III Regions, VI Europe, 28 From the Paris Peace Treaties to the End of the Second World War

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1. Introduction

The end of the First World War in 1918–19 was an epochal event with far-reaching consequences. It revealed like few other occasions in modern history the terrible extent of new difficulties and exposed past failures to establish an international order capable of securing peace. Moreover, it sped up the process of modernization all over the world. One of the momentous results was a rapidly growing international interdependence fostered by technical progress and by a considerable scarcity of raw materials and food. This development caused an extraordinary extension of governmental tasks, machinery, and power, and created a huge task for international law, difficult to assess in its dimensions and not to be solved without the sustained support by all the governments involved. What was needed was a framework for effective international cooperation within which measures could be designed to secure peace and to facilitate transnational or international initiatives to improve political, economic, social, and cultural cooperation. The interaction between foreign and (p. 680) domestic policy became much closer, and the willingness to effect internal structural change, in particular by the defeated States, became ever more urgent when dealing with problems of war and peace. Resistance to such modernizing change became one of the most serious problems because protests against it were directed increasingly against international interdependence which was seen as a threat to national and cultural autonomy, and in some cases even to racial identity. These protests, however, were intermixed with justified resistance to modern impulses towards an isolation of human beings and a standardization of their biographies. Thus, international law and politics were confronted with a new task; namely, to make the aspirations of the people a guideline for legal activities by acknowledging as fundamental values not only human dignity, freedom, and self-determination but also cultural diversity. The feeling of insecurity, in particular among the people of the States defeated in 1918, was largely caused by the sudden end of the war and the abrupt change from expected victory to defeat. The military debacle aggravated a deep and far-reaching general crisis of the State and its constitution, a crisis which in Germany was intensified by the revolution of November 1918. What happened in and to Germany, also with regard to international law, had repercussions worldwide.

2. Concluding Peace

On 3 October 1918 the German Government asked President Wilson to establish peace on the basis of his ‘Fourteen Points’ of 8 January 1918 and later pronouncements.¹ With this clever move, the Germans gave Wilson an important advantage to realize his ambitious peace programme, which implied a substantial progress of international law, above all by establishing the first universal organization of States, the League of Nations. Wilson increased the pressure on the German Government by emphasizing that democratization of Germany and the establishment of a democratically elected German parliament were essential conditions for peace and constituent parts of a modern international order. This nexus gained increasing importance for the development of international law in the years to come, and intensified the connection between foreign and domestic policy. In order to prevent economic disaster and to reorganize fiscal and economic relations, closer contacts between banking and commerce, desired by both, were indispensable and proved (p. 681) effective in the development of the credit system as well as for reaching an understanding
concerning relatively liberal economic principles. The ‘most favoured nation’ clause was on the march.

After the armistice (11 November 1918), the Paris Peace Conference started on 18 January 1919 as a kind of pre-conference. The British delegation represented the Commonwealth as a whole, but was accompanied by representatives of Canada, Australia, South Africa, New Zealand, and India as members of the Commonwealth. These countries became signatories of the peace treaties and members of the League of Nations. The Commonwealth was a unique institution but did not become a model in international law as a new form of an association of States. Russia was not invited at all due to the fact that the victors were unable to find a common position on how to deal with this hotbed of revolution. The delegation of Germany, the first and most important adversary, was summoned on 7 May 1919 in order to receive the draft treaty. Oral negotiations were refused. The Treaty of Versailles was signed on 28 June 1919 after an ultimatum by the victors.2 Their attitude can be explained by their understandable embitterment because of the long duration of the war, the new forms of warfare and weapons, the heavy casualties, the German breaches of international law, and the massive devastation of infrastructure caused by German warfare.

The peace treaties with Germany's allies were concluded with each of them separately, one after the other. Like the Treaty of Versailles, they were prepared by the victors in secret negotiations, not least in order to avoid publicity and public influence in open procedure—as originally provided for in President Wilson's programme—that might have prevented dictated treaty clauses. The Treaty of Saint-Germain-en-Laye (signed on 10 September 1919)3 was imposed on Austria, which after the dissolution of the Austro-Hungarian Empire was a small State. Austria's wish to be united with Germany was denied, particularly by France, despite the fact that the right of every people to self-determination had become one of the most spectacular new doctrines of international law, many controversies about its exact meaning and scope notwithstanding. Wilson had elevated that right to one of the basic principles of peacemaking after the war. Since the Hungarian case was more complicated, the next peace treaty was concluded with Bulgaria at Neuilly (27 November 1919).4 In comparison, the conditions imposed on Bulgaria were not so harsh. In the Treaty of Trianon (4 June 1920),5 Hungary had to accept bitter territorial losses, contrary to the armistice (p. 682) conditions. The new borders caused a severe problem of national minorities. About one-third of the Magyar population now had to live in the victorious neighbouring countries. The last and most short-lived of the Paris peace treaties was concluded at Sèvres on 10 August 1920 with Turkey.6 The treaty would have made Turkey a territorially downsized State under foreign tutelage. General Mustapha Kemal was able to organize protest against the conditions of this treaty, completed in draft already in April 1920, by establishing a new parliament at Ankara in the spring of 1920, the ‘Grand National Assembly’ which made him president in January 1921. These events amounted to a veritable coup d’état. After Greece, one of the main beneficiaries of the treaty, had attacked Turkey but had been defeated, and after complicated and depressing diplomatic manoeuvres, peace negotiations were resumed and concluded by the Treaty of Lausanne (24 July 1923).7 Compared to the Treaty of Sèvres, that treaty definitely provided better conditions for Turkey.8

