace and order in the Far East. No other nation or group of nations would assume that responsibility. Japan intends to encourage and assist Manchukuo in healthy and steady development. At the same time, she intends to deal with China with the utmost goodwill and forbearance. Her object is lasting peace with the great neighbour beside whom she must continue indefinitely to live.

Japan is ready to co-operate with any friendly Power or group of Powers who understand her real intentions and are willing to go hand in hand with her in the great task of re-establishing peace and order in the region of Eastern Asia, now facing an unprecedented and an appalling situation.

X. In conclusion, the Japanese delegation wants to call the serious attention of the Members of the League to the gravity of the action that they propose to take. It is stated at the outset of the report that "the issues involved in this conflict are not simple", that "they are exceedingly complicated", and that "only an intimate knowledge of all the facts, as well as their historical background, should entitle anyone to express a definite opinion upon them". The Japanese delegation fully agrees with this statement. They would ask the representatives of the Powers in the Assembly if they are sure that they have an intimate knowledge of all the facts, as well as the historical background, qualifying them conscientiously to vote upon this report.

The draft report is based substantially on the Lytton report. But it should be remembered that the Lytton Commission spent but six weeks in Manchuria and fifteen in China, the greater part of which was passed in Peiping. In these circumstances, we feel entitled to say that, while crediting the Lytton report with many admirable qualities, it is not a document one can possibly look upon as containing all the facts of the case or upon which alone final judgment should be based.

The Japanese delegation appeals to the Assembly to think twice before making its decision.

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## VIII. COMMUNICATION FROM CERTAIN FINANCIAL AND COMMERCIAL ORGANISATIONS IN SHANGHAI CONCERNING THE DRAFT REPORT SUBMITTED BY THE SPECIAL COMMITTEE TO THE ASSEMBLY UNDER THE TERMS OF ARTICLE 15, PARAGRAPH 4, OF THE COVENANT.

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A.(Extr.)29.1933.VII.

LETTER, DATED FEBRUARY 21ST, 1933, FROM THE CHINESE DELEGATION TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

[Ref.A.100.]

Geneva, February 21st, 1933.

I have the honour to transmit herewith a telegram which I have just received from the various financial and commercial organisations in Shanghai, and to request that you will be good enough to cause it to be circulated among the Members of the Assembly :

" Transmit to the League our congratulations on the righteous stand of the report definitely condemning Japanese aggression in Manchuria. This marks the first signal victory of the League of Nations in dealing with Japan's mailed fist. — *Associated Chinese Chambers of Commerce, Shanghai Chamber of Commerce, Shanghai Bankers' Association, Shanghai Exchange Guild.* "

(Signed) W. W. YEN.

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**IX. NOTIFICATION BY THE CHINESE GOVERNMENT OF ITS ACCEPTANCE, SUBJECT TO CERTAIN CONDITIONS, OF THE RECOMMENDATIONS ADOPTED BY THE SPECIAL ASSEMBLY ON FEBRUARY 24<sup>TH</sup>, 1933.<sup>1</sup>**

A.(Extr.)32.1933.VII.

LETTER, DATED FEBRUARY 24<sup>TH</sup>, 1933, FROM THE CHINESE DELEGATION TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

[Ref.A.101.]

Geneva, February 24<sup>th</sup>, 1933.

In accordance with the instructions which I have received, I have the honour to inform you that the Chinese Government accepts the recommendations of the Assembly, subject to the sole condition that the other party also accepts them.

It is, however, clear from the nature of the recommendations that their full realisation will depend upon the likewise unreserved acceptance by Japan.

Therefore, it is obvious that, pending this acceptance by Japan, the rights of China, the complying party, under paragraph 6, Article 15, cannot be prejudiced.

(Signed) W. W. YEN.

**X. OBSERVATIONS OF THE DELEGATE OF CHINA ON THE SPEECH OF THE DELEGATE OF JAPAN BEFORE THE SPECIAL ASSEMBLY ON FEBRUARY 24<sup>TH</sup>, 1933.<sup>2</sup>**

A.(Extr.)36.1933.VII.

LETTER, DATED FEBRUARY 25<sup>TH</sup>, 1933, FROM THE CHINESE DELEGATION TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

[Ref.A.105.]

Geneva, February 25<sup>th</sup>, 1933.

Referring to the statement made by His Excellency Dr. V. K. Wellington Koo at the Assembly meeting of yesterday afternoon, I have the honour to communicate to you herewith Dr. Wellington Koo's brief comments upon M. Matsuoka's speech at the Assembly on February 24<sup>th</sup>, 1933, with the request that you will be good enough to have the same circulated among the Members of the Assembly.

(Signed) Hoo Chi-Tsai,

*Director of the Permanent Office  
of the Chinese Delegation to the League  
of Nations.*

**DR. WELLINGTON KOO'S BRIEF COMMENTS ON M. MATSUOKA'S SPEECH AT THE ASSEMBLY MEETING, FEBRUARY 24<sup>TH</sup>, 1933.**

The honourable Japanese delegate's speech this morning was based entirely upon a false assumption that no nation understood China and the Far East except Japan and that nobody had a correct knowledge of conditions in China except the Japanese. Acting upon this assumption, he made a number of statements which appeared wilfully misleading. If they were not wilfully made, then they only served to prove greater ignorance on his part of conditions in modern China than that with which he charged the Commission of Enquiry and the Committee of Nineteen. The Commission was composed of five distinguished gentlemen of five different nations and it made a unanimous report. The Committee of Nineteen was composed of nineteen eminent representatives of nineteen different nations and its report was also unanimous. I leave it to the Assembly to choose, as regards real conditions, circumstances and facts of the question, between the assertions of the Japanese delegate and the considered statements and conclusions of the two highest organs of the League which had no particular interests to defend, no axe to grind on their part, except the common interests of peace and justice in the world.

<sup>1</sup> See Minutes of the seventeenth meeting of the special Assembly.

<sup>2</sup> See page 16.



M. Matsuoka's whole speech was a series of contradictions and misrepresentations, which added nothing new to his speech before this Assembly in December last. The Chinese delegates, on various occasions, had already replied to them verbally or in writing. I, therefore, do not propose to answer them again. To do so would indeed be only adding to the volume of the literature of the League without serving any fruitful purpose. I cannot, however, refrain from observing that his remarks about my country are nothing but an unworthy attempt to discredit her without regard to real facts. They represent an effort at vituperation to the extent of self-contradiction. To give you one illustration :

On one hand, the Japanese delegate alleged that anarchy was reigning in China and that there was no effective government capable of discharging international obligations. Yet, on the other hand, and almost in the same breath, he insisted that the only way of settling the Sino-Japanese dispute was by direct negotiation between the two Governments, and he complained that the Chinese Government did not accept but saw fit to bring it to the League. One moment he denied that there was an effective central government in China ; the next moment he not only admitted its existence, but insisted that the Chinese Government should have negotiated direct with Japan for a settlement.

