

# The emergence of intergovernmental peace organisations: an overview

by Hester Swift

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Intergovernmental organisations were first established in the nineteenth century, although Sir Harold Nicolson cites the possible earlier exception of the Amphictyonic Councils of Ancient Greece (Nicolson, *Diplomacy*, 3rd ed, 1969, cited in Clive Archer, *International Organisations*, Allen and Unwin, 1983, p 5). The intergovernmental organisations created in the 1800s were not peace-keeping bodies, however: they dealt with matters such as European waterways and international telegraphic communications.

There had been an attempt to secure peace by systematising international relations in the early nineteenth century, although it did not create an intergovernmental organisation. Following the Napoleonic Wars, the four Great Powers – Britain, Austria, Russia and Prussia – signed a treaty in which they agreed to meet at fixed intervals to discuss common interests and consider how best to maintain peace in Europe (Treaty of Paris, November 20, 1815, 3 BFSP 273, art VI). It had long been the practice of states to make peace treaties at the end of wars, but it was a new idea to meet regularly during peacetime with the aim of preventing war (Archer, p 7).

The Great Powers, plus France, met periodically in subsequent years, discussing questions such as Greek independence and revolution in the Italian peninsula. Their meetings became known as the “Congress System”. This approach only lasted until 1822, and after that European states reverted to meeting to discuss problems as they arose.

## THE HAGUE PEACE CONFERENCES OF 1899 AND 1907

The first Hague Peace Conference was called by Tsar Nicholas II of Russia, who wanted an agreement on limiting armaments. It met in 1899 at The Hague, and brought together representatives of 26 states, both European and non-European, including the United States, China, Japan, Mexico and Siam.

Although the Conference failed to make an agreement on arms reduction, one of the treaties that it did produce was the Convention for the Pacific Settlement of International Disputes (July 29, 1899, 187 CTS 410), a landmark in the history of international dispute resolution. Among other measures, the Convention created a new arbitral body, the Permanent Court of Arbitration (PCA), and set out detailed procedural rules for arbitration.

Inter-state arbitration was not a new phenomenon at this time: the beginning of modern international arbitration is usually dated from the Treaty of Amity, Commerce and Navigation of 1794, between Britain and the United States (“Jay Treaty”, 1 BFSP 784). The use of arbitration between states had become fairly common in the nineteenth century, but there had often been difficulties agreeing the procedure and choosing the arbitrators. This was why the PCA was set up, and why the Hague Convention included arbitration rules.

There was no obligation for states to use the court to resolve their disputes, and the PCA was not a standing court. Each time a dispute was submitted for arbitration, a new tribunal was to be formed; the Convention provided for the compilation of a list of recommended arbitrators. However, the PCA was a permanent intergovernmental organisation in the sense that it had an office to keep its records and an executive institution, the Permanent Administrative Council, consisting of representatives of each state.

The first PCA award was given in 1902, deciding the *Pious Fund* case between the US and Mexico (IX RIAA 1, available at <http://www.un.org/law/riaa/>). In the period up to the First World War, 17 cases were referred to the court. The PCA still exists; its website calls it “the first global mechanism for the settlement of disputes between states” (<http://www.pca-cpa.org/>, under “About Us – History”).

The Final Act of the 1899 Conference declared that there should be a second Hague Conference, to consider the

unresolved questions; this took place in 1907. Forty-four states came, including numerous Latin American countries. Among other things, the 1907 conference revised the agreements made at the 1899 Conference and adopted another Convention for the Pacific Settlement of International Disputes (see Nisuke Ando, “The Permanent Court of Arbitration”, *Max Planck Encyclopedia of Public International Law* (MPEPIL), OUP, 2012; Convention published at 205 CTS 233).

Significantly, the Final Act of the Conference called for the parties to meet a third time. Although this never happened, because the First World War had broken out by then, it showed the re-emergence of a desire for regular meetings, on the model of the nineteenth century Congress System.

Many commentators have seen the Hague Conferences as a forerunner of the League of Nations. James Brown Scott, who edited and published the Hague conventions and other instruments, noted that the 1899 Conference had shown it was possible for a large number of states to meet together and agree on measures for the benefit of the world. (*The Hague conventions and declarations of 1899 and 1907*, OUP, 1918, vi-vii). Clive Archer calls the Hague Conferences a “precursor of the League of Nations’ Assembly” (*International Organizations*, p 10).

According to Betsy Baker, one reason for the 1899 Conference’s importance in the history of international law was that it developed an identity of its own, separate from that of the individual states who attended it (“Hague Peace Conferences (1899 and 1907),” para 7, MPEPIL). As well as producing conventions, it issued unsigned resolutions and recommendations. These were new types of international agreement: because they were not signed by the states’ representatives, they could be seen as expressing the desires of the Conference itself, rather than that of the states attending.

The rather toothless measures of the Hague Conferences were ineffective in face of the powerful forces which led to outbreak of war in 1914. The arbitration provisions in the two pacific settlement conventions were not compulsory. Nor did the great powers support the Conferences wholeheartedly: Lord Salisbury, the British Prime Minister, said of the first Conference that it should not be taken “too seriously” and the Kaiser commented that many of its objectives were “Utopian” (both quoted in F H Hinsley, *Power and the pursuit of peace*, Cambridge University Press, 1963, p 269).

