

colleagues will agree with me that the Council did not, by its resolution of September 29th, 1931, intend to pronounce on any aspect whatever of the territorial dispute between Bolivia and Paraguay, and that, consequently that resolution cannot be interpreted as a tacit recognition of the rights of either of these States over the territory in dispute.

The Secretary-General might be instructed to communicate this declaration to the two Governments concerned and to the Nansen Office, and to forward to the latter the entire correspondence dealing with the matter."

The PRESIDENT felt sure that the Council would approve the Rapporteur's explanations. The correspondence with the two Governments concerned clearly showed that they regarded the position in the Chaco as one of particular delicacy from the political point of view. The Nansen Office would certainly not fail to bear this consideration in mind in its activities, so as to avoid any possible ambiguity or misunderstanding.

3080. Free City of Danzig "Direct Action" in Customs Matters (continuation).

M. Ziehm, representative of the Free City of Danzig, and Count Gravina, High Commissioner of the League of Nations at Danzig, came to the Council table.

Mr. EDEN submitted the following report and draft resolution.¹

If I insisted, at the meeting of the Council on May 10th,² that this question should be treated as a matter of urgency it was for two reasons. In the first place, the question is, in itself, one of great importance for the economic relations between Poland and Danzig, and, secondly it is the first occasion on which the Council has had before it a case of direct action. Direct action implies, under the definition given by the Council in its resolution of March 13th, 1925,³ the existence of a serious situation, and a great responsibility rests on the Council when such a question comes before it, and equally a great responsibility rests on the parties to see that there should be no delay in putting the decision into effect, in the letter and in the spirit, whether the decision has been taken by the High Commissioner or by the Council. The gravity of this procedure implies, however that it is to be regarded as an exceptional procedure. I should like, at once, to emphasise—and I am sure that the Council will agree with me—that it is a procedure which must not be abused. Too frequent recourse to it by the parties might easily lead to the result of substituting it for the ordinary procedure established by Article 39 of the Convention of Paris and the resolution of the Council of June 11th, 1925.⁴

At its meeting on May 10th, the Council was good enough to authorise me to consult jurists, so that I could found or reinforce my opinion on their judgment. On the same day I requested Professor Basdevant, Dr. Göppert and Sir William Malkin to give me their opinion on the questions which were before the Council. The Jurists Committee met on the same evening. It sat continuously for three days and completed its task on Friday evening. I should like to take this opportunity to express to the members of the Committee my sincere thanks for the valuable outcome of their united efforts. Moreover, the scope of their work shows how necessary it was to avoid the loss of time which might easily have occurred if the question had simply been adjourned until this week. The opinion of the jurists is now in my possession and I am quite prepared to place it at the disposal of the Council, if the Council so desires.

I am now in any event, in the happy position of being able to submit to the Council a draft resolution to which the parties have agreed. This resolution is as follows.

- " The Council,
- " Having regard to the High Commissioner's provisional decision of March 29th, 1932,
- " Having regard to the Danzig request of April 24th, 1932
- " Having regard to the appeal lodged by Poland on May 8th, 1932, against the above-mentioned decision,
- " Having regard to the observations put forward by Poland on May 9th, 1932, concerning the above-mentioned Danzig request.
- " Affirming, in accordance with its decision of March 13th, 1925, that a provisional decision by the High Commissioner in regard to "direct action" becomes immediately executive in the letter and in the spirit;
- " Noting that it is highly important in the general interest that a settlement should be effected as soon as possible regarding the concrete points in connection with which the questions of direct action, dealt with in the High Commissioner's decision of March 29th, 1932, and Danzig's request of April 24th, 1932, arose.
- " Requests the High Commissioner to give his decisions concerning the relevant requests submitted by the parties as soon as possible, with the assistance of experts.
- " Poland withdraws the appeal lodged on May 8th, 1932, against the High Commissioner's decision of March 29th, 1932.

¹ Document C.475.1932.I.

² See page 1179.

³ See *Official Journal*, April 1925, pages 468 and 564.

⁴ See *Official Journal*, July 1925, page 880.

