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## **Hague Peace Conferences (1899 and 1907)**

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## A. Introduction

**1** In 1898 Tsar Nicholas II of Russia invited the leaders of 59 of the world's sovereign States to participate in a peace conference unlike any other. Unusually for the 19<sup>th</sup> century, whose end the conference marked, it was called not for the great European powers to resolve a specific war or conflict or to divide territory or other spoils of war. Rather, what came to be known as the Hague International Peace Conference of 1899 reached, albeit modestly, beyond Europe and was convened as a restraint on war, to reduce the amount nations spent on armaments, and to ensure 'to all peoples the benefits of a real and lasting peace' (see Russian Circular Note Proposing the Program of the First Conference ['Russian Note of December 1898' (30 December 1898) in Scott xv]).

**2** Delegations from 26 nations, only six of which came from outside of Europe, convened at The Hague on 18 May 1899. Adjourning 10 weeks later on 28 July they had produced the non-binding Final Act of the International Peace Conference ('Final Act of the 1899 Conference'), three conventions (the Convention for the Pacific Settlement of International Disputes ['Convention I (1899)']; the Convention with Respect to the Laws and Customs of War by Land ['Convention II (1899)']; and the Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention ['Convention III (1899)']), three declarations (The Hague Declarations of 1899 [IV, 1] Prohibiting the Discharge of Projectiles and Explosives from Balloons; Declaration [IV, 2] concerning Asphyxiating Gases; Declaration [IV, 3] concerning Expanding Bullets), and six *vœux* (included in the Final Act of the 1899 Conference). The plenipotentiaries were unable to agree on a solution to one of their primary reasons for gathering—reducing and limiting armaments—but the 1899 Conference as such was able to pass unanimously the following non-binding resolution ('1899 Resolution'): 'The Conference is of [sic] opinion that the restriction of military charges, which are at present a heavy burden on the world, is extremely desirable for the increase of the material and moral welfare of mankind' (Scott 28). Importantly, the 1899 Resolution expressed the opinion not of the individual nations represented—whom the document does not name—but of a new collectivity that was 'The Conference'. The ineffectual exhortation of the 1899 Resolution bespeaks the fact that the parties failed to accomplish any significant steps toward → *disarmament*, the stated purpose for convening the Conference.

**3** The three conventions adopted at the 1899 Conference represented the three broad areas identified by almost all 21<sup>st</sup> century scholars as the fields in which the 1899 Hague Conference and its 1907 successor most profoundly affected the development of international law in the 20<sup>th</sup> century: pacific settlement of international disputes, arms limitation, and the laws of war. The two Conferences are also widely viewed as having set, for better or worse, the course of international conferences and → *negotiation[s]* throughout the 20<sup>th</sup> and into the 21<sup>st</sup> century. The 1899 and 1907 Conferences made their impact not only through the agreements reached but also through how they dealt with matters on which the delegations could not agree.

**4** The most practical outcome of such inability to agree in 1899 was a formal acknowledgment that matters remained unresolved but that there was a will to continue to work toward their resolution. Thus, in the Final Act the 1899 Conference provided for a second meeting to deal with matters left unresolved at the first. Eight years later the 1907 Conference was convened 'for the purpose of giving a fresh development to the humanitarian principles which served as a basis for the work of the First Conference of 1899' (see Final Act of the Second Hague Peace Conference). The 1907 Conference convened a larger and more diverse group of participating States and lasted almost 18 weeks, opening on 15 June and adjourning on 18 October of that year. The Final Act of the

1907 Conference called for the parties to come together again. The plan was never realized, instead falling casualty to the same forces that led eventually to World War I.

