

APPENDIX NO. I

Draft of a Memorandum approved by Secretary of State Knox, proposing the Establishment of the Court of Arbitral Justice recommended by the Second Hague Peace Conference of 1907

The First Hague Peace Conference, called in the first instance to consider the possible reduction of armaments and the burdens which the existence and increase of such armaments imposed upon the peoples of the different countries, adopted, among other important international agreements, the Convention for the pacific settlement of international disputes, "with a view to obviating, as far as possible, recourse to force in relations between states." The convention dealt with good offices and mediation; created the system of international commissions of inquiry, which bore good fruit in the peaceful settlement of the Dogger Bank incident between Great Britain and Russia; recognized arbitration of legal questions, especially in the interpretation or application of international conventions, "as the most effective and at the same time most equitable means of settling disputes which diplomacy has failed to settle"; devised the list of arbiters from which a temporary tribunal could be formed for the trial and adjustment of an international controversy, and drafted a code of arbitral procedure. The Second Peace Conference, which met at The Hague in 1907, revised and enlarged, in the light of experience, the provisions of this important convention, which, however, is still in its conception, as well as in its fundamental provisions, essentially the contribution of the First Conference. For the purposes of the present memorandum, it is only necessary to consider the so-called Permanent Court of Arbitration as created and described in various articles of the original convention of 1899 and in the revised form of 1907. The experience had with international arbitration since its introduction into the modern practice of nations by the Jay treaty of 1794 between Great Britain and the United States, and the frequent and increasing recourse to it, notably, in the settlement of the *Alabama* controversy between Great Britain and the United States by the Geneva award of 1872, and the certainty of continued recourse to it in the future made it eminently fitting and proper that the recourse to arbitration should be facilitated by the