## THE LEAGUE OF NATIONS

Following the outbreak of the First World War, the major powers started to make plans for post-war international relations, hoping that more effective institutions would be able to prevent future wars. Britain suggested that international disputes could be referred to a Conference of the Allied States;

France proposed the creation of a new international court and other measures. In January 1918, US President Woodrow Wilson presented his “Fourteen Points” to Congress, the last of which called for the creation of “a general association of nations” which would guarantee the political independence and territorial integrity of all its members. The same year, the South African statesman General Jan Smuts published his pamphlet, *The League of Nations: a practical suggestion*, in which he recommended the creation of a council of state representatives to consider international affairs (Archer, *International Organizations*, p 15; Christian J Tams, “League of Nations”, MPEPIL).

The plans were finalised at the Paris Peace Conference in 1919, where Woodrow Wilson chaired a special commission on the League of Nations, with representatives from the United States, Britain, France, Italy and Japan. They negotiated the final text of the new organisation’s constitution, the “Covenant of the League of Nations” (UKTS 4 (1919)). The Covenant formed part of the peace treaties with Germany and her allies, and the League of Nations came into being when the Treaty of Versailles came into force in January 1920.

The League was structured on the typical pattern of the many international organisations, private and public, that had been created over the previous hundred years or so. It had a consultative assembly – in which every Member State was represented and had one vote – a smaller Council and a permanent Secretariat. In both Council and Assembly, decisions usually had to be taken by unanimous agreement. The Council was intended to have five permanent members – the United States, Britain, France, Italy and Japan – as well as a number of non-permanent members. However, the United States failed to become a member of the League, after the Senate refused to ratify the peace treaties (F S Northedge, *The League of Nations* (Leicester University Press, 1986), p 86; Archer, p 16; Tams, para 16).

The purpose of the League of Nations, stated in the preamble to the Covenant, was “to promote international co-operation and to achieve international peace and security”. The Covenant’s provisions concerning peace and security were ground-breaking at the time, however ineffective they proved to be in practice. The states of the world were formally acknowledging what Christian J Tams calls “a step away from the sovereign right to wage war” (“League of Nations”, para 24, MPEPIL). Article 10 of the Covenant contained an undertaking that members of the League would respect each other’s territorial boundaries and political independence and declared that any war – or even the threat of war – was “a matter of concern to the whole League”.

The Covenant instructed the League to set up a standing court to resolve international disputes (art 14). This was the Permanent Court of International Justice (PCIJ); it came into

being in September 1921 and began work the following year. The Court was formally independent of League and had its own administration (Shabtai Rosenne, “Permanent Court of International Justice”, para. 8, MPEPIL).

Under the Covenant, members of the League agreed to resolve their disputes peacefully, by submitting to arbitration, a judicial decision (by the PCIJ or another tribunal), or the recommendations of the League’s Council or Assembly (arts 12, 13 and 15). The Council was instructed to make plans for disarmament and a disarmament commission was to be established (arts 8 and 9).

The League of Nations did have some successes in the field of peace and security, in the 1920s at least. These included resolving a dispute between Germany and Poland concerning Upper Silesia; settling a disagreement between Finland and Sweden about sovereignty over the Aaland Islands (Northedge 78) and dealing with the “War of the Stray Dog” between Greece and Bulgaria (Tams, “League of Nations”, para 30, MPEPIL), a short but strikingly-named conflict which is supposed to have started when a Greek soldier ran across the border after his dog and was shot by Bulgarian border guards.

But, even in the early days, the League tended to be usurped in its peacekeeping role by other international bodies. These included the Conference of Ambassadors, the institution responsible for ensuring compliance with the peace treaties; the Conference was active in the resolution of international disputes, notably the Corfu Affair of 1923 (1966 AJIL 870 at 871). Then the Locarno Treaties, although they emerged from a League of Nations conference, established a parallel mechanism for intergovernmental action to that of the League from the mid-1920s onwards. The major powers also continued to conclude peace and security treaties completely outside the League System, such as the Kellogg-Briand Pact of 1928, which was initially signed by 15 states, including the United States, and later acceded to by many more (Randall Lesaffer and Mieke van der Linden, “Peace Treaties after World War I”, para 11, MPEPIL; Tams, “League of Nations”, para 17, MPEPIL).

No one blames the outbreak of the Second World War wholly on the failings of the League of Nations, but the League’s main aim had been to prevent another world war, and it did not achieve this. There were two major reasons for its failure: the fact that it did not have the support of the major powers, and weaknesses in its design.

It was a catastrophic blow to the League that the United States, already the most powerful and wealthy country in the world, did not become a member. It meant that the League’s principle of universality was shattered right at the start. More practically, it severely limited the possibility of effective League action outside Europe, notably in Manchuria and Latin America

(Archer, *International Organizations*, p 21). Without the US, any possible military enforcement of League recommendations would be expected to come from Britain.