“ Pending the final settlement of the questions submitted to the High Commissioner by the request of September 15th, 1931, the provisions of Article 133, paragraph 2, of the Polish Fiscal Penalties Law of March 18th, 1932, shall not be applied in such a way as to prejudice the solution of the questions concerning the “ passive ” finishing trade and the warehousing trade dealt with in the above-mentioned request of September 15th, 1931. ”

The draft resolution was adopted.

M. ZIEHM, representative of the Free City thanked the Rapporteur for his efforts to settle the outstanding questions, which were of the greatest importance to Danzig. The precision with which he had stated his view regarding these matters had greatly facilitated their settlement.

The question involved was economically of the utmost importance to Danzig. The outstanding disputes were unhappily proof of an intolerable tension in the economic relations between Danzig and Poland. Nevertheless M. Ziehm desired, in the course of his explanations, to keep strictly within the limits of the resolution proposed by the Rapporteur and adopted by the Council and to adhere closely to the different points contained in it.

He noted with satisfaction that the draft resolution took explicitly as a basis the Council resolution of March 13th, 1925, under which neither the Danzig Government nor that of Poland must at any time take direct action against one another. Any dispute between the parties must be settled by the procedure prescribed in the treaties. The principle by which law and not force, was the arbitrator between the two States, was the fundamental principle on which the international relations between the Free City and the Polish Republic were based. The League, which had assumed responsibility for the protection of the Free City was the guardian of the law.

M. Ziehm was glad to note that the resolution expressly stipulated that a decision by the organs of the League with regard to direct action must be carried out at once, in the letter and in the spirit. The resolution stated that the Polish Fiscal Penalties Law of March 18th, 1932, was not to be applied in such a way as to prejudice the solution of the questions of the finishing trade and the warehousing trade pending the settlement of these issues upon their merits. He greatly regretted the absence of an identical provision in the resolution with regard to quotas. These questions were closely connected with one another.

Regardless, however, of the importance of the decisions concerning direct action, which were, nevertheless, purely provisional in character, it was still more important to ensure a final settlement of the substance of the dispute. He did not overlook the fact that all countries were passing through a grave economic crisis, and that it was natural that Danzig should not escape the depression. The subject of Danzig's complaint was the special aggravation of the economic position in consequence of the Polish Government's action.

The Polish measures against which Danzig protested now and which were dealt with in the resolution were calculated to inflict another very serious blow on the Free City's trade and industry. They amounted to a veritable economic war, waged by Poland against Danzig goods. Whereas, under the Paris Treaty there was a Customs union between Danzig and Poland, and whereas, under the Warsaw Agreement, all restrictions on trade between Danzig and Poland were abolished, the Polish measures mentioned in the resolution created a Customs frontier between Danzig and Poland and formed an almost insuperable barrier to the export of goods from Danzig to Poland. At the present moment, the traffic in Danzig goods to Poland was, so to speak, completely suspended.

It was therefore specially important that the Council should note the very great desirability of achieving a settlement as speedily as possible, upon their merits, of the material and concrete questions which arose in this connection, and that it should instruct the High Commissioner to give, as promptly as possible, a decision on the substance of the outstanding questions. M. Ziehm considered that it would also be very helpful if the Council could state that the assistance of experts should be sought to this end.

He must stress the extreme urgency of a final settlement of these questions. The present position—the Polish authorities were almost entirely preventing the entry of Danzig goods into Poland—was absolutely intolerable economically for Danzig. To abolish the traffic of goods to Poland meant in fact the reduction to inactivity of every Danzig firm engaged in this trade. The majority of the Danzig firms and undertakings on the commercial register were in that position. They employed several thousands of workers and employees. Danzig already had an exceptionally large number of unemployed, and even as it was, their maintenance was an extremely heavy burden for the Free City's budget. Out of the 120,000 employees and workers at Danzig, there were at present—at the most favourable period of the year from the economic point of view—32,000 unemployed. Unless the Polish Government very speedily raised the economic blockade of Danzig, the existing army of unemployed would be swelled by several thousands. Needless to say the suspension of the business of the Danzig concerns in question and a further increase in the number of the unemployed would jeopardise the Free City's financial and economic existence.