Another point raised by the Japanese delegate as illustrating what he alleged to be an " error " on the part of the Commission of Enquiry is about the population of Manchuria. He told you that the Chinese immigrants from China Proper to Manchuria in recent years " form probably a tenth, but at most a fifth of the bulk of the population " ; that the great body of the population " can be properly described as Manchurian. It is formed by the descendants of the old Manchu stock, by Chinese stock which affiliated itself with the Manchus and by Mongols." These assertions are unfounded in fact. The truth is that the Liaoning Province has been settled by the Chinese people for 2,000 years. Whatever Manchus and Mongols of pure stock there were have been almost completely assimilated by the originally less numerous but ethnically more virile Chinese. For centuries, they have of their own accord abandoned their own language, religion and culture ; they have willingly adopted everything Chinese, and for the past two decades assumed even Chinese surnames. Even if their number were really greater than the Chinese of pure stock there, which is not at all the case, still it would be important to note that what matters is not their number but their sentiment. A small percentage of the population of the Three Eastern Provinces may not be of Chinese origin, but they, too, feel as the Chinese feel and desire to remain with China. On this point the report of the Commission of Enquiry, far from being in error, is singularly accurate.

Again, the Japanese delegate claimed that the development of Manchuria was due wholly to the efforts of his own country, and complained that the Committee of Nineteen made no reference to it in its report. What, again, are the facts? I wish to quote a passage, not from the report of the Commission of Enquiry which makes reference to certain achievements made by the Chinese authorities in Manchuria, particularly in the field of education and hygiene, but to which he objected on the ground that its stay in the Far East was too short. Let me quote from the pen of an impartial student on Manchuria, Mr. F. E. Wilkinson, who, as British Consul-General, spent seven years in Manchuria and wrote in the *Spectator* of May 7th, 1932 :

" No one will deny that the progress which Manchuria has made during the past twenty-five years has been mainly due to the development by the Chinese of its agricultural resources. That this development was only rendered possible by the construction of the Chinese Eastern and South Manchuria Railways may be admitted, but both these railways were originally planned and built by the Russians, who also opened Dairen as a commercial port. The Japanese have merely carried on and extended the work initiated by the Russians and, while they have done so very efficiently and with great advantage to the trade of the territory as well as their own trade, the claim which they make to being the creators of the prosperity of Manchuria is absurd. Considering the extraordinary fertility of its soil and its great natural wealth, the steady increase since 1907 in the trade of Manchuria is in no way astonishing. It would have been far more rapid but for the preferential rights claimed by the Japanese, and, more especially, their veto on the employment of foreign capital other than Japanese in the construction of railways and the development of the mineral resources of the territory."

Chinese Delegation,  
February 24th, 1933.

# XI. STATEMENT OF THE JAPANESE GOVERNMENT IN VIRTUE OF ARTICLE 15, PARAGRAPH 5, OF THE COVENANT.

C.152.M.75.1933.VII.

LETTER, DATED FEBRUARY 24TH, 1933, FROM THE JAPANESE DELEGATION TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

Geneva, February 24th, 1933.

Pursuant to instructions from Tokio, I have the honour to send you herewith a copy of the statement in virtue of paragraph 5 of Article 15 of the Covenant.

I shall be obliged if you will be good enough to distribute the same to the Members of the League.

(Signed) Y. MATSUOKA.

STATEMENT OF THE JAPANESE GOVERNMENT IN VIRTUE OF PARAGRAPH 5 OF ARTICLE 15 OF THE COVENANT OF THE LEAGUE.

## *Part I. — Japan's Co-operation with the League of Nations.*

Japan has taken the greatest interest in the development and success of the League from the days of its inception. Her successive Governments have extended to it, for nearly fourteen years, their hearty co-operation, and her statesmen have devoted their best efforts to the extension of its influence and the enhancement of its prestige. Japan takes pride in recalling the active participation of her representatives in the work of the League. As an original and permanent Member of the Council, she has had many opportunities of co-operating in its beneficent activities, and, of these opportunities, she has fully availed herself. She regards the League as a most powerful instrument for the good of humanity, and she is only anxious in the interest of this great experiment in the establishment of universal peace that the Members of the League shall fully appreciate the situation in the Far East and deal with it in a practical way rather than by formulæ and principles.

The present dispute was first brought by China to the consideration of the Council of the League of Nations under Article 11 of the Covenant in September 1931.<sup>1</sup> In spite of the fact that Japan in this case was obliged to act solely in self-defence against aggression on the part of China, Japan, from the very beginning, has spared no effort in explaining to the League the facts and background of this unfortunate incident, and, at the same time, she has constantly, and without waiting for the resolution passed by the Council on September 30th,<sup>2</sup> endeavoured, as far as possible, not to aggravate the situation. Japan has also, from time to time, communicated to the League all information relative to the development of the situation, so that the League might be enabled to understand the actual conditions prevailing in the Far East.

Unfortunately, however, the condition of Manchuria showed no immediate improvement, in the matter of peace and order, owing to the continued activities of Chang Hsueh-Liang, while the feelings of the Chinese and the Japanese peoples became further strained, with the result that there was no possibility of withdrawing the Japanese troops within the railway zone under the then existing circumstances. When the Council met again in October,<sup>3</sup> Japan realised the importance of allaying the excited national feeling of the two peoples, as the first essential condition of securing the safety of the lives and property of Japanese subjects and of making possible the withdrawal of the Japanese troops. She was convinced that, for this purpose, it was necessary for the two parties concerned to pave the way for direct negotiations, with the object of restoring normal relations between the two countries. Japan took pains to explain this view to the President and certain Members of the Council, but the proposal to initiate direct negotiations was not accepted.

Moreover, the Council formed a plan to invite a representative of the United States of America, a non-member State of the League, to participate in its deliberations as an observer.<sup>4</sup> To this proposition, Japan raised an objection, contending that participation in the proceedings of the Council by a State not a member of the League is contrary to its constitution, but the other Members of the Council insisted on regarding the step as a mere matter of procedure, and they invited a United States observer to the Council. Japan remained convinced that this was a matter which concerned the constitution of the League and that the action of the majority constituted a clear case of violation of the Covenant. It became apparent that if the opinion of her fellow-Members was that such an important matter of substance could be decided by a majority as a mere matter of procedure, she had ratified the Covenant under an error. However, owing to her strong desire to uphold the cause of the League, she continued to participate in the activities of the Council.