The major powers who were members of the League were, as ever, reluctant to agree to anything that might undermine their independence of action; national self-interest often took precedence over the League’s attempts at collective action. One of many examples was when, in 1923, Britain blocked a draft treaty that would have strengthened the League Covenant by banning wars of aggression and obliging members to send in their armed forces to defend a state that was under attack. The British Government was not prepared to make open-ended commitments to defend other countries, especially at a time when it was facing war debts and had made large cuts in its armed forces (Lesaffer and van der Linden, “Peace Treaties after World War I”, para 10, MPEPIL; Anil Seal and John Gallagher “Britain and India between the Wars”, in Christopher Baker, Gordon Johnson and Anil Seal (eds), *Power, Profit and Politics*, p 398).

Then there were a multitude of other factors undermining collective action by the League. Germany, Japan and Italy were unhappy with the peace settlement and thus reluctant to cooperate; all three left the League in the 1930s. France was distracted by internal political divisions. Britain and France had opposite approaches to the League: Britain felt that the peace treaties were too punitive, and wanted to use the League to revise them, but France wanted to use the League to reinforce and defend the post-war settlement. Bolshevik Russia called the League a “band of robber nations” and did not join until 1934 – only to be expelled in 1940 for invading Finland (Northedge, *League of Nations*, pp 47-8, 70 and 285). The Latin American states became increasingly dissatisfied with the League’s ineffectiveness and more than half of those who originally joined later decided to leave (Tams, “League of Nations”, para 9, MPEPIL).

Crucially, the League relied, in practice, on voluntary cooperation. Although article 10 of the Covenant in theory bound members of the League to maintain each other’s territorial integrity and political independence, this was not backed up by sanctions: article 10 merely said that if there was a threat of aggression, the Council should advise members what to do. The only way this provision could be made effective was by the backing of wealthy nations with substantial armed forces, which, as already mentioned, left Britain (and possibly France) to guarantee the political status quo in the entire world (Northedge, *League of Nations*, pp 54 and 61).

The Covenant did not make its dispute settlement procedures compulsory: states were only recommended to use arbitration, judicial settlement or mediation by the League Council if they thought a particular dispute “suitable” for these mechanisms (arts 13 and 15). Resorting to war was still permitted. Unlike

the United Nations Charter, which prohibits almost all uses of force, or threats of the use of force, the League Covenant had many gaps in its prohibitions of war. The Covenant said that if a dispute could not be resolved by arbitrators, the PCIJ, or the League Council, the states involved could “take such action as they shall consider necessary for the maintenance of right and justice” (art 15) – Northedge points out that this could include going to war (*League of Nations*, p 59).

Admittedly, some parts of the Covenant laid down explicit penalties. Article 16 provided for economic, political and even military sanctions against Member States who went to war in breach of articles 12, 13 and 15. But when the need for sanctions arose, they were either not imposed, as when Japan annexed Manchuria in 1931, or were ineffective, for example when Mussolini invaded Abyssinia in 1935. The League did not have its own armed forces and individual member states were unwilling to use theirs (Northedge, *League of Nations*, ch 10 and p 139).

The decision-making procedure used by the League is often cited as a serious weakness. Both Council and Assembly generally made decisions by unanimous agreement, so every Member State had a veto. The great powers were unlikely to have agreed to majority voting on important questions though; even in the UN Security Council today each permanent member has a veto. Northedge maintains that it is pragmatic to allow a powerful country to veto a course of action it dislikes, because otherwise it could go to war to get its own way (*ibid*, p 51-52). However, if the Assembly, at least, could have used majority voting on key issues, it would have speeded up the decision-making procedure.

The League’s principle of collective security was completely discredited by the failures in Manchuria and Abyssinia; the Member States increasingly looked to traditional diplomatic alliances to protect themselves during the 1930s (*ibid*, ch 11). Hitler’s demands for the cession of the Sudetenland by Czechoslovakia in 1938 were handled outside the League

system, at the Munich Conference; the League did not even try to deal with the German attack on Poland in 1939 (Peter R Baehr and Leon Gordenker, *The United Nations: reality and ideal*, 4th ed, Palgrave Macmillan, 2005, p 14).

Finally, little was achieved by the League in the field of disarmament. The World Disarmament Conference, which it eventually held in 1932, failed to reach agreement (Tams, “League of Nations”, para 25, MPEPIL). Northedge doubts that many states believed that large-scale disarmament was desirable or achievable. Then there were overwhelming practical difficulties: how to decide on acceptable levels of armaments, how to measure one type of weapon against another, how to monitor compliance with arms control measures. (Northedge, *League of Nations*, pp 115-16).

Despite the League’s failings, at the time the Covenant was drafted, its peace and security provisions were “revolutionary”, according to Christian J Tams (“League of Nations”, para 24, MPEPIL). It was the first time a global organisation had been created with the aim of keeping the peace (Franz Cede and Lilly Sucharipa-Behrmann (eds), *The United Nations: law and practice*, Kluwer, 2001, p 3). Although the League was wound up after the Second World War, the major powers agreed that another international organisation was needed to replace it (Northedge, *The League of Nations*, pp 281-83), and thus the United Nations was created.

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