As a result of the peace treaties, a broad zone of new or substantially enlarged States had emerged in Europe between the Baltic Sea and the Aegean, and each case provided its fair share of demands and controversies. Given that it had been one of the main objectives of international law after 1918 to provide legal guidelines and solutions of a general character, the peace treaties caused a surge in legal activity in order to make the varying settlements compatible with each other. The only practicable way to cope with this situation would have been to make the League of Nations a kind of parent organization for all existing States while upholding their independence. To join a world order consolidated in this way became for several States both in Europe and in Asia a kind of Realpolitik that stimulated the
development of modern structures at home and secured for them a certain international
order and protection after the First World War. To a certain degree it became attractive, or
even seemed necessary, to belong to the signatories of the peace treaties—of course on the
right side and only as long as domestic culture was not impaired. This kind of politics was
practised for instance by Siam (from April 1939 on, Thailand), one of those regional powers
trying hard to increase its strength and to regain certain territories. Siam managed to start
modernizing the State as well as society and to improve its position by joining the Allies,
declaring war on Germany and Austria-Hungary (22 July 1917), and sending a small
contingent of troops to Europe. Consequently Siam became a signatory to the peace
treaties and a founding member of the League of Nations.  

(p. 683) China attempted a similar move in August 1917 to gain support against Japan—in
vain, because Japan was too strong and too important to the Allies. Great Britain needed
assistance from the Japanese navy and promised as a quid pro quo to support the Japanese
policy of conquest as well as Japanese political and economic dominance in China. There
were more such deals. They indicated a grave disregard for international law even on the
side of the Allied Powers. In the long run such an attitude contributed to the emergence of
radical and revolutionary mass movements. In 1921, Mao Tse-tung and Tchou En-lai became
prominent among the founders of the Communist Party in China, as did Ho Chi Minh in
Vietnam in 1930, and so two future focal points for revolution and international
confrontation were created. Japan had obtained an important international position during
the First World War and afterwards as a permanent member of the League of Nations
Council. This was a comfortable starting point for a breathtaking and brutal expansion of
power without a counterweight in East Asia before the last stage of the Second World War
and the rise of revolutionary China. The situation was different in the Pacific region under
the influence of the United States.

A problem of its own was the Middle East, compounded by international haggling about
spheres of influence and a new order in the region triggered by the establishment of a
Jewish State in Palestine following the Balfour Declaration (2 November 1917), and by the
fact that Hijas (Saudi Arabia) remained the only independent State in the area. From the
perspective of international law and policy, the Middle East was a highly unstable region
with an uneven structure. It constituted a dangerous bequest of this post-war period to the
next following the Second World War.

In Latin America, the conditions for international cooperation were better, though rather
limited. Pan-American conferences received a new impetus from the United States from
1889. In view of the diverging interests, the US approach at the Pan American Conference
at Santiago (25 March–3 May 1923) was appropriate—to concentrate on peaceful mediation
ensured by means of international law and on better cooperation in matters of customs and
trade (Gondra Treaty, 3 May 1923). However, this approach was not pursued intensively
enough.

Finally, in the transitional period of 1918–1921 there was a group of small countries in the
contested Baltic district of Europe eager to become independent States, namely Estonia,
Latvia, and Lithuania. They were given a chance to achieve that goal after the Baltic provinces had been separated from Russia in the peace treaty concluded with
Germany and Austria-Hungary at Brest-Litovsk (3 March 1918). Shaken by turmoil and
outside interventions after the end of the war (armistice of 11 November 1918), they
established themselves with some difficulties as States internationally recognized by their
membership in the League of Nations in September 1921.
3. The League of Nations

The Covenant of the League of Nations, which constituted part I of the peace treaties concluded with Germany and her allies, offered important innovations in international law after the end of the First World War. First of all, it meant the breakthrough to a universal, and not merely a European, community of States. The main task was to create a system of securing peace and solving international problems as well as providing for common action of the member States in the future. This was to include disarmament and armament control, collective security, protection of minorities, and the peaceful settlement of international conflicts (articles 8–17). However, the prohibition of war in article 15 remained incomplete. Furthermore, there was a first and very cautious approach to establish and to promote international organization and solutions of problems in social, economic and cultural affairs, and traffic. In addition, there were cautious attempts to promote de-colonization and development by a system of mandates administered under the control of the League for the former colonies of Germany and the Ottoman empire. The aim of the mandates was to extend the reach of the ‘civilized world’ by a just treatment of the native populations of the territories in question, by measures against the ‘traffic in women and children, and the traffic in opium and other dangerous drugs’ as well as ‘the trade in arms and ammunition’, and by the obligation of the administering powers ‘to secure and maintain fair and human conditions of labour for men, women, and children’ (articles 22, 23, and 25 of the League of Nations Covenant).