<sup>1</sup> See *Official Journal*, December 1931, page 2265.

<sup>2</sup> See *Official Journal*, December 1931, page 2307.

<sup>3</sup> See *Official Journal*, December 1931, page 2309.

<sup>4</sup> See *Official Journal*, December 1931, pages 2322 *et seq.*

The discrepancy between the views of the other Members of the League and those entertained by Japan arose from a lack of understanding of the Far-Eastern situation on the part of the League. In her desire to assist the League and to maintain its legitimate influence and usefulness, Japan proposed, at the Council meeting held in November 1931,<sup>1</sup> that the League should despatch a Commission of Enquiry to China, so that its Members might be able to understand fully the actual conditions prevailing in that country. This proposal was adopted by the Council in its resolution of December 10th.

The Commission of Enquiry, headed by Lord Lytton, reached China in March 1932, by way of Japan, and entered Manchukuo in April. Japan rendered every facility to the Commission in order to assist its investigations. Through the establishment of the new State of Manchukuo, especial difficulty was encountered in the matter of the entrance of the Chinese Assessor into the territory of that State. Japan therefore exerted her good offices with Manchukuo in order to smooth over this difficulty, and enabled the Commission to carry out its investigations.

The report of the Commission of Enquiry was made public on October 1st, 1932.<sup>2</sup> On account of the brief period allowed for the investigation of the Commission, much remained to be desired for the report to claim to present a true picture of the actual condition of China. Accordingly, Japan, on November 18th last, handed to the League her observations on the Lytton report,<sup>3</sup> in order to provide it with accurate material for coming to a fair conclusion on the questions involved.

The Lytton report was the subject of deliberation by the Council from November 21st,<sup>4</sup> and by the Assembly from December 6th, 1932.<sup>5</sup> The Committee of Nineteen, appointed by the Assembly, without the concurrence of Japan, drafted, on December 15th,<sup>6</sup> a resolution and a statement of reasons concerning the procedure to be followed in performing the duty of conciliation which devolved upon that body in accordance with paragraph 3, Article 15 of the Covenant. Japan proposed the deletion from the draft resolution of passages regarding the participation of States which were not members of the League, and also the modification of certain points relating to the competence of the proposed Committee of Conciliation as well as the entire deletion of the last paragraph of the statement of reasons, which declared in particular that the maintenance and recognition of the present regime in Manchuria could not be considered as a solution. At the same time, considering that paragraph 3 of Article 15 represents the final resort provided for in the Covenant for the conciliatory solution of a dispute, Japan endeavoured to discover some compromise which would enable her to continue her co-operation with the League.

As stated in part II, section 13, of the report, the President of the Committee and the Secretary-General were authorised to enter into conversations with both the Japanese and Chinese delegations. The conversations between the Japanese delegation and the Secretary-General were carried on from the first part of January 1933. As a result of these conversations, a draft was drawn up and it was referred, with the knowledge of the President of the Committee, to the Japanese Government for its approval. Subsequently, when the amendments of the Japanese Government<sup>7</sup> to this draft were communicated to the Committee of Nineteen, it was made known to the Japanese delegation that the said draft could not be taken up as a basis of further negotiation. This caused a great surprise to the Japanese Government, as it had every reason to believe that the President of the Committee, who together with the Secretary-General was authorised to conduct negotiations with both delegations, was also fully aware of the conversations and raised no objection to the preparation of the draft.

The Committee finally agreed to the deletion from the draft resolution of passages relating to the participation of non-member States in the work of the proposed Committee of Conciliation, but proposed that the Japanese Government should accept the rest of the text of the resolutions and the statement of reasons of December 15th, and make a reservation in regard to the last paragraph of the statement of reasons, to which Japan had taken objection.<sup>8</sup> The declaration contained in this paragraph would, as is stated elsewhere in the present statement, not only constitute an action *ultra vires* on the part of the League, but prejudice the whole question and imply a direct attack on the policy followed by the Japanese Government with respect to the existence of Manchukuo. Furthermore, such an attitude on the part of the League was in no way in accord with the idea of conciliation advocated by the Committee of Nineteen, as well as by the Japanese Government. For these reasons, Japan found it impossible to accept the proposal of the Committee.

Upon the refusal of the Japanese delegation to agree to the Committee's proposal in this regard, the latter set to the procedure of drafting a report under paragraph 4 of Article 5.

However, the Japanese Government refused to give up the hope for conciliation, and, in its final efforts to achieve this end, agreed to withdraw the various amendments which it had presented when the text of December 15th was communicated to it, and consented to accept as the basis of conciliation the principles and conclusions of Chapter IX of the Lytton

<sup>1</sup> See *Official Journal*, December 1931, page 2365.

<sup>2</sup> Document C.663.M.320.1932.VII.

<sup>3</sup> See *Official Journal*, Special Supplement No. III, page 88.

<sup>4</sup> See *Official Journal*, December 1932 (Part I), pages 1870 *et seq.*

<sup>5</sup> See *Official Journal*, Special Supplement No. III, pages 23 *et seq.*

<sup>6</sup> See Annex V, Part II, Section 13.

<sup>7</sup> See Annex V, Appendix 1.

<sup>8</sup> See Annex V, Section 15.

report, in so far as they were applied in a way to "harmonise with the events which have taken place" — which phrase is an almost literal quotation from that report itself. Further, they agreed to the maintenance of the last paragraph of the President's declaration (formerly called the "statement of reasons") on the condition that its wording be modified in such a way that it would not appear to constitute a prejudgment and an attack directed against the policy of the Japanese Government *vis-à-vis* Manchukuo.