When the Free City was founded, it had been promised a brilliant economic expansion by reason of its economic union with Poland. The picture which M. Ziehm had sketched of the existing economic position was entirely at variance with those promises. It was, on the contrary a very dark and menacing picture. It would, however, have belied the facts, and his statement would not have been a true one had he spoken otherwise.

In conclusion, he would request the competent organs of the League to bear in mind, in all their decisions, the economic difficulties of Danzig and to do everything in their power to come to the relief of the Free City and its inhabitants, who were at present contending with many hardships.

He ventured to hope that the Council's present session would help to remove the tension between the Free City and the Polish Republic, nor could he fail to make an earnest appeal to the representative of Poland to the effect that the Polish Government, also, would not fail to make every effort to put an end to the existing stagnation of the export trade to Poland. The relations between the two States were founded first and foremost on an economic basis. The economic rights which had been granted to Poland on Free City territory were counterbalanced by the duty of paying due regard to Danzig's economic interests and safeguarding them.

The Danzig Government for its part would do everything in its power to remove the existing tension.

M. ZALESKI accepted the Rapporteur's report, and thanked him for the efforts he had devoted to this difficult matter. The Polish Government had always considered it a matter of paramount necessity to avoid, as far as possible, creating in regard to Danzig questions an atmosphere of continual dispute and perpetuating discussions on legal and, if he might say so, almost metaphysical points. It was for this reason that the Polish Government, while seeking for a solution of the substance of the economic difficulties, had withdrawn its appeal against the High Commissioner's decision of March 29th last, which dealt solely with the purely formal aspect of a matter of detail.

The Polish Government hoped that the solution for which it was seeking might be found very shortly and that it would be in conformity with the interests of Poland and with a true conception of those of the Free City. The representative of the Free City had brought out in his remarks the great importance he attached to the observance of legality. M. Zaleski took note of that point with satisfaction. He was glad, too, to be able to note the importance ascribed by the representative of Danzig to the Polish market as an outlet for the products of Danzig industry and trade. He would merely point out that the Free City could not enjoy the full benefit of the advantages conferred on it by its geographical situation with so extensive a hinterland as Poland, until the Danzig Customs authorities carried out their duties in strict conformity with the legislation in force throughout Polish Customs territory.

The Danzig representative had mentioned the economic depression from which the Free City also was suffering. As everyone knew the depression was general, and it had spared no country. M. Zaleski would, however, point out that the sea-borne trade by which Danzig benefited and which was due to her connection with Poland was evidence that the Free City's position was less serious than that of other maritime cities. Whereas the total sea-borne traffic of Danzig in the period before the great war had not exceeded 2½ million tons per annum, it had risen by 1926 to six million tons, and, in the last four years, whereas almost all ports throughout the world showed a grave diminution of business, that of Danzig exceeded eight million tons a year. This advance was particularly marked if compared, for instance, with the position in neighbouring ports on the Baltic—Stettin or Königsberg. Before the war, Stettin had had a traffic of over six million tons in 1926 it had fallen below six million, and in 1931 had not exceeded 3,700,000 tons. The traffic in the port of Königsberg had been 1,900,000 tons before the war, and 2,000,000 tons in 1926 in 1931 it had fallen back to 1,900,000 tons.

M. Zaleski did not desire to prolong his remarks unduly and would merely state once again that it was the Polish Government's sincere desire to see the Free City which was united to Poland by so many ties, arrive at a true conception of the common interest of both States. He could assure the Council that Poland was prepared to further so desirable an achievement.

M. ZIEHM said that the Polish representative's statement allowed him to hope that Danzig could shortly be successfully rescued from the dire economic straits which he had described to the Council. He had, however, two reservations to make with regard to the Polish representative's remarks.

The Danzig Government, needless to say required, on the part of the Free City Customs Administration, strict observance of the Customs laws and decrees in force. In cases, however, as in the present dispute, where there was a divergence between the two Governments concerning the validity of such provisions in relation to Danzig's special rights, the decision must be reserved exclusively to the organs of the League, and the Polish Government must not take such a situation as a pretext for depriving the trade and industry of Danzig of the advantages conferred on them by the treaties. The Free City Government was of opinion that the Council decision had thrown light on this point.