5 The ability to express disagreement alongside the desire for eventual accord reached a new level of articulation at the 1899 and 1907 Conferences. This laid the groundwork for the increasing influence of voluntary statements, → *consensus*, → *non-binding agreements*, → *soft law*, and other innovative outcomes of international negotiations over the next century. The powers' ability in 1899 to agree on a convention for the → *peaceful settlement of international disputes*, but inability to agree on how to handle compulsory → *arbitration*, reflects the tension between striving for accord on the one hand and expressing uncertainty as to how such agreement would affect State → *sovereignty*, independence, and national strength on the other. In many ways the Conferences provide vivid glimpses into States' evolving efforts to figure out how to act and interact on a changing international stage.

6 The 1899 Conference, as an entity whose identity was to become distinct from the States attending it, endowed itself with the ability to express an opinion separate from that of the assembled States by the sheer act of simply doing so. Reporting on the 1899 Conference, Scott described unsigned (as opposed to signed) declarations, resolutions, and *voeux* as new forms of agreement into which international sentiment could be poured and shaped, being understood as merely the 'expression of an opinion', more or less formal, by the Conference (Scott 8). To make clear the non-binding nature of the unsigned resolutions, declarations, and *voeux*, the participating countries neither signed nor were named in any of them. They were considered 'complete in themselves, requiring no action on the part of Governments to perfect them' (ibid). With this understanding, the Conferences not only asserted a life of their own but allowed States to participate without committing themselves to concrete action before (legal) personality was ever ascribed to any entities other than States.

7 Although the 1899 Conference issued no unsigned declarations, which had equal effect to conventions, its resolutions and *voeux* were unsigned. This early departure from allowing States only the simple choice of committing or not to binding obligations paved the way for international conferences to move from decision by unanimity or majority voting toward the consensus decision-making that grew to dominate international conferences over the course of the 20<sup>th</sup> century. Scott observed of the 1899 Resolution quoted above that it 'was the action of the Conference, not of the nations represented in it, and that they were willing by their silence to allow the Conference to adopt such a *resolution*, provided it were understood to be *the opinion of the Conference and not the binding expression of opinion controlling the actions of their respective governments*' (ibid 10; emphasis added).

## **B. Context: Transitions in Government, Nationhood, and Sovereignty**

8 The expansion of different forms of government around the turn of the century that the two Conferences straddled assured almost by necessity that the assembled powers would have to invent new diplomatic forms to express both collective opinion and lack of agreement. Representative forms of government were on the increase and individual delegations attending the two Conferences were under varying degrees of obligation to seek from parliaments or other representative bodies back home the acts agreed to at the Conferences. The existence of the non-binding Final Act of the 1899 Conference—a kind of umbrella document summarizing the matters agreed to and left unresolved—arose out of the 'protocol problem' that not all of the representatives in attendance had full powers to bind their State. If the conventions and unsigned *voeux* had been the only outcomes, some

delegations would have had nothing to sign (Rosenne xxiv-xxv). The instrument of the final act, in similar but more concise form, is still used by diplomatic conferences today (ibid).

### C. Actors and Influences at the 1899 Conference

**9** The 1899 Conference came at the end of a century whose numerous armed conflicts gave birth to the modern movements for arbitration, peace, and humanitarian law (→ *Humanitarian Law, International*). Military powers, peace activists, arbitration proponents, and humanitarian organizations would all shape, in varying degrees, the outcome of the Conference. Peace societies began forming in the first decade of the 19<sup>th</sup> century in the wake of the war of 1812. The Napoleonic Wars in Europe and the → *American Civil War (1861–65)* gave rise to the early statements and codifications of the laws of war and humanitarian law such as the Instructions for the Government of Armies of the United States in the Field of 1863 (prepared by Francis Lieber [‘Lieber Code’; The Lawbook Exchange Clark 2005]) and the Convention for the Amelioration of the Condition of the Wounded in Armies in the Field ([signed 22 August 1864, entered into force 22 June 1865] (1864) 129 CTS 361), as well as to the → *Alabama Arbitration* of 1872 (JB Moore *History and Digest of the International Arbitrations to Which the United States Has Been a Party* vol 1 Chapter XIV [Government Printing Office Washington 1898]). The Boxer rebellion in China, the Spanish-American War, which ended four centuries of Spanish influence in the Americas, and the Fashoda incident between France and Britain in the Egyptian Sudan reflected the tensions between and within the great powers, whose shifting alliances in the 1880s and 1890s—Germany/Italy/Austria-Hungary and France/Russia, with Britain standing alone—increased the sense that alternatives to war were needed. Public opinion supporting such alternatives to war as international adjudication was expressed influentially through the works of William Ladd, a leader in the American peace movement and Ivan Bloch, a Polish banker who viewed war as a decreasingly viable means of asserting national interests. The broader context for each of these developments was the expanding industrialism at the turn of the century that made possible not only economic growth but a larger scale production and transport of armaments.