The Committee of Nineteen found this final proposal likewise unacceptable. Thus the Committee rejected all the Japanese proposals and came to the conclusion that conciliation under paragraph 3 was impossible. The Committee forthwith proceeded with the drafting of a report under paragraph 4 of Article 15 of the Covenant. The draft report thus prepared was submitted to the Assembly on February 21st,<sup>1</sup> and, in spite of the negative vote on the part of Japan, it was adopted by the Assembly on February 24th.<sup>2</sup>

*Part II. — Errors in the Report concerning Chief Characteristics of the Dispute.*

The report sets forth in part III what are termed "Chief Characteristics of the Dispute". It is most regrettable that this part of the report is substantially based upon the report of the Commission of Enquiry. As stated in that report, "the issues involved in this conflict are not as simple as they are often represented to be. They are, on the contrary, exceedingly complicated and only an intimate knowledge of all the facts, as well as of their historical background, should entitle anyone to express a definite opinion upon them." It must be remembered that the Commission of Enquiry spent only six weeks in Manchuria and fifteen in China, most of which was passed in Peiping, and their trip covered only a very limited area of China — a few open ports where the real condition of China could not have thoroughly been studied. In these circumstances, it was impossible for them to acquire "an intimate knowledge of all the facts, as well as their historical background". Hence, the document is not as complete and impartial as it should be. It is quite natural that there should be not a few errors in the report of the Assembly which was drafted upon the basis of the Lytton report. These errors might have been avoided if the Committee of Nineteen had taken into due consideration the observations of the Japanese Government, presented to the Council on November 18th, 1932. At any rate, it must be said that the Lytton report, admirable and praiseworthy as it is, is not a document which one can look upon as containing all the facts as well as all the historical background, upon which alone final judgment should be based. The errors in the report of the Assembly are numerous. Let only the most salient be cited :

1. The report appears to cling in part III to the fiction that China exists to-day as a single organised State to be dealt with on the same footing as any country in Europe or America. The fiction happens to be merely a convenient formula which embodies in a concise form the generous aspiration of the Powers for the recovery of China as a unified and orderly State. Japan has worked hard to act upon that formula during these many years, and she is prepared to continue on the same lines, in cases where ordinary matters alone are concerned. But where her vital necessities come into play, as in Manchuria, she is forced to reconsider the fiction, and to ask herself what are the actual facts, and who are the actual rulers. States which are Members of the League of Nations and have little interest in China can afford to preserve the convenient fiction intact without serious difficulty. But Japan, in a totally different position, economically and strategically, is compelled, however reluctantly, to examine and set a limit to the fiction, and to direct her course according to realities.

It is the view of the Japanese Government that the erstwhile Chinese State ceased to rule in Manchuria when "the fall of the United Republic, after the death of Yuan Shi-kai in 1916, signalised the break-up of all unity of government in China". (Observations of the Japanese Government, page 15.)

As a matter of fact, none of the Governments, including the Nanking Government, maintains authority over China, save over the limited areas which it actually controls. That is why the Japanese Government in their observations insist that Manchuria is not naturally and necessarily an integral part of China. It will then be asked, as it has been asked: Why did Japan invoke the Nanking Government at the outset of the Manchurian incident? Why did Japan negotiate with Peking in 1915? Why did she declare Manchuria to be a part of China in 1922? The answer is that Japan clung until the last moment to the fiction of Manchuria being an integral part of China. She had many excellent opportunities of departing from it, if she had wished, afforded by the chaotic state of the country. She steadily refrained from availing herself of the opportunities. But when chaos came to threaten her whole position in Manchuria, it became necessary for her to take measures to protect her vast interests and important rights.

<sup>1</sup> See page 11.

<sup>2</sup> See page 22.

It should be observed at this point that Japan is not setting a precedent for defying the existence of a neighbour State merely because it is weak or disturbed by internal disruption. It is needless to say that so long as the Government of a State, which had actually ruled the whole area, maintains its authority in any part of its territory, so long does the State continue to subsist and to remain inviolable. The peculiar circumstances of China do not reside in the fact that its common government is weak or distracted by disruption. They reside in the unique fact that no authority which now exists has ever been a common government of China at all, and none, therefore, has title to rule the entire country.

The League of Nations should not forget that fact overrides form, and that a State must possess a single and continuous government.

2. The report, in agreeing that the Chinese boycott against Japan, imposed after the September 18th incident, falls within the province of retaliatory measures, sows the seeds of incalculable future trouble for each and every Power interested in China. All the major Powers conduct military operations in China under certain circumstances, and maintain armed forces in Chinese territory for that specific purpose. If the adoption by the Powers of any forcible measure for the protection of their rights and interests is on each occasion to be the subject of a retaliatory boycott, the application of force will of necessity be extended without limit.

By their acceptance in the resolutions of September 30th and of December 10th, 1931, China and Japan agreed that they should take the necessary measures to prevent any aggravation of the situation. The Japanese Government desire to call the attention of the League to the fact that it was the conspicuous failure on the part of China to take such proper measures that led to the regrettable Shanghai incident. It should also be added that, in any discussion of the boycott, the fact of anti-foreign education in schools and the "revolutionary foreign policy" (admitted by the Nanking Government) should not be left out of consideration, as these three subjects are inseparably bound together.

3. The report quotes and adopts from the Lytton report the reference to the possibility of an arbitral settlement of the Sino-Japanese dispute. But arbitration presupposes a normal organised State with a government supreme throughout its territory and capable of enforcing an award. China, as has been stated above, has not for years been in such a state, at any rate, so far as to render it possible to arbitrate with her in vital matters concerning Manchuria. With whom would the arbitration have proceeded? With Chang Hsueh-Liang, whom the League does not recognise? Or with the Nanking Government, whose authority (as the report of the Commission of Enquiry showed) he did not obey? Japan, with her vital interests at stake, could not and cannot possibly resort to arbitration in such a matter with such a country as China.

4. The report, again, quotes and adopts the refusal of the Commission of Enquiry to recognise as measures of self-defence the military operations of the Japanese army on the night of September 18th, although it does not exclude the possibility that the Japanese officers on the spot might have thought they were acting in self-defence. This is simply another case of a facile and uncritical acceptance of the opinion of the Commission of Enquiry, utterly ignoring the emphatic contradiction contained in the observations of the Japanese Government. On what grounds can the League or any other third party pronounce a verdict on the case contrary to the judgment of the Japanese officers on the spot? The right of self-defence is one of those inalienable rights of State which may be duly exercised in certain specific circumstances, and the question of on what occasion and to what extent that right should be exercised is a matter which can be determined only by the State concerned. In this connection, the Japanese Government in their observations have referred to the reservations made by both France and the United States in concluding the Pact of Paris, a reference which the Assembly found it possible to pass over in silence. The report, in stating that the operations of the Japanese army, viewed as a whole as they developed through the entire period of the conflict, cannot be regarded as an act of self-defence, fails to take into cognisance the tension which existed, overwhelming forces by which the Japanese were faced, and the utter uncertainty which prevailed as to the probable action of those forces. Above all, it fails to take into account the vital rights and interests of Japan in Manchuria, which are not confined to the Leased Territory and the railways, but involve mining and forestry, consular police and consular jurisdiction, residence and trade throughout the entire region. When these rights and interests are threatened, the measures for their protection may have to be extended throughout Manchuria. But never have Japanese military operations exceeded the bounds of necessity for self-protection. In order that it may not be supposed to have been passed over *sub silentio*, the Japanese Government take this opportunity of explicitly denying the specific conclusions reached in the report that no question can arise of Chinese responsibility for the development of events since September 18th, 1931, and that the use of boycotts by China subsequent to that date falls under the category of reprisals. Even if the theory that the Japanese military action did not constitute lawful self-defence should be accepted, that clearly would not invest the Chinese with an unlimited licence to behave as they chose to and to enter upon a career of unrestricted violence and wrong. Much more is this the case if, as Japan contends, the actions of her troops were urgently called for by the necessities