Self-determination and human rights were not dealt with explicitly in the Covenant but belonged to the core of the views which guided the instrument. The organs of the League were the Assembly, constituted by representatives of all member States, (p. 685) and the powerful Council made up of the representatives of the ‘Principal Allied and Associated Powers’ together with the representatives of initially four additional member States chosen by the Assembly. Another organ was the Secretariat, the importance and practical work of which has often been underrated. This organizational model was adopted by the successor of the League, the United Nations, in 1945. Further, a Permanent Court of International Justice was to be established at The Hague to judge all international cases presented to the court in accordance with its statute. The court was founded in 1920. An optional clause in the statute (article 36) invited all governments to recognize, by way of a unilateral declaration, as compulsory and without special agreement the jurisdiction of the court in all legal disputes concerning questions of international law. According to article 18 of the covenant, every treaty or international engagement entered into by any member of the League had to be registered with the Secretariat and be published by it in order to be binding on the parties. The League officially came into existence on 10 January 1920 when the Treaty of Versailles entered into force. The League existed until 1946 but its finest days were over by 1930 when it started to lose its influence.

The intensification of international interdependence as a result of industrialization and modernization that occurred before 1914 led to a major problem of international law after the First World War. It was considerably increased by the devastation, burdens, and hostilities of the war. The principal question was how to arrange the future co-existence of the victors and the defeated States, above all in Europe. The realization of the idea of an international organization seemed to offer the basic answer in the long run, but it was unable to solve the acute problem of reaching a pragmatic arrangement between the two groups of States. Germany and her allies were treated like outlaws. As if to reinforce this state of affairs, another fundamental modification of international law was introduced. The long-established clause of oblivion was replaced in the Treaty of Versailles by quite the opposite; namely, by clauses providing for ‘penalties’, including sanctions for acts in violation of the laws and customs of war to be imposed by military tribunals (articles 227–230 of the Versailles Treaty). Wilhelm II, the former German Emperor, was arraigned for ‘a supreme offence against international morality and the sanctity of treaties’ (article 227).
However, none of the tribunals provided for in these clauses became effective. An alarming innovation was the appropriation of private assets, as was the obligation to make (p. 686) reparations for ‘all damage done to the civilian population of the Allied and Associated Powers and to their property during the period of the belligerency of each as an Allied or Associated Power against Germany by such aggression by land, by sea and from the air’ (article 232). That burden was much heavier than traditional war indemnities. Altogether, it was a discriminating peace. As things stood, collapse was inevitable, considering the terrible dimensions of this modern, and finally worldwide, war.

4. International Law and the Era of Understanding

In a statement of what had been accomplished and what was missing in the realization of international law, politics, and order during peacemaking in 1918/20, the fact that Europe lacked a truly new order should figure prominently, notwithstanding the innovations brought about by the peace treaties. The dangerous gap soon became obvious. Efforts to fill it started in 1923/24, particularly in the development of new possibilities of international law to strengthen common projects and cooperation in Europe. This was necessary because among the victors, the difference between announcing high standards of international law and their practice of neglecting them, sometimes even in dealing with each other, indicated the danger of a decay of international law. The First World War and its aftermath ushered in an unusually condensed period of change, not only in Europe. The gradually increasing power and the attraction of radical change as proposed by the new communist movements in Asia hinted at the explosive force of delayed change.

The high standards of the new international order established in the peace treaties and the League Covenant required a durable foundation. This was particularly important to France as Germany’s neighbour. The French security treaties with the United States and the United Kingdom of 28 June 1919 were supposed to become the cornerstone of the French security system. Both treaties failed when the US Senate decided not to approve the Treaty of Versailles, and together with it, US membership in the League of Nations. The security of France suffered a setback, but even more so the whole post-war international order. (p. 687) The League of Nations as well as international policy were kept busy by intensive efforts of the French government to obtain an adequate substitute for the failed treaties which France thought it needed as a defence against Germany. Using demands for reparations as a justification until the climax of the Ruhr crisis in fall 1923, the French applied increasingly violent measures against Germany. The possible disruption of international relations in Europe and in particular the possible economic and political consequences prompted Great Britain and the United States to arrange a new basis for the payment of reparations. A clear signal was the British note addressed to the French Government of 11 August 1923 challenging the legality of the French occupation of the Ruhr area. Step by step, transition arrangements were discussed to move from the threat of intra-European antagonism to the possibility of mutual understanding, with resolute American support in the background.