**10** Since Russia called the 1899 Conference at a time of its own intensive military expenditure and expansion, some view the 1899 Conference not primarily as an overture towards peace among the world’s powers but rather as Russia’s attempt to remove the burden of keeping pace with the armaments build-up occurring in Great Britain and Germany. Nonetheless, the Tsar was influenced in part by his genuine interest in Bloch’s work particularly, and by the Declaration Renouncing the Use in Time of War of Explosive Projectiles under 400 Grammes Weight (‘St. Petersburg Declaration’ [signed 11 December 1868] (1868–69) 138 CTS 297) prohibiting on humanitarian grounds the use of certain projectiles, which had resulted from his grandfather’s initiative.

**11** Tsar Nicholas II invited 59 delegations to the 1899 Conference and 26 came. The vast majority were European, with 20 of Europe’s 23 powers attending and only the → *Holy See*, Monaco, and → *San Marino* absent. None of the six sovereign African nations and only two Latin American countries—Brazil and Mexico—were invited, and only Mexico chose to attend. Four Asian and two American powers sent delegations: China, Japan, Persia, and Siam; and Canada and the US. As Rosenne observes, the US and those European powers that attended both the 1899 and 1907 Conferences all had overseas possessions or colonies whose territories were deemed subject to the agreements decided at each conference. Yet no colony or possession was represented at either Conference, except indirectly by one delegation—the Netherlands—including a representative of its Colonial Office for the 1907 Conference. Following the initial diplomatic circular note from Russian Foreign Minister Count Mouravieff in August 1898 (Russian Circular Note Proposing the First Peace Conference [12 August 1898, 24 August 1898 New Style] in Scott xiv), the Russian Note of

December 1898 laid out a proposed list of subjects to be addressed at the Conference, the first four dealing with qualitative and quantitative arms control (covered at the Conference by the First Commission), three relating to codifying the laws of neutrality and of → *naval warfare* and → *land warfare* (these became the domain of the Second Commission), and one relating to the pacific settlement of international disputes (taken up by the Third Commission).

## **D. The Structure and Outcomes of the 1899 Conference**

**12** The outcomes of the 1899 Conference—three conventions, three declarations, and six *voeux*—reflect its working structure as well as the subjects proposed by the Russian Note of December 1898. The First Commission, chaired by Auguste Beernaerts of Belgium, was unable to agree on any convention for the reduction or prohibition of armaments, producing instead three declarations. The Second and Third Commissions, dealing respectively with land warfare and pacific means of settling disputes, produced the Conference's three conventions. Finally, the six *voeux* corresponded to issues on which the parties were unable to reach accord in the Commissions. The Second Commission, under the chairmanship of Russia's FF de Martens, summarized and organized over 50 years of debate on the rules of war into two conventions laying out clearly the agreed-upon rules and customs of warfare: the Convention II (1899) (including in its preamble the → *Martens Clause* and in its annexes the Hague Regulations) and Convention III (1899). The Third Commission produced Convention I (1899) under the chairmanship of Léon Bourgeois of France.