of self-defence. How can reprisals possibly be exercised against a lawful act? The proper reply to acts of self-defence is negotiation and explanation and not reprisals, which generally lead to war. Had the United States exercised reprisals in the *Caroline* case, war with England must have ensued. Again, it must be noted that the resolution of September 30th 1931 precludes either party from aggravating the situation; and it would seem strange to hold that this meant that China might take steps which would certainly aggravate it, leaving Japan alone responsible for any untoward development.

What appears to be a most curious statement is found in part III of the report, which reads :

“ Adoption of measures of self-defence does not exempt a State from complying with the provisions of Article 12 of the Covenant.”

As has already been observed by the Japanese Government, the right of self-defence is exercised upon the occasion “ of an urgent [to quote Webster’s definition] and overwhelming necessity allowing no choice of means and no instant for deliberation”. To require the observance, upon such occasion, of Article 12 of the Covenant, which stipulates that the right of self-defence may be exercised three months after the award by the arbitrators or the judicial decision or the report by the Council of the League has been made public, is to deny the right of self-defence itself.

5. The report says that the declaration of independence by Manchukuo was not spontaneous. Since the statement is based upon no fresh investigation conducted at a later date, it may be readily gathered that the report has here again adopted the erroneous conclusions of the Commission of Enquiry contained in Chapter VI of the latter’s report, the baselessness of which has been fully exposed in the observations of the Japanese Government. It must strike an impartial observer as extraordinary that the Assembly repeats this finding of the Commission of Enquiry in face of the emphatic denials of Japan. There are two factors which may partly account for this. First, the movement during the tyrannous regime of the Changs for the keeping of Manchuria aloof from all participation in the affairs of China Proper was subterranean, and had no repercussion in the outside world, and the authors of the report may therefore have been sceptical of its existence. Secondly, they appear to be misled by giving implicit credence to the legend of the so-called “ continental policy ” of Japan and her supposed plan to seek a political solution of the Manchurian issue as a step towards the execution of that policy. It is unnecessary to repeat that the Japanese “ continental policy ” is a mere Chinese fabrication, and that Japan harbours no territorial designs in any part of the world. But all this, though it may explain the rejection by the Assembly of the uncompromising denial made by Japan, can hardly be thought to excuse it.

The simple fact is that, as has so often been explained, on the disappearance of all the administrative organisations, such as they were, which had existed under the Changs, spontaneous local organisations naturally sprang up, and the Japanese troops, which were responsible for the maintenance of order, necessarily co-operated with them. It was a proper and necessary step, and, in the circumstances, an unavoidable one. Such was the whole significance of the presence of Japanese troops, and such was the sole aim of the activities of Japanese civil and military officers. Unfortunately, the Commission of Enquiry, and consequently the Assembly, in their implicit reliance on the assumption that there had never existed any independence movement in Manchuria, have been obliged to attribute to the activities of Japanese civil and military officers the independence which was actually proclaimed — and to do so upon no solid grounds whatever.

As to the assertion that the people of Manchuria are hostile to the new State, again there is no valid evidence beyond fifteen hundred letters of dubious origin received by the Commission of Enquiry. The Japanese Government desire to point out the fact that, within less than a year since its foundation, Manchukuo has achieved a marked and healthy progress in the restoration of law and order, and that no criticism or complaint has been heard of regarding its conduct of affairs, whether domestic or foreign.

Regardless of the attitude of the Assembly towards the new State of Manchukuo, she has gone forward steadily on the road of progress. Freed from the yoke of misgovernment under the tyrannous rule of the Changs, the thirty million inhabitants of Manchuria, — Manchus, Mongols and Chinese, all alike, — have already begun to reap the benefits of their labours, which were denied them in former days. Throughout most of the country, banditry has been suppressed. Those hostile elements, largely composed of the remnants of Chang Hsueh-Liang’s troops and receiving not inconsiderable assistance from their former warlord, had constituted an obstacle to the establishment of peace throughout the territory. Thanks, however, to the combined efforts of the Japanese and Manchukuo forces, they have been practically cleared out of the provinces of Fengtien, Kirin and Heilungkiang, and the security of life and property have been re-established in these provinces. It is only in the Province of Jehol that the organised opposition still continues.

In the domain of finance, something entirely unknown in the history of China has been realised in Manchukuo. Though the State is still in its infancy, a sound budgetary system has been initiated and is being carried out with utmost satisfaction. The establishment of the Central Bank, which is functioning on the same lines as those of the advanced countries of the world, has contributed much to the stabilisation of State finances and to the economic and industrial development of the country. A similar progress has also been noted in the domain of railway administration, commerce and industry, and, with the abundant resources with which she is endowed, there is every prospect of this country achieving in days to come a still greater progress along these lines, to the benefit of her inhabitants and foreigners alike.

All this could not have been the case had the population of the country been hostile or even sullenly submissive. It is to be regretted, therefore, that the Assembly should have, without referring to the observations submitted by Japan, accepted the assumption of the Commission of Enquiry, which, here again, has no foundation in fact.

6. The report dwells upon the need of international co-operation in the reconstruction of China, and mentioned the provision of technical assistance as one form of that international co-operation. Obviously, the reconstruction of China cannot be accomplished by any such superficial and inadequate means. It could only be rendered possible by some forceful international intervention of such a nature as would at once prove incompatible with the stipulation of the Nine-Power Treaty regarding the administrative integrity and political independence of China. That is another proof that it is necessary to allow ample elasticity by taking due account of changing conditions in the application of the Nine-Power Treaty and the Covenant of the League, as far as China is concerned.

### *Part III. — Impracticabilities of the Recommendations.*

1. Japan recognises that the Covenant of the League of Nations and the Pact of Paris constitute the basic principles of the settlement of international disputes, in so far as international relations in general are concerned. But a certain degree of elasticity must be allowed in the application of these principles to such special and entirely abnormal conditions as prevail in China.