Another factor which gained increasing importance for international law was the growing influence of domestic affairs on foreign policy. Germany could barely come to terms with its sudden defeat, the breakdown of the empire, and the abrupt change of its constitution from monarchy to Republic. Deep political cleavages emerged about the responsibility for the catastrophe and for the far-reaching constitutional changes which had taken place within a few months, but which probably would need many years or perhaps even generations to be accepted and assimilated into the country’s cultural traditions. For these reasons, foreign policy became a part of domestic policy. Rational cooperation in international politics was even more important and urgent in order to find a balance of interests with the former enemies, otherwise the whole system established in 1919–20 was put at risk—the peace treaties, the League, the new standards of international law. Among the victors themselves
there were tendencies to neglect the requirements of that new international order, and Germany was strong enough to challenge that system.

Under these difficult circumstances it was indispensable that both sides, Germany as well as France, ought to be prepared to learn from their menacing experiences with the Ruhr crisis and to come to an agreement regarding the most pressing problem—reparations. In October 1923, the British Foreign Office had proposed to the Americans a common policy aiming at an international settlement of the reparations problem. A group of experts was established to examine all essential aspects of that problem and to elaborate a plan for German reparations payments, the so-called Dawes Plan. The drafting of the plan took place in the time between 14 January and 9 April 1924. The plan marked a new approach in international law to economic and financial problems and to the settlement of long-term payments. It meant a breakthrough to a rapprochement of the former enemies. The Dawes Plan was adopted at (p. 688) a conference in London (16 July–16 August 1924).

New to international law were the numerous arbitration clauses and controls of the German economy, including the liability of the German National Railways and National Bank. Furthermore, the States participating in the conference decided to appoint an American citizen, Seymour Parker Gilbert, as ‘Agent General for German Reparations Payments’, a remarkable solution to one of the thorniest problems of peacemaking at Versailles and an example of a pragmatic development of international law. The Reparation Commission was no longer a tool of the victorious European States, and the arbitration clauses confirmed Germany's policy, pursued since 1921 (arbitration treaty with Switzerland) to strengthen systematically arbitral dispute settlement in international law. This thorough change in the relationship between the victorious and the defeated, a transition to cooperation, offered a great opportunity. It was the beginning of a remarkable period of international understanding in Europe with an emphasis on securing peace, political cooperation, and economic recovery. As the experts stressed in their report of 9 April 1924, ‘[w]e have not concealed from ourselves the fact that the reconstruction of Germany is not an end in itself. It is only part of the larger problem of the reconstruction of Europe’.

That period of understanding lasted from 1923/24 until the spring of 1930. It made possible remarkable progress in international law. New treaties with legal improvements had been agreed to and were brought into connection with the League Covenant. A few days after the Dawes Plan had become effective (30 August 1924), the British Prime Minister James Ramsay MacDonald requested in the Assembly of the League that Germany join the League. The German application for membership (29 September 1924) caused extended debates. The security problem of France became acute again. The leading officials of the German Foreign Office were not unprepared. Since April 1923, a blueprint of the later treaties of Locarno was ready as an offer to France but was not accepted by the then German Foreign Minister Frederic von Rosenberg. After a new minister, Gustav Stresemann, had taken office, the German security initiative for central Europe was launched in January and February 1925 in London and Paris, and slightly later, in Rome and Brussels. The initiative was supported by the British Embassy in Berlin. The crucial point of the resulting negotiations was the German proposal for a permanent demilitarization of the German (p. 689) Rhineland. This needed to be discussed with France and Belgium, since the status of the Rhineland concerned the former enemy States in the region, as well as with Great Britain and Italy as European Great Powers. Besides, arbitration treaties against the threat of war were to be negotiated between Germany and her Eastern and Western neighbours.