**13** The Final Act of the 1899 Conference identified these three conventions and the three declarations as texts on which 'the Conference has agreed, for submission for signature by the plenipotentiaries' (Scott [1915] 25). All parties in attendance signed each of the three treaties, with the exception of Convention II (1899) respecting land warfare, which China and Switzerland declined to sign. The three declarations all dealt with arms prohibitions and were intended, respectively,

- a) To prohibit the launching of projectiles and explosives from balloons or by other similar new methods.
- b) To prohibit the use of projectiles, the only object of which is the diffusion of asphyxiating or deleterious gases.
- c) To prohibit the use of [Dum-dum] bullets which expand or flatten easily in the human body, such as bullets with a hard envelope, of which the envelope does not entirely cover the core or is pierced with incisions.

**14** As to the non-binding wishes, the first of the six *voeux* was the most aggressive, calling for steps to be 'shortly taken' (Final Act of the 1899 Conference) to assemble a special conference to revise the Geneva Conventions. *VoEU* 1 was also the only one to pass unanimously without abstention. The operative wording of *voEU* 2, requesting that the rights and duties of neutrals 'be inserted in the program of a Conference in the near future', differed subtly from the call of *voeux* 5 and 6 that two questions of naval warfare—invulnerability of private property, and naval bombardments of ports, towns, and villages—be 'referred to a subsequent Conference'. The language of *voeux* 3 and 4 seems the least committal of all, calling on governments to have 'studied' and to 'examine' the use of certain calibres and types of rifles and naval guns (3), and possible limits on armed forces and war budgets (4). This reluctance to demand more of the assembled powers with regard to limiting military budgets proved prescient. As Vagts observes (at 37), even after World War I States continued to be unable to agree on such limitations, a → *League of Nations* Conference on General Disarmament having borne no fruit in its attempts to 'constrain

national defense budgets' and reconfirm the → *Kellogg-Briand Pact (1928)* emphasis on renouncing war as a means to settle disputes.

**15** In addition to the three commissions at the 1899 Conference, each of which had sub-commissions to draft its actual documents, other groups were instrumental to the commissions' work. The Commission on Editing worked with the drafts the three commissions produced to create documents to which the entire Conference could agree. Although each State could seat any number of delegates on each of the three commissions, each State had only one vote. The same held true for the general Conference body when voting on each of the documents produced by the sub-commissions and the commissions.

## **E. Documentary Outcomes**

**16** Convention I (1899) was identified in the Final Act of the 1899 Conference as the 'Convention for the Peaceful Adjustment of International Differences' (Scott 41). Disarmament was one goal of Convention I (1899); its preamble also expressed the desire to extend 'the empire of law' and to strengthen 'the appreciation of international justice' (ibid). By providing for the → *Permanent Court of Arbitration (PCA)* as a permanent institution, the parties believed they had found an effective means to those ends. The PCA was soon established in September 1900. The cornerstone for the Hague Peace Palace, its eventual home, was laid during the 1907 Conference, the gift of Andrew Carnegie's philanthropic foundation.

**17** This turn to adjudication of disputes and away from war and neutrality as the only options for resolving international discord began to change arbitration from the exception to what would become a broadly accepted course for inter-State relations. Much of Convention I (1899) is devoted to the policies and procedures of the PCA, and selection of the arbitrators. Convention I (1899) also provides for → *good offices* whereby, before an appeal to arms, parties not involved in the dispute 'offer their good offices or mediation to the States at variance' (Art. 3 Convention I [1899]). The mediator's role comes to 'an end when once it is declared, either by one of the parties to the dispute, or by the mediator himself, that the means of reconciliation proposed by him are not accepted' (Art. 5 Convention I [1899]). Convention I (1899) also introduced international Commissions of inquiry, for 'differences of an international nature involving neither honor nor vital interests, and arising from a difference of opinion on points of fact' (Art. 9 Convention I [1899]). If the parties are unable to agree on arbitrators from the PCA panel of arbitrators, each party selects two arbitrators and these four together chose an Umpire (Arts 10, 11, 32 Convention I [1899]). Each commission of inquiry is to produce a statement of facts for the parties' later use to resolve the disagreement.