2. As to the proposal for the withdrawal of troops contained in section II, 1, A, of part IV of the report, it is to be noted that the presence of Japanese troops outside the railway zone, so far from being incompatible with legal principles, has, from the very beginning, been due entirely to the sheer necessities of lawful self-defence and is in no way derogatory to the accepted principles regarding the settlement of international disputes. It is further to be noted that these Japanese troops are now responsible, in accordance with the Japan-Manchukuo Protocol, for the maintenance of peace and order in Manchukuo.

It is true that, by the resolutions of September 30th and of December 10th, 1931, Japan undertook to withdraw her troops within the railway zone, in so far as the safety of the lives and property of her subjects was assured, but the condition attaching to that undertaking — namely, the assurance of safety of life and property — has never been satisfied, and the undertaking itself has now become inapplicable on account of the independence of Manchukuo and the conclusion of the agreements embodied in the Protocol signed on September 15th last. Should the Japanese troops be withdrawn within the railway zone in accordance with the recommendation contained in the report, it would be inevitable that unrest and disturbances would ensue in the evacuated territory. Those Members of the League that have but little direct interest in the affairs of the Far East can afford to maintain that the upholding of abstract formulæ is more important than the maintenance of the peace in this part of the world. But Japan, vitally concerned in the maintenance of peace and order in Manchuria, cannot tolerate that that region should again be plunged into disorder. It cannot be supposed that a gendarmerie system, as proposed by the Lytton report, would remove all apprehensions on this score. There is no precedent in the history of the world in which the security of such a vast territory was secured by gendarmerie. The proposition is absurd and cannot be put into practice. If the Japanese troops were withdrawn, the country would be quickly overrun by bandits and by Chang Hsueh-Liang's troops, resulting in anarchy and disorder.

3. As to section II, 1, of part IV of the report, where it is stated that the sovereignty over Manchuria belongs to China, it has to be noted that, at any rate, since the year 1916, Manchuria has never been subject to the authority of China, and that, in the final analysis, the present difficulty has been caused by the supposition that the sovereignty of China actually extended and extends to that region. It is entirely superfluous to say that the enforcement of this fiction will never ensure the protection of Japan's rights and interests and the maintenance of peace in the Far East. Inasmuch as the report repudiates the restoration of the old regime as leading merely to a repetition of disorder and friction, so any return to the fiction in question must equally be repudiated. Nor is it possible for Japan to admit any policy which is incompatible with the simple fact of the existence of the State of Manchukuo and the provisions of the Japan-Manchukuo Protocol.

4. With regard to the ten principles set out in the Lytton report and cited in section I of part IV of the report, apart from the observations made above, the Japanese Government deem it sufficient to quote the following passages from their observations presented to the League in November last :

“ Certain of these principles, to which the Japanese Government have no fundamental objection, have already found concrete application in the Protocol signed by Japan and Manchukuo. But, in any view of the matter, it must evidently be impossible, so long as the anarchical state of things in China persists, to arrive at a satisfactory solution of the questions at issue on the basis of the first nine of these principles, especially principles 4 to 9 inclusive. As is sustained in principle 10, these nine principles cannot be practically applied ‘without a strong central government in China’.”

5. In section II, 3, part IV of the report, the Assembly contemplates the establishment of a Committee to assist in the negotiations which are to be opened between the two parties in accordance with the method specified in the report. This, however, is directly contrary to the insistence of Japan not to allow any third party to intervene in the Manchurian problem, and Japan finds it absolutely impossible to accept such a proposal. As, moreover, the recommendations referred to as 1 A and 1 B of section II, part IV of the report, must be dismissed as unpractical, and those made under 2 of the said section II are equally inapplicable in the present state of China, there would seem to be no scope left for the activities of the proposed Committee.

6. The report states, in effect, in section III of part IV that the maintenance and recognition of the existing regime in Manchuria is no solution and that the Members of the League should, after having adopted the report, abstain from recognising the present regime either *de jure* or *de facto*. Further, it expresses the hope that the States non-members of the League, who are signatories of the Pact of Paris and the Nine-Power Treaty, will associate themselves with the views set forth in the report in this regard. The Japanese Government cannot but consider that the Assembly, in proposing in such a manner to influence or to bind, if only morally, both Member and non-member States, in the matter of recognising or not recognising another State, is exceeding its powers conferred upon it by Article 15 of the Covenant. In any case, in making a proposition of this nature, the League of Nations, whose primary duty is the preservation of peace throughout the world, could not surely contribute to the maintenance of peace and security, not only in Manchukuo, but also in the Far East. Such an action on the part of the League would prove to be an obstacle to the good understanding and friendly relations between nations, upon which peace depends.

#### *Conclusion.*

The Japanese Government is fully convinced that the action of the Japanese army on the night of September 18th, 1931, and thereafter, has never exceeded the limits appropriate to measures of self-defence, and that Manchukuo has been founded by the spontaneous will of the people of Manchuria. Accordingly, they consider that neither the action of the Japanese army in Manchuria, nor the conclusion of the Japan-Manchukuo Protocol, is in violation of the Covenant of the League of Nations, the Nine-Power Treaty, the Pact of Paris, or any other international treaties.

The Japanese Government maintain that, in view of the quite abnormal condition of China, where no existing authority has ever ruled the entire country, and particularly in view of the unparalleled complexity and peculiarity of the Manchurian problem, and also having regard to the anti-foreign character of the policy of the National Government, it is impossible to think of applying to the present dispute the general formulæ applicable to an ordinary international question, and they maintain, moreover, that neither any procedure which may be adopted for such an exceptional case, nor any solution thereby attained, can ever establish a precedent for ordinary cases of international dispute.

Were it possible to apply ordinary formulæ, the plans adumbrated by the Assembly would themselves be ruled out of consideration as interferences with what the Assembly regards as Chinese sovereign rights.

Unfortunately, the Assembly, through the refusal of its Members to face facts, and their uncritical acceptance of the report of the Commission of Enquiry, has only indulged in academic and inadequate principles. The Assembly stands, if it may so be said, for mere formulæ, Japan for solid realities. Japan takes her stand on established principles, the Assembly on preconceived hypotheses. It results from the refusal of the Assembly to go beyond the Lytton report. As pointed out in the preceding part of the present statement, the new State of Manchukuo has made rapid progress. Peace and order are superseding banditry. Commerce and industry have responded to improved situation, to the benefit of foreigners and the people of Manchukuo alike. This is a concrete proof of the truth of Japanese contention that recognition and encouragement of the Manchurian



State is the only road to a satisfactory solution of the Manchurian question and to the maintenance of a lasting peace in the Orient.