Next, the Polish representative had referred to the increase in the movement of goods in the port of Danzig as compared with the pre-war position. Consideration of the statistics of sea-borne traffic passing through Danzig showed that more than half the imported goods going through the port consisted of ores and more than three-quarters of the goods exported, of coal. These, therefore, were heavy goods of small value, and Danzig trade took practically no part in such traffic. A journalist of high international repute who had recently studied the political and economic

position of Danzig on the spot had very rightly said that the only trace of this heavy goods traffic to be found in Danzig was a little dust.

Whatever the estimate of the circulation of goods in the port of Danzig, it could not, however, in any way compensate for the very heavy losses to Danzig trade and industry resulting from the measures taken by the Polish Government, which were under discussion.

Nevertheless M. Ziehm would conclude by expressing again the hope and the desire that Danzig should be speedily released from the economic pressure from which it was suffering at the moment.

M. ZALESKI noted with great satisfaction the statement of the representative of the Free City of Danzig that henceforward the authorities of the Free City would see that the Danzig Customs authorities strictly applied the regulations in force. He hoped that they would also apply this principle to the Customs inspection service.

The representative of the Free City of Danzig had complained of the nature of the traffic which was at present passing through the Free City. M. Zaleski felt sure, however, that he did not desire the Polish Government to send this traffic, which was of so little profit to the Free City through another port.

Count WELCZECK noted with satisfaction that the two parties accepted the report. He desired, however, to make a few general observations. In doing so, the German representative was not thinking of the economic interests of his own country which were not under discussion in the Council. He had in mind only the economic relations between Danzig and Poland, the supervision of which was an important task devolving upon the Council. There was no doubt that the manner in which these relations had developed had caused his Government serious anxiety. The representatives of the two parties had rightly pointed out that the Free City of Danzig could naturally not escape the general economic depression. But there was no doubt that, in addition to the general economic difficulties, there were very special factors which seriously aggravated the economic difficulties between Danzig and Poland.

An examination of the figures for the trade between Danzig and Poland immediately revealed that Danzig exports to Poland—the source of the dispute—did not in actual fact represent an appreciable portion of Poland's total trade. Apart from goods which only crossed the territory of the Free City in transit, the figures were as follows: Danzig imported from Poland goods to an annual value of 120 million florins, but its exports to Poland amounted only to 60 million florins per annum. In this latter amount were included goods from the "passive" finishing trade, together with those subject to the quota system, valued at 7½ million florins. On the other hand, the total imports of Poland amounted to about one thousand million florins.

This *de facto* situation should, it seemed, make it possible, without difficulty to establish such economic relations between the Free City of Danzig and Poland as would guarantee Danzig the full liberty of economic movement provided in the treaties in force. It was understood—Count Welczek was sure his colleagues would be unanimous on this point—that agreement between the parties must be based exclusively on economic considerations. There was no doubt that the economic tension between Poland and Danzig was extremely serious, and it was to be hoped that the settlement proposed in the report would put an end to this tension. For this purpose, however, the German representative thought it essential, pending a final solution, to avoid any action likely to aggravate the situation and endanger the economic life of Danzig.

M. ZALESKI was not in a position to discuss the figures for exports from Poland to Danzig and Danzig to Poland mentioned by the German representative. He had no intention of questioning them. He was not aware, however, of the method by which the German representative had obtained these figures. The Free City of Danzig and Poland formed one Customs territory and there were no official statistics of the trade between Poland and the Free City.

There was no doubt that the question was important. It concerned the Free City and Poland exclusively and M. Zaleski was sure that, in the relations between the two countries, a satisfactory solution would be found.

Count GRAVINA, referring to the statements just made by the representatives of Poland and the Free City of Danzig, also felt bound to call attention to the very serious effect of the deplorable tension between Danzig and Poland upon the economic life of the Free City of which its qualified representatives continually complained.

It was not necessary for the High Commissioner to assure the Council that he had at all times considered it his duty—and it was not always very easy—to do everything in his power to establish and maintain normal relations between Poland and the Free City.

Nor was it necessary for him to assure the Council that he would comply with its resolution, in order to hasten as far as possible the settlement of the questions at issue between the parties.