**18** Convention II (1899) regarding the laws and customs of war on land and the Regulations Respecting the Laws and Customs of War on Land annexed thereto ('Hague Regulations [1899]'), are widely considered the most important source of 20<sup>th</sup> and early 21<sup>st</sup> century humanitarian law. The Hague Regulations are still in force and have generated an enormous body of case-law. The Nuremberg Tribunal declared that the 1907 version constituted → *customary international law*; a status that the → *International Court of Justice (ICJ)* and the → *International Criminal Tribunal for the Former Yugoslavia (ICTY)* have since confirmed for the Hague Regulations today.

**19** The annexes cover the topics of belligerents and their qualifications; → *prisoners of war*, and the sick and wounded; hostilities; means of injuring the enemy; → *siege[s]*, and bombardments; → *spies*; → *flags of truce*; → *capitulations*; → *armistice[s]*; military authority over hostile territory; and the → *internment* of belligerents and the care of the wounded in neutral countries. The Hague Regulations drew directly on existing statements of similar principles in national and international sources, such as the Lieber Code, which was the

model for the Project of an International Declaration concerning the Laws and Customs of War ([adopted 27 August 1874] (1947) 1 AJIL Supp 96 → *Brussels Declaration [1874]*), itself an acknowledged influence on the 1899 Hague Rules of Land Warfare. Convention II (1899) also laid indirectly the groundwork for a matter outside its immediate sphere on which the 1899 conferees could not agree, that of arms limitations: the provision in Art. 22 Hague Regulations, stating that the ‘right of belligerents to adopt means of injuring the enemy is not unlimited’ has been suggested as ‘[p]erhaps the most enduring legacy of the Hague Conferences as regards armaments’ (Vagts 36). Convention III (1899), identified by the Final Act of the 1899 Conference as the ‘Convention for the adaptation to maritime warfare of the principles of the Geneva Convention of 22 August 1864’ was a much shorter document, comprising a mere 14 articles, one of which was excluded. It dealt primarily with the status, designation, and purposes of hospital ships and military hospital ships, and the treatment of shipwrecked, wounded, or sick sailors, and soldiers taken on board.

## **F. Actors and Influences at the 1907 Conference**

**20** By the time of the first calls for the Second Hague Peace Conference, States were failing to live up to many of the goals and commitments of the 1899 Conference. It was not for lack of formal participation in the treaties or entry into force, as all of the signatories to the three 1899 conventions, with the exception of China and Turkey, had ratified them by 1901. As a whole, States had continued to increase military expenditures. While nations had brought four cases to the PCA in the eight years between the two Hague Conferences, others had turned to armed force (see, eg the Boer War 1899–1902) to accomplish their aims rather than resorting to the peaceful means of dispute settlement established in Convention I (1899). The host of the 1899 conference was embroiled in the Russo-Japanese War 1904–05 (see also the related → *Dogger Bank Incident [1904]*), which circumstance delayed the invitation to a second conference by some three years beyond the initial floating of a circular in 1904 by US Secretary of State John Hay (The Secretary of State of the United States to the American Diplomatic Representatives Accredited to the Governments Signatory to the Acts of the First Hague Conference [21 October 1904] in Scott xix). US President Theodore Roosevelt deferred to the desire of Tsar Nicholas II to issue the formal invitation to the Second Hague Peace Conference, who did so in September 1905, immediately after concluding the Russo-Japanese peace. The second conference was delayed even further in order to accommodate the 1906 Third Pan-American Conference, at which diplomatic delegations from the various American States met in Rio de Janeiro in large part to prepare for the upcoming Hague conference. Its arbitration committee recommended that the American delegations to that conference support the arbitration convention to be revised there. The Pan-American Conference also adopted the Drago Doctrine prohibiting States from using armed force to collect the contract debts of another State’s nationals. This doctrine was the foundation of the Convention respecting the Limitation of the Employment of Force for the Recovery of Contract Debts, which undergirded the same prohibition with a full convention.