On the other hand, it appears impossible to look for any improvement in the Chinese situation in the near future, and China is likely to remain a chronic anxiety to the rest of the world. Communism has already invaded China, and the alarming extent and success of the invasion is far too seldom realised. A communised China would constitute a problem for Europe and America beside which other questions would pale into insignificance. But a Manchuria free from all Chinese connection constitutes a barrier to communistic danger in the Far East. Its value ought surely to be apparent to every statesman. It is earnestly hoped that the League of Nations will soon be led to change its attitude, to discard reliance on academic and inapplicable doctrine, and to respect and recognise the forces that are actually rendering possible the maintenance of peace in the various regions of the world. The Covenant of the League of Nations itself provides in Article 21 for due recognition of regional understandings, and the Japan-Manchukuo Protocol of September 15th, 1932, falls incontestably within the category of understandings such as these, as the special interests of Japan in Manchuria have again and again been recognised. At the same time, Japan takes this opportunity of repeating her disclaimer of all desire for territorial gains or commercial advantages.

February 25th, 1933.

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## XII. ATTITUDE OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA RELATIVE TO THE REPORT ADOPTED ON FEBRUARY 24<sup>TH</sup>, 1933, BY THE SPECIAL ASSEMBLY UNDER THE TERMS OF ARTICLE 15, PARAGRAPH 4, OF THE COVENANT.

A.(Extr.)35.1933.VII.

LETTER, DATED FEBRUARY 25<sup>TH</sup>, 1933, FROM THE UNITED STATES MINISTER AT BERNE TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

Geneva, February 26th, 1933.

With reference to your letter of February 24th, by which you were good enough to transmit to the Secretary of State of the United States a copy of the report adopted on that date by the Assembly, and to enquire in regard to the attitude of the American Government relative to the report, I append hereto the reply of the Secretary of State, dated February 25th, 1933, addressed to you, which I have on this date received by cable.

(Signed) Hugh R. WILSON,  
*American Minister.*

Washington, February 25th, 1933.

There has been communicated to me the text of your letter of February 24th, 1933, transmitting to me a copy of the report of the Committee of Nineteen as adopted by the Assembly of the League of Nations on this day.

I note your request that I communicate to you as soon as possible the reply of the Government of the United States.

In response to that request I have the honour to state the views of the American Government as follows :

In the situation which has developed out of the controversy between China and Japan, the purpose of the United States has coincided in general with that of the League of Nations, the common objective being maintenance of peace and settlement of international disputes by pacific means. In pursuance of that objective, while the League of Nations has been exercising jurisdiction over a controversy between two of its members, the Government of the United States has endeavoured to give support, reserving to itself independence of judgment with regard to method and scope to the efforts of the League on behalf of peace.

The findings of fact arrived at by the League and the understanding of the facts derived by the American Government from reports made to it by its own representatives are in substantial accord. In the light of its findings of fact, the Assembly of the League has formulated a measured statement of conclusions. With those conclusions, the American Government is in general accord. In their affirmations, respectively of the principle of non-recognition and their attitude in regard thereto, the League and the United States are on common ground. The League has recommended principles of

settlement. In so far as appropriate under the treaties to which it is a party, the American Government expresses its general endorsement of the principles thus recommended.

The American Government earnestly hopes that the two nations now engaged in controversy, both of which have long been in friendly relationship with our own and other peoples, may find it possible in the light of world opinion to conform their policies to the need and the desire of the family of nations that disputes between nations shall be settled by none but pacific means.

(Signed) Henry L. STIMSON.

XIII. ATTITUDE OF THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS RELATIVE TO THE REPORT ADOPTED ON FEBRUARY 24<sup>TH</sup>, 1933, BY THE SPECIAL ASSEMBLY UNDER THE TERMS OF ARTICLE 15, PARAGRAPH 4, OF THE COVENANT, AND TO THE INVITATION TO CO-OPERATE IN THE WORK OF THE ADVISORY COMMITTEE APPOINTED BY THE ASSEMBLY ON FEBRUARY 24<sup>TH</sup>, 1933.<sup>1</sup>

A.(Extr.)38.1933.VII.

LETTER, DATED MARCH 7<sup>TH</sup>, 1933, FROM THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

[Translation.]

Moscow, March 7th, 1933.

The Soviet Government has examined with the greatest possible care the proposals contained in the letters you were good enough to send me on February 24th and 25th last ; it has carefully studied the documents forwarded with these letters and has arrived at the following conclusions :

The decisions of the League of Nations and the report of the Committee of Nineteen are based on the Covenant of the League of Nations, the Washington Nine-Power Treaty and the Treaty of Paris (Briand-Kellogg Pact). The Soviet Union does not figure among the countries participating in the first two, but it acceded to the last of these pacts. Since the origins of the Soviet State, it has proclaimed as an essential principle of its policy the right of all peoples to self-determination in conditions of freedom to manifest their desires and in the absence of all external pressure ; it has pronounced in the most decisive fashion against annexations and exactions as a result of military conquest or of occupation by violence. These principles logically lead to absolute respect for the territorial integrity and for the political, social, economic and administrative independence of all States, to the inadmissibility of the settlement of international conflicts by any non-pacific means, and in the clearest possible manner to the obligation to respect strictly the international agreements which embody these principles. In proposing general and total disarmament, the Soviet Government aimed at rendering impossible any violation of these principles, even by States which do not recognise them. Quite recently, the Soviet delegation to the Disarmament Conference proposed the international condemnation of all the pretexts habitually advanced to justify breaches of international treaties and acts of violence and conquest. The Treaty of Paris and all the international agreements analogous thereto only cover part of the above-mentioned principles and proposals of the Soviet Government. In so far as the starting-points of the decisions taken by the League of Nations in connection with the Sino-Japanese conflict are to some extent in keeping with the principles of the peaceful policy of the Soviet Union, a certain concordance may be observed between these starting-points and the views of the Soviet Union.

The report of the Committee of Nineteen adopted by the Assembly of the League of Nations nevertheless contains, as regards the application of the starting-points of the League's decisions which I have just indicated to the Sino-Japanese conflict, certain recommendations which are not entirely compatible with these starting-points and permit of a departure therefrom on a whole series of serious questions.

The Advisory Committee created in the same spirit by a decision of the Assembly constitutes an organ of the League of Nations for the purpose, *inter alia*, of assisting the Assembly in the execution of its obligations and has to submit its proposals to the Assembly, on whose decisions the Soviet Union, not being a Member of the League, can exercise no influence.