Two aspects illustrate the pre-eminent importance of the issue of the demilitarization of the Rhineland in the framework of the Locarno system of treaties. First, demilitarization was repeatedly demanded by France. The Rhineland was the area in which France could first react in case of any German attempt to prepare for military operations against Poland and Czechoslovakia. Demilitarization also seemed to be the only effective protection for France. The so-called Rhine Pact, therefore, was the core of the Locarno Treaties.
demilitarization of the Rhineland acted as a stimulus for international law, with the creation of a new device, the formation of a demilitarized zone as a means to secure peace. Second, this course of events emphasized the character of the League of Nations as a predominantly European organization. The League was the best that international law had to offer to the Europeans. After the catastrophe of the First World War, it seemed capable of providing them with the institutions and instruments necessary for securing peace, the conciliation of conflicts, the balancing of interests, and the deepening of cooperation in Europe. The League created a common sphere of law useful to the several States. It introduced into international law a hierarchy of norms, with the Covenant at the highest level. A new aspect of international law was the goal to overcome the preponderance of military alliances and counter-alliances. Consequently, agreements concerning the peaceful balancing of interests became increasingly important. The provisions of the Locarno Treaties, particularly regarding demilitarization, the territorial status quo, and the inviolability of the borders, were effectively interwoven with the articles of the League Covenant. This was an innovation in international law which strengthened its effectiveness in international politics—as long as the powers adhered to compromise, cooperation, and the peaceful settlement of disputes. Exceeding the (p. 690) rules of the League Covenant, the Rhine Pact included a commitment of France, Belgium, and Germany under no circumstances to attack, invade or wage war against each other (article 2). Compared to the Covenant, the notion of a ‘war of aggression’ was more clearly defined. The role of the League Council was strengthened by the Locarno Treaties. Germany accepted explicitly that rights and duties laid down in the Treaty of Versailles and its supplementary arrangements (in particular; the Dawes Plan) were not affected by the Treaties of Locarno. The importance of the Rhine Pact for European politics was emphasized by the fact that the four major European powers belonged to the signatories, powers which constituted—after Germany had joined the League (8 September 1926)—four of the five permanent members of the League Council. By this conjunction of Great Power politics and international organization, the Locarno era became the most successful period of the League. It demonstrated how the structural tension between the international politics of sovereign States, and a universal legal and peace system could be reconciled. However, the precondition was the general willingness to promote such an arrangement. This willingness decreased rapidly after 1930, not least under the pressure of domestic change in Germany. The Locarno treaties were important in stimulating the preparation of a general disarmament conference. Their economic importance has often been ignored although they provided an impulse towards a certain liberalization of international commerce and finance in Europe and to endeavours to improve the international economic system with the support of international law. The first World Economic Conference at Geneva (4–23 May 1927) was a great success. It was an expert conference that aimed at the promotion of obligatory principles to guide the international economy and at exploring options of a development of production and trade. The exigencies of growing international interdependence paradoxically also led to an insistence on national competences. But that first world conference intensified the economic activities of the League of Nations and provided new tasks for international law. New committees were created and diplomatic conferences convened, for instance against bans on imports and exports. This development was one of the main roots of the later General Agreement on Tariffs and Trade (GATT) (30 October 1947). The statement at the very end of the Final Protocol of the Locarno Conference proved to be no empty formula: the agreements of Locarno indeed contributed strongly to facilitate solutions to political and economic problems of the time.
(p. 691) The last success of Locarno politics—and a remarkable example of the use made of international law for the solution of difficult and highly technical problems—was the final regulation of reparation payments on the basis of the Young Plan (Hague Conferences of August 1929 and January 1930). The agreement provided for the foundation of the Bank for International Settlements (BIS) in Basel as an administrator of reparation payments and the commercialization of reparation bonds. The bank was to advance the urgently needed cooperation of the central banks, ‘and within limitations of the sound use of credit, to contribute to the stability of international finance and the growth of world trade’. Initially the German Central Bank director Hjalmar Schacht wanted to make the BIS a kind of world bank as it was founded in 1944 in Bretton Woods. This did not happen, but nevertheless the BIS was an important step towards the international banking system realized after the Second World War.

The first universal Conference on Concerted Economic Action (Tariff Truce) of the League (Geneva, 17 February–24 March 1930) was meant to be the next important step in the process initiated with the 1927 World Economic Conference. However, under the pressure of the world economic crisis and rapidly rising protectionism, the conference did not achieve very much. This was a first sign of the decay of inter-war international law. The last World Economic Conference of the League at London (12 June–27 July 1932) was a debacle and was adjourned sine die.

5. A Period of Decay: International Law and Politics in the 1930s

Three outstanding tasks of international politics arose in Europe after the First World War. Two of them have already been dealt with—the necessity of a promotion of a policy of international cooperation, rapprochement, peace, and security, and the strengthening of rules advancing a market-oriented international economy. A third task proved most important for international relations because of its explosive force—the solution of the complicated problem of disarmament. Disarmament ranked high as an obligation of the member States of the League (article 8 of the Covenant). Similarly as in the two other fields, the discussion was connected with the Locarno process. In December 1925, the League Council invited several States, including the non-members Germany, the USSR, and the United States, to the inauguration of a preparatory commission for a disarmament conference. The invitation to the Soviet Union revealed a remarkable change in her international position since 1919, a change that became more marked in the following years; for instance, on the occasion of the conclusion of the 1928 Kellogg–Briand Pact. France wanted to make security a precondition of disarmament and to use the Geneva Protocol on the Peaceful Settlement of International Conflicts (2 October 1924) as a basis. Due to British resistance, this Geneva Protocol was never ratified, but it remained a reference standard up until Aristide Briand’s plan for Europe of 1929–30, Europe’s last chance before the Second World War. The Protocol developed a comprehensive system of obligatory peaceful settlement of disputes, and of sanctions in the case of breaches of its rules. According to the Protocol, ‘aggressors’ were those States which did not observe the Protocol.

The first disarmament conference only convened (on 2 February 1932) when the era of understanding was already over. It ran into severe difficulties in the summer of 1932, caused above all by disarmed Germany’s demand for equality in terms of its military capacities, and ended in a showdown for the future of international law. The crucial question was whether progress was still possible in disarmament, and more generally in international cooperation, or whether this failure to reach an agreement on (dis)armament
would usher in a period of decay of international relations, possibly ending in ever graver violations of international law by the National Socialist Germany.