**21** In keeping with traditional diplomatic practice, a plenipotentiary issued the invitation to the 1907 Conference. However, the forces leading up to the convening of the meeting reflected the growing influence of actors other than individual States. Two organizations, inter- and non-governmental, helped to bring about and shape the 1907 Conference. As seen, the first Conference made explicit provision for a second meeting to be called. Building on that promise, in 1903 the American Peace Society—a non-governmental group whose stated purpose was to ‘promote permanent international peace through justice; and to advance in every proper way the general use of conciliation, arbitration, judicial methods, and other peaceful means of avoiding and adjusting differences among nations’—sponsored an initiative to convene the second Conference, to which US President Roosevelt responded favourably. A year later, the → *Inter-Parliamentary Union (IPU)* passed a similar

resolution at its 1904 meeting, lending more weight to the call. The IPU was founded in 1889 as an international organization of Parliaments of sovereign nations with the object of promoting peace and harmony among governments, as well as 'engendering a love of peace' amongst the people of the world.

**22** With 43 delegations taking part in the 1907 Conference, the number of States attending was almost double that in 1899, although the number of sovereign States had not changed dramatically in the eight years separating the two conferences. The 1907 Conference only partially improved representation of the world's various regions, Africa again remaining unrepresented and thus reflecting the grip of the colonial powers on the African continent. All of the Latin American States received invitations and 19 attended: Honduras and Costa Rica responded to the invitation by appointing delegates and reserved seats, but neither country took the seats. Asia was represented by China, Japan, Persia, and Siam.

## **G. Structures and Outcomes of the 1907 Conference**

**23** The 1907 Conference continued the form and practice of the Final Act, introduced in 1899, to summarize and highlight what the States, assembled as the Conference, had accomplished. The Conference as such was an entity independent of the States for the time they were convened but did not continue its existence past 1907. This time there was but one declaration, and it was unsigned; four *vœux* instead of six, and a grand total of 13 binding conventions, more than quadrupling the number agreed to in 1899.

**24** The Final Act of the 1907 Conference appended 13 separate conventions, all of which were open for signature and ratification by all States in attendance. Regardless of invitation or attendance, States not at the 1907 Conference could accede to all but one of the 13. This practice contrasts with that applied to the three conventions produced by the 1899 Conference, whereby the conventions regarding the laws and customs of land warfare, and on maritime warfare, had required conference attendance in order to join the treaty. Accession to the other 1899 Convention, on peaceful settlement of disputes, was open to all States, regardless of whether they had attended the 1899 Conference. In 1907, it was only for accession to the Convention I on arbitration that a State had to have been invited to the Conference.

**25** Ten of the 13 1907 conventions were new; the other three revised the three conventions agreed to in 1899. Of these three revised treaties, the Convention II (1899) was the least changed, with the notable addition in 1907 of Art. 3 regarding responsibility for violation of the Hague Regulations. At the 1907 Conference, the signatories incorporated much of the Hague Regulations (1899) into the Annex to the Convention concerning the Laws and Customs of War on Land of 1907. The three sections of the Hague Regulations (1907) and the first three sections of the Hague Regulations (1899) contained very similar wording and bound the signatories to regulations on the definitions of belligerents, the treatment of prisoners of war, the treatment of sick and wounded on land, permissible means of injuring enemies, treatment of spies, agreements between opposing forces, and the authority of military powers over occupied territories.

**26** Another convention revised in 1907 was the Convention regarding the Rights and Duties of Neutral Powers and Persons in Case of War on Land ('Convention V [1907]'). Modifications and additions included regulating neutral countries' treatment of interned and wounded belligerents and allowing neutral countries to leave at liberty escaped prisoners of war and those prisoners brought into a neutral country.