In conclusion, the High Commissioner asked the parties to help him to perform his task, above all with a view to creating an atmosphere favourable to a solution—which was imperative in the common interest—of the very important problems at present awaiting settlement.

Mr. EDEN endorsed Count Gravina's appeal to the interested parties to assist him—and, he added, the Council, for the Council was intimately concerned—in creating an atmosphere in which both the economic and other difficulties arising between the two States might be easier of solution. Both parties alike could contribute to this end, and if goodwill was lacking on their part, the task of the High Commissioner and of the Council would be rendered more onerous and would, indeed, become one of the gravest concern. It would be apparent, he felt sure, to all those who had heard the Danzig questions discussed during the present session of the Council, how delicate and complicated was the task of the High Commissioner. Mr. Eden desired to express, and was sure that his colleagues on the Council would wish to associate themselves with him in this, his sincere appreciation of the manner in which Count Gravina had discharged, and was continuing to discharge, his arduous task.

There was one further point he must mention. He trusted that the Press, of whatever shade of opinion, would refrain from that violence of language which could only add to the difficulties of the present situation and serve further to embarrass the High Commissioner in the discharge of his office. After the full discussion that had just taken place, the Council could count upon the responsible authorities, wherever placed, actively to restrain the less responsible elements from acts which it deplored for their unhappy consequences. The appeasement for which the Council was anxious in respect of these problems could only be realised by the united efforts of all concerned. Mr. Eden therefore confidently appealed, on behalf of his colleagues, for that full and frank co-operation that alone would ensure the improvement for which the Council was entitled to ask.

The PRESIDENT declared the discussion closed.

M. Ziehm and Count Gravina withdrew

3081. **Mandates Proposal of the United Kingdom Government for the Emancipation of Iraq**
Report by the Committee instructed by the Council to prepare the Draft Declaration to be made by the Iraqi Government on the Termination of the Mandatory Régime in Iraq.

M. FOTITCH presented the following report and draft resolution.¹

"The Committee set up by the Council resolution of January 28th, 1932,² consisting of the Rapporteurs for minorities questions, questions of international law and mandates, and the representative of the United Kingdom, has drawn up, in accordance with that resolution, a draft declaration covering the various guarantees recommended in the report of the Permanent Mandates Commission.

"The general form and the various provisions of this draft declaration (Annex 1373) are commented on in a report by the Committee which has been communicated to the Members of the Council. I shall therefore not attempt to analyse these texts.

"In my opinion, once it has been accepted by Iraq in a manner constitutionally effective, the draft declaration before us will afford, in accordance with the Council's decisions, the guarantees to which the latter decided that the termination of the mandatory régime in Iraq should be subject.

"The passage in the report dealing with judicial organisation is, I think, deserving of special mention here. The Committee was in favour of the maintenance of a uniform judicial system applicable to all Iraqi nationals and to all foreigners.

"It also proposed that the judicial system at present in force under Articles 2, 3 and 4 of the Anglo-Iraqi Agreement of March 4th, 1931, which has received the approval of the Council and of the so-called Capitulatory Powers, should remain in force for a period of ten years from the admission of Iraq to membership of the League. The Committee requests the Council to approve by a recommendation the action which the British Government is called upon to take as mandatory Power for the purpose of obtaining the consent of Powers whose nationals enjoyed capitulation rights in the former Ottoman Empire to renounce those rights for the future.

"I do not think that the Council will have any objection to acceding to its Committee's recommendation. The new statute contemplated for Iraq renders superfluous the jurisdictional privileges which, in theory should be revived in favour of the nationals of the so-called Capitulatory Powers as a result of the termination of the mandate.

"It takes account of the peculiar position of Iraq, and at the same time respects its status as an independent State.

* * *

"As my colleagues will remember, the Council resolution of January 28th, 1932 indicates that the Council intended to make the termination of the mandate for Iraq subject to two conditions—namely:

"(1) The formal acceptance by Iraq, in conformity with its Constitution, of the proposed declaration,

"(2) The admission of Iraq to the League of Nations.

¹ Document C.444.1932.VI.

² See *Official Journal*, March 1932 (Part II), page 474.