More successful than the Europeans and the League was the United States. At the Washington Naval Conference (12 November 1921–6 February 1922), the US achieved, outside the League framework, an arms limitation for the leading navies against a threatening arms race. This was combined with confidence-building measures for the Pacific area, a guarantee of the Pacific possessions of the United States, Great Britain, Japan, and France, and a securing of the ‘Open Door Policy’ (allowing all (p. 693) European nations and the United States economic access to China). Japan had to give back the control of Shantung (Shandong) and Kiauchau (Jiaozhou), which it had gained by the Treaty of Versailles, to China. The London Naval Conference (21 January–22 April 1930) extended the arms limitation to the smaller types of warships.

In general, a weakening of the Peace Treaties of 1919–20 and the League of Nations came about in the beginning of 1930. Consequently, the post-war order in Europe, established by means of international law, was endangered. Symptomatic was the growing disinterest in and even animosity towards the League and its mission of peaceful conciliation. Japan reacted to the protest against her invasion in Manchuria (1931) and the proclamation of the Manchu State (Manchukuo) (1932) by leaving the League (27 March 1933). Italy also ended its membership in the League in 1937 after having been condemned for annexing Ethiopia (Abyssinia). Even more important for the fate of the League was Germany’s decision in October 1933 to leave both the Disarmament Conference and the League. That move fitted into a wave of actions directed against the existing European order and international law, including the conclusion of bilateral ‘non-aggression pacts’ and similar treaties. Hitler’s spectacular move, which wrecked the Disarmament Conference, was presented as an answer to the disagreement about Germany’s military equality. By leaving the League, Germany also renounced the Rhine Pact because German membership in the League was a precondition of the entry into force of that Pact. No harsh reaction of the League Council followed. In 1935, the United Kingdom concluded a naval treaty with Germany. Even after Hitler, contrary to all treaty obligations, had sent troops into the demilitarized Rhineland (7 March 1936), no policy of containment was formulated as an answer, although the security of France, Poland, and Czechoslovakia depended upon that demilitarization. Subsequently, Germany became even more important to Mussolini’s Italy, while a German–Japanese alliance was initiated with the ‘Anti-Comintern Pact’ (25 November 1936). Having left the League, Italy joined the alliance (6 November 1937) and also concluded a ‘Pact of Friendship and Alliance’ (‘Stahlpakt’) with Germany (22 May 1939) after the Reich had become its most powerful direct neighbour through the incorporation of Austria (March 1938) and the Sudeten Land (Munich Agreement of 29 September 1938), and the destruction of Czechoslovakia (March 1939).

(6. The Second World War)

While Japan and Italy had been forerunners in the disregard and destruction of international law, Germany’s destructive activity was even worse. Germany started what would become the Second World War with its invasion of Poland on 1 September 1939. The attack had been made possible by an agreement with the USSR, the ‘Hitler–Stalin Pact’ (or ‘Molotov-Ribbentrop Pact’) of 23 August 1939. Poland, Estonia, Latvia, and Lithuania disappeared as independent States. The whole area was divided between the USSR and Germany. Finland resisted successfully until she was forced to sign a peace treaty in Moscow (12 March 1940). Stalin did not occupy the country because he wanted to avoid British and French intervention. The USSR was excluded from the League in 1939. Both in Germany and the USSR, the wars were accompanied by violence and cruelty directed against minorities and anybody opposing those in power. In Germany, the anti-semitism of the National Socialists culminated in the Holocaust—the systematic discrimination,
persecution, deportation, and murder of the Jewish People. Referring to the American Monroe Doctrine, Hitler proclaimed a German *Grossraum* (grand space) which should be respected, by way of non-intervention, by other powers, in particular the United States. This German *Grossraum* policy was another aspect of the decay of international law.

President Franklin D Roosevelt emphasized the connection and interplay between the constitutional order of a State and its foreign policy principles. In his message to the US Congress of 6 January 1941, he proclaimed the ‘Four Freedoms’ that democracies should fight for: freedom of speech, freedom of worship, freedom from want, and freedom from fear. He argued for a new concept of collective security in international law, which should defend these human freedoms, to be set against the policy of violence of the dictators. Contrary to the years of 1919–20, the United States now became the driving force behind a new world order. However, it had to accept the Soviet Union as an ally, and to support it militarily in its fight against Germany.

In the Atlantic Charter of 14 August 1941, President Roosevelt and the British Prime Minister Winston Churchill proclaimed a liberal policy and order for a world of free and self-determined peoples. The United States and the United Kingdom, the Charter said in its fourth principle, will endeavour to further the enjoyment by all States of access, on equal terms, to the trade and to the raw materials of the world. With their pledge for the ‘establishment of a wider and permanent system of general security’ (in the eighth principle of the Charter) they paved the way for a new world organization to replace the League of Nations and a new international law. The Allied Governments, including the USSR, consented to the Atlantic Charter at the London Conference of 24 September 1941. The Soviets, however, insisted on all their far-reaching war objectives which clearly were not compatible with the ‘Four Freedoms’. This had consequences for the post-war condition of international law and for the effectiveness of the United Nations Organization.