**27** Among the 10 new Conventions of 1907 was the Convention Relative to the Opening of Hostilities. Of the nine remaining treaties, six related to naval operations, the sheer number and narrow focus of each not only reflecting that the law of naval warfare, then as now, relies primarily on customary international law (see Roach) but also possibly foreshadowing the circumstance that naval warfare still lacks a comprehensive governing treaty. One of these seven naval treaties was the Convention Relative to the Establishment of an International Prize Court, which envisaged a Prize Court to deal with the capture of neutral ships. Such a court never materialized, contemporary commentators rightly predicting that significantly different national laws, the inherent unwillingness of a capturing country to subordinate its courts' judgments regarding captured vessels, and potential constitutional conflicts would make the proposed Prize Court unattainable. Another naval treaty was the Convention concerning the Rights and Duties of Neutral Powers in Naval War, which codified some of the law of neutrality at sea (the parallel Convention V [1907] did the same for neutrality on land). This progress in the law of neutrality is one of the greatest successes of the 1907 Conference, exemplified in such provisions as Art. 7 in both neutrality conventions whereby neutral powers are considered to have no obligation to prohibit the export of weapons to belligerents.

**28** States continued to be incapable of agreement on the issue of obligatory arbitration, the resolution of which had proved so elusive at the 1899 Conference, as had the ability to express a common understanding of what the concept meant. The three different approaches put forth in 1899 were revisited: a) providing for obligatory arbitration on a bilateral treaty basis only; b) requiring obligatory arbitration in a universal treaty but allowing exceptions for matters inconsistent with national honour and vital interests; or c) concluding a universal treaty that listed only specific matters subject to obligatory arbitration. The continuing difficulty of this issue for the parties can be attributed at least in part to the simple fact that the idea was still emerging as a new concept, and one that had great potential to infringe on traditional notions of State sovereignty. Adopting the format introduced in 1899, when the First Hague Conference—as its own entity—memorialized in a nonbinding agreement the things upon which the States themselves could not agree (then it was arms limitations and prohibitions), the 1907 Conference issued a nonbinding declaration that the parties were unanimous in 'admitting the principle of compulsory obligation' (Scott 27). The term itself remained undefined. The declaration also stated that the 'certain disputes, in particular those relating to the interpretation and application of the provisions of international agreements, may be submitted to compulsory arbitration without any restriction'. The declaration result built, however tentatively, on the shifting foundation laid by Art. 19 Convention I (1899), which had reserved to the parties the 'right of concluding, either before the ratification of the present Act or later, new Agreements, general or private, with a view to extending obligatory arbitration to all cases which they may consider it possible to submit to it'. The first *voeu* of 1907 (included in the Final Act of the 1907 Conference) also took up the topic, calling on the parties to adopt an annexed draft convention for the creation of a judicial arbitration court.

**29** In 1907 the proposal for such a court ended up in an annexed draft rather than a convention for signature in part due to the concerns of the smaller powers that their interests would not be adequately represented. The draft annexed to the first *voeu* had no provision for judges because the smaller powers rejected the model of permanent seats for great powers and rotating seats for lesser powers. The solution rejected in 1907 has since appeared in other settings, no less recently than the final structure of the United Nations Security Council, which is itself the subject of on-going proposals for reform. The Hague Conferences were, as stated at the outset, unlike any other before them; the inclusion of

States other than the great European powers was yet another innovation that shaped the form of international consensus building and diplomacy into the current century.

**30** Another legacy of the two conferences was their forging of procedural means to allow all participants, regardless of size or actual political or military power, to participate in a formal if not always a substantive way in the process of international negotiation. A related legacy is also procedural: that of devising a means for the Conference to express itself as an entity independent of the States attending it. These procedural innovations proved to have substantive effects as well, in the end allowing the States to make gradual advances toward the peaceful settlement of disputes, arms limitation, and the laws of war that would be built upon throughout the 20<sup>th</sup> century. The greatest legacy of the 1899 and 1907 Conferences, however, is the on-going influence of the Hague Regulations, which are still in force more than 100 years after their creation and have continued to shape humanitarian law into the 21<sup>st</sup> century.

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