<sup>1</sup> See page 24.

Again, the Advisory Committee has to help the Members of the League of Nations to co-ordinate their activities among themselves and with the States not members of the League. But the majority of the States which belong or will belong to the Advisory Committee — to be exact, thirteen out of twenty-two — maintain no relations with the Soviet Union and consequently show hostile dispositions towards it. It would clearly be difficult for a Committee thus constituted to cope with this task of co-ordination as regards the Soviet Union, which is deprived of the possibility of having any contact with the majority of its members and individually with those whose interests are most likely to coincide with its own.

It may also be doubted whether the States in this category can really take into account the interests of the Soviet Union which are mentioned in the recommendations of the report.

Owing to the circumstances which I have just indicated, the Soviet Government does not consider it possible to accept the decisions taken by the Assembly of the League or to take part at present in the Advisory Committee.

From the outset of the Sino-Japanese conflict, the Soviet Government, wishing as far as lay in its power to prevent a further expansion of the armed conflict which might eventually give rise to a fresh world conflagration, took up an attitude of strict neutrality. In accordance with this attitude the Soviet Government, faithful to its policy of peace, will always associate itself with any action and any proposal emanating from international bodies or individual Governments and aiming at the speediest and most equitable settlement of the conflict and at the consolidation of peace in the Far East.

(Signed) LITVINOFF.

#### XIV. ACCEPTANCE BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA OF THE INVITATION TO CO-OPERATE IN THE WORK OF THE ADVISORY COMMITTEE APPOINTED BY THE SPECIAL ASSEMBLY ON FEBRUARY 24<sup>TH</sup>, 1933.<sup>1</sup>

A.(Extr.)39.1933.VII.

LETTER, DATED MARCH 12<sup>TH</sup>, 1933, FROM THE UNITED STATES MINISTER AT BERNE TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

Berne, March 12th, 1933.

With reference to your letter of February 24th, by which you were good enough to transmit to the Secretary of State of the United States an invitation to co-operate with the Advisory Committee set up under the terms of the resolution of February 24th of the Assembly of the League of Nations, I append hereto the reply of the Secretary of State, dated March 11th, which I have just received by cable.

(Signed) Hugh R. WILSON,  
American Minister.

REPLY OF THE SECRETARY OF STATE OF THE UNITED STATES TO THE SECRETARY-GENERAL.

Washington, March 11th, 1933.

I have the honour to acknowledge the receipt of your letter of February 25th, 1933, enclosing the text of a resolution adopted on February 24th by the Assembly of the League of Nations providing for the appointment of an Advisory Committee. You inform me that the Advisory Committee set up under the terms of this resolution held a meeting on February 25th and requested, in accordance with instructions of the Assembly, that you convey to the Government of the United States an invitation to co-operate in its work.

In reply I am happy to inform you that the American Government is prepared to co-operate with the Advisory Committee in such manner as may be found appropriate and feasible. As it is necessary that the American Government exercise independence of judgment with regard to proposals which may be made and, or action which the Advisory Committee may recommend, it would seem that appointment by it of a representative to function as a member of the Committee would not be feasible. However, believing that participation by a representative of this Government in the deliberations of the Committee would be helpful, I am instructing the American Minister to Switzerland, Mr. Hugh R. Wilson, to be prepared to participate, but without right to vote, if such participation is desired.

(Signed) Cordell HULL.

<sup>1</sup> See page 24.

## XV. SUMMARY OF THE PROCEEDINGS OF THE ADVISORY COMMITTEE AT ITS MEETING HELD ON MARCH 15<sup>TH</sup>, 1933.

The Advisory Committee elected Dr. LANGE (Norway) Chairman.

It took note of a communication from the Government of the Union of Soviet Socialist Republics and another from the Government of the United States of America, which have been circulated under Nos. A.(Extr.)38.1933.VII<sup>1</sup> and A.(Extr.)39.1933.VII,<sup>2</sup> respectively.

It authorised the Secretary-General to send the following replies to the two Governments in question :

### 1. REPLY TO THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS.

“ I have the honour to acknowledge the receipt of your communication of March 7th.

“ The Advisory Committee considered that communication at its meeting to-day. It is convinced, as is the Assembly itself, that it would be in the general interest if the Soviet Government would agree to confer with the members of the Advisory Committee on the developments of the Sino-Japanese dispute, and can therefore only regret that your Government does not feel it possible to take part in its work at the present moment.”

### 2. REPLY TO THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

“ I have the honour to acknowledge the receipt of the communication of March 11th which you were good enough to send me by the intermediary of the Minister of the United States in Switzerland.

“ The Advisory Committee, in the meeting held to-day, took note of this communication. The Committee directed me to express to you its sincere thanks, and is happy to invite Mr. Hugh R. Wilson to take part in its deliberations under the conditions which you have set forth.”

Mr. Wilson, representative of the United States of America, at once took his seat in the Committee.

The Committee then decided to consider :

(1) The question of the export of arms in relation to the present conditions in the Far East. This question will be examined by a Sub-Committee consisting of Belgium, United Kingdom, Czechoslovakia, France, Germany, Italy, Netherlands, Norway, Spain, Sweden, Switzerland, the representative of the United States of America being invited to participate in the deliberations.

(2) The question of the application of the undertakings contained in part IV, section III, of the report adopted by the Assembly on February 24th, 1933.<sup>3</sup>

According to that section, “ the Members of the League intend to abstain, particularly as regards the existing regime in Manchuria, from any act which might prejudice or delay the carrying out of the recommendations of the report. They will continue not to recognise this regime either *de jure* or *de facto*. They intend to abstain from taking any isolated action with regard to the situation in Manchuria, and to continue to concert their action among themselves, as well as with the interested States not members of the League.”

The Advisory Committee was of opinion that certain enquiries and steps might be necessary for the carrying out of the undertakings contained in that section of the report. It might, for instance, be desirable that the various Governments should give their representatives in international organisations instructions in conformity with those undertakings, in regard to all questions connected with the admission of “ Manchukuo ” to those organisations, when such admission depended on the decision of the States or Government departments belonging to them. The cases of the Universal Postal Union and the International Telegraphic Union were mentioned as illustrations.

To examine these questions the Committee set up a Sub-Committee consisting of the United Kingdom, France, Germany, Irish Free State, Italy, Mexico, Netherlands, Norway, Portugal, Spain, Switzerland, Turkey, the representative of the United States of America being also invited to participate.

<sup>1</sup> See Annex XIII.

<sup>2</sup> See Annex XIV.

<sup>3</sup> Annex V.

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