Under the title of ‘The United Nations’, the 26 Allies issued a common declaration in Washington on 1 January 1942 in which they stated their principles and aims in fighting Germany, Japan, and Italy until a complete victory was achieved. Under the aspect of international law, the notion of ‘complete victory’ was meant to permit deep interference with the domestic structure of the enemy State. In order to justify these aims, the Allies professed to be engaged in a common fight for the fate of humanity. The 1942 ‘Declaration by United Nations’ was later supplemented with more specific war aims, in particular the unconditional surrender of the enemy, war crimes trials, and the establishment a new universal organization to protect peace and security. At the Dumbarton Oaks Conference in Washington, DC (21 August–7 October 1944), the United States, the USSR, the United Kingdom, and China agreed on a draft of the later United Nations Charter. However, a number of controversial points, especially concerning the voting procedure of the Security Council—the successor of the League Council—remained open. This demonstrated the growing influence of the USSR as a result of its ongoing march into Central Europe. Faster progress than in political questions was made by the four powers with regard to a new world economic order. Following the conference of Bretton Woods in New Hampshire (1–22 July 1944), attended by forty-four delegates of the United Nations, it was decided to stabilize world currencies by fixing the exchange rate of the dollar as a reserve currency and by (p. 696) establishing an International Monetary Fund (IMF) and an International Bank for Reconstruction and Development (IBRD, or World Bank). The agreements on the IMF and the World Bank came into effect on 27 December 1945; they offered a fresh impulse for a world economic system guided by the idea of open markets.

When Roosevelt, Stalin, and Churchill met at Yalta in the Crimea (4–11 February 1945), the ‘Big Three’ engaged largely in defining their respective spheres of influence—the scale of this endeavour was a novum in international law—and in drawing up borders, not least those of the zones of occupation in Germany. The principles of the Atlantic Charter were specified in a ‘Declaration on Liberated Europe’ according to which all liberated peoples
should be enabled ‘to destroy the last vestiges of nazism and fascism and to create
democratic institutions of their own choice’. This, the Declaration further said, ‘is a
principle of the Atlantic Charter—the right of all peoples to choose the form of government
under which they will live’. The three politicians also reached a compromise on the issue
of voting in the Security Council of the new world organization. The USSR won her demand
for a right of veto of extensive range for each of the permanent members of the Security
Council and gained two additional seats in the General Assembly for the Ukrainian
and the Byelorussian Soviet Socialist Republic. The invitations by the four principal powers
to the United Nations Conference on International Organization (UNCIO) at San Francisco
(25 April–26 June 1945) could now be dispatched. On the last day of the Conference, fifty
States signed the Charter of the United Nations. Following the required procedure of
ratification, the Charter entered into force on 24 October 1945. The League of Nations was
formally dissolved on 19 April 1946. Germany capitulated on 7 May 1945 in Reims,
France. The signing ceremony was repeated on 9 May 1945 in Berlin. Japan followed on 2
September 1945 while Italy had already agreed to an armistice with the Allied
Armed Forces on 3 September 1943 after Mussolini’s fall in July 1943.

7. Conclusion

The structure of the United Nations Organization followed that of the League. Its principal
organs are the General Assembly, the Security Council, the Economic and Social Council,
the Secretariat, and the International Court of Justice. However, compared to the League
Covenant, the UN Charter is a more comprehensive and consistent document, particularly
concerning the concept of war which was more in line with modern forms of inter-state
violence. The UN Charter is more oriented to the status quo than the League Covenant
which in article 19 had subscribed to the idea of ‘peaceful change’. In 1945, international
law had to be re-established, and cautiously adjusted to new conditions, after a period of
force, terror, and atrocities. Dangerous problems surrounding the possibility of peaceful co-
existence emerged, in view of the deep controversies among States, cultures, and ideologies
after the Second World War which affected the power structure in whole regions, or even
continents. Since Eastern and Central Europe was now dominated by the Soviet Union with
its dictatorial communist constitution, the conflict with the community of free States in the
West, characterized by open societies and democratic constitutions, was predictable. The
‘Cold War’ did not come as a surprise. The fault line of the divided Europe ran through the
divided Germany and its divided capital, Berlin.

Aydin, Cemil *The Politics of Anti-Westernism in Asia* (Columbia University Press New
York 2007).
Breuer, Marten and Norman Weiß (eds) *Das Vertragswerk von Locarno und seine
Bedeutung für die internationale Gemeinschaft* (Lang Frankfurt am Main 2007).
(p. 698) Cohrs, Patrick O *The Unfinished Peace after World War I: America, Britain
Jacobson, Jon *When the Soviet Union Entered World Politics* (University of California
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The Shadow of National Socialism and Fascism over Europe and Its Legal Traditions*
(Hart Oxford 2003).
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internationalen Beziehungen* (Schöningh Paderborn 2010).
Sharp, Alan *The Versailles Settlement: Peacemaking after the First World War, 1919–

**Footnotes:**


6. Treaty of Sévres (The Treaty of Peace Between the Allied and Associated Powers and the Ottoman Empire) (signed 10 August 1920) 113 BFSP 652. However, this treaty was never ratified by the Turkish Government and was eventually superseded by the Treaty of Lausanne.


11. See the contribution by M Yanagihara ‘Japan’ in this volume.


14. See the contribution by JL Esquirol ‘Latin America’ in this volume.


17 ‘Conditions of an Armistice with Germany, 1918’ (1919) 13 American Journal of International Law Supplement 97-108.

18 J Hiden The Baltic States and Weimar Ostpolitik (CUP Cambridge 1987) pt I.

19 cf n 2; see also the contribution by A Peters and S Peter ‘International Organizations: Between Technocracy and Democracy’ in this volume.


21 Germany was one of the few major powers which made a declaration in accordance with the optional clause (23 September 1927), Reichsgesetzblatt 1928 pt II, 19–20.


23 Treaty of Versailles (n 2).

24 For the pre-armistice agreement of 5 November 1918, see Versailles Settlement (n 2) 12-18. See also HJ Schröder (ed) Confrontation and Cooperation: Germany and the United States in the Era of World War I, 1900–1924 (Berg Providence 1993).


26 PO Cohrs The Unfinished Peace after World War I: America, Britain and the Stabilisation of Europe (CUP Cambridge 2006) ch 7; cf also n 25.


29 Sachverständigen-Gutachten (n 27) 49.


31 Arbitration Convention between Germany and Belgium, done at Locarno, 16 October 1925 (signed 16 October 1925, entered into force 14 September 1926) 54 LNTS 305; Arbitration Convention between Germany and France, done at Locarno, 16 October 1925 (signed 16 October 1925, entered into force 14 September 1926) 54 LNTS 317; Arbitration Treaty between Germany and Poland, done at Locarno, 16 October 1925 (signed 16 October 1925, entered into force 14 September 1926) 54 LNTS 329; Arbitration Treaty between Germany and Czechoslovakia, done at Locarno, 16 October 1925 (signed 16 October 1925, entered into force 14 September 1926) 54 LNTS 343; Final Protocol of the Locarno Conference (signed 1 December 1925) 54 LNTS 297.
Art 20 of the Covenant reads: ‘The Members of the League severally agree that this Covenant is accepted as abrogating all obligations or understandings inter se which are inconsistent with the terms thereof, and solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof. In case any Member of the League shall, before becoming a Member of the League, have undertaken any obligations inconsistent with the terms of this Covenant, it shall be the duty of such Member to take immediate steps to procure its release from such obligations.’

Cf n 30. For text, see Reichsgesetzblatt 1925 pt II, 975-1009.


General Agreement on Tariffs and Trade (signed 30 October 1947, provisionally applied 1 January 1948) 55 UNTS 194.


Europäische Wirtschaftsordnung (n 34) 210-27 and 325-32.

Aussenpolitik (n 38) 336.

Kellogg-Briand Pact (concluded 27 August 1928, entered into force 24 July 1929) 94 LNTS 57; Aussenpolitik (n 38) 409-10. For context, see J Jacobsen When the Soviet Union Entered World Politics (University of California Press Berkeley 1994); C Baechler L'aigle et l'ours. La politique russe de l'Allemagne de Bismarck à Hitler 1871-1945 (Lang Bern 2001) ch V.


Documents on British Foreign Policy second series, vol 1, chs 1 and 3 and app I.

Akten zur deutschen auswärtigen Politik series C, vol I/2, 905-12.

Agreement Against the Communist International (Komintern) (signed 25 November 1936) 140 BFSP 529.

50 Agreement for the Cession by Czechoslovakia to Germany of Sudeten German Territory (signed 29 September 1938) 142 BFSP 438 (‘Munich Agreement’).


53 Cf *Europe’s Third World* (n 34); E Mühle (ed) *Germany and the European East in the Twentieth Century* (Berg Oxford 2003); L Mälksoo *Illegal Annexation and State Continuity: The Case of the Incorporation of the Baltic States by the USSR* (Nijhoff Leiden 2003).


57 Declaration of Principles (signed and entered into force 14 August 1941) 204 LNTS 381 (‘Atlantic Charter’).

58 ibid 341–78.

59 Declaration by United Nations (done 1 January 1942, entered into force 1 January 1942) 204 LNTS 381.


62 Articles of Agreement of the International Monetary Fund (adopted 22 July 1944, entered into force 27 December 1945) 2 UNTS 39.


Declaration of Principles (n 57).

Charter of the United Nations (concluded 26 June 1945, entered into force 24 October 1945) 59 Stat 1031; TS 993; 3 Bevans 1153.


Instrument of Surrender (signed and entered into force 2 September 1945) 139 UNTS 387.


Art 19 of the Covenant read as follows: ‘The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world’; cf art 14 of the UN Charter.