

Ambassador of Germany

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„The Future of a Rules Based International Order“

Ladies and gentlemen,

the challenges that the international community is presently facing are well known and hardly worth mentioning: climate change, migration, terrorism, the pandemic. What is also obvious is that answers to these global challenges need to be found by the international community as a whole, i.e. within the known international institutions – like the United Nations and other more specialized international organizations. Now, these international organizations are best described as platforms or market places. That is what they actually are. It is worth reminding ourselves that they can only properly perform their intended functions if its actors find the political will for common solutions. When critics sometimes say that ‘the UN’ has failed on this and that topic, it is complete nonsense. In such cases, it is hardly ‘the UN’, that has failed, but rather the actors on this platform by not finding a consensus on a way forward.

When you look back, you can see that during the cold war the decision-making processes in the UN were almost entirely blocked. The end of the cold war de-blocked the United Nations: In the early 90’ies peace-keeping operations became possible and global solutions came into reach. Why did this bright scenario – which we would badly need today - slowly darken?

In my personal opinion – and everything I say this evening is my personal opinion! – the answer is that the framework of the international order came off its hinges. There is a new divide in the state community.

It is not about dividing the world into the West and the East. This is no longer relevant. That’s history. Today, the notion of “the West” is merely used by

some as a “Kampfbegriff”, as an ideological term against Europe, against open societies, the US, or NATO, for example to claim that we have failed – not only in Afghanistan – that we have failed as a model, that for example the existing international law had been created by ‘the West’ and therefore deserves no universal recognition any more.

The world of today is divided in States that recognize and adhere to a rules-based international order, democratic principles and the rule of law, on the one hand, and into those States, on the other hand, that just pretend to adhere to these principles, while disregarding them and destabilizing intentionally the international order.

I will offer you three case studies and then will draw four conclusions for the European Union.

First case study: Russia

In the 1990 *Charter of Paris for a New Europe*, the Soviet Union – like all the other CSCE participating states – declared that “security is indivisible and the security of every participating State is inseparably linked to that of all the others.” The notion of the indivisibility of security was revolutionary, because up to 1990 security used to be a territorial concept, a concept of relative spheres of influence. It was an ‘either or’: Either, the Soviet Union had a greater sphere of influence or NATO. Security was perceived to be a zero-sum game. The Paris Charter was an intellectual achievement because it finally recognized that security can be improved for both sides, for the whole of Europe as a joint effort in a cooperative approach.

We thought that this new notion of security was irreversible because it was an intellectual achievement of mankind. We were wrong. Today, Russia has given up the notion of indivisible security and has fallen back to the notion of spheres of influence. That is the major reason behind Russia destabilizing Abchasia, South Ossetia, Moldova, the Eastern Ukraine, annexing the Crimean Peninsula, even attempting to de-stabilize the Baltic states. That is the reason for cynically supporting an inhumane regime in Syria or disregarding notification obligations under the CFE agreement, and I could go on.

Second case study: China

It is common place that Chinese foreign policy is a function of its energy needs to secure its future development and singular position in the world. Existing international law is perceived as a hindrance. Case in point is the South China Sea where China claims to have historic rights described by the “nine-dash-line”. Let me simply draw your attention to the three essential points of the South China Sea arbitration between the Philippines and China by the International Tribunal on the Law of the Sea:

1. The Tribunal concluded that there was no legal basis for China to claim historic rights within the so-called nine-dash-line.
2. The Tribunal noted that the reefs have been heavily modified by China by land reclamation and construction. As you know, under UNCLOS islands generate territorial waters, an exclusive economic zone and a continental shelf, whereas rocks, which cannot sustain human habitation of their own, cannot. The important point is that the Tribunal made clear that land reclamations and artificial constructions by China cannot turn rocks into islands and cannot function as a basis for claiming adjacent zones.
3. These land reclamation and construction of artificial islands by China cause severe harm to the marine environment and violate the obligations under UNCLOS.

China acts not only in violation of UNCLOS, but also used the security vacuum in the Indo-pacific region, which President Trump created during his term in office, to de-stabilize security in Asia. Its recent threats against Taiwan are a case in point. Afghanistan, after the US' and NATO's withdrawal, is now falling into its lap.

By the way: The One Belt One Road-Initiative has very little to do with the Silk Road. The silk road grew historically and was created bottom-up by merchants over centuries. OBOR, on the contrary, was created top-down by a Chinese government decision to create economic and political dependencies, and as a tool to project economic power.

Existing international law is questioned as a matter of principle. On 3./4. July 2018 there was a conference in Beijing called the “Forum on Belt and Road

Legal Cooperation”. The Vice President of the China Law Society held the view that China had no chance to participate in the formation of international law, which had been predominantly developed by the West. It therefore had to change. I quote him: “International law is to be the extension of our domestic law.”

Third case study: The United States

are a very different case, of course. Under President Trump the US have ceased to support a rules-based international order. Pres. Trump broke international treaties like the JCPOA with Iran, undermined even part of the fabric of the international institutional order like the WTO or the Human Rights Council, made new friends like Kim Jong Un, and threatened traditional friends of the US - like the EU and India - with trade war. Can we now simply let out a sigh of relief to have a new administration under President Biden and forget the Trump era? I would caution: Yes, the present administration resumes a sense of reliability and commitment – especially to NATO, but an element of “America First” is here to stay, in the sense that the US will have a strictly interest based foreign policy and will judge and treat partners according to how much they “fall into line” with US policy interests. I would also hold that the US will never again commit to uphold a worldwide rules-based international order as a matter of principle and spend political capital on it. This role, which had been a defining characteristic of the US for a century, has most likely been given up permanently.

Where does this leave the European Union?

Does it mean that the EU should stop cooperating with Russia, China or even the US? This is what some NGOs ask for, but this would of course be the wrong conclusion. For the global challenges, which I mentioned, we need global answers and therefore we need cooperation with them. They are also hugely important trading partners for our industries and our economies. Militarily we also depend on US capabilities.

We will have to live with the fact that we need to deal with and possibly confront third countries that do not share our interests or even are systemic rivals, and still cooperate with them, including on global issues or in economic and trade matters.

I would propose four conclusions for the EU:

1. The EU must define its interests and pursue a strictly interest based foreign and trade policy. This includes to be very much alert that some third countries attempt to actively pick us apart. This also includes cooperating much more with those third countries that do adhere to a rules-based international order, for example India. I am very glad that the EU-India summit in Porto in May set the stage for re-starting negotiations on a free trade and investment protection agreement. Now, the Commission has go get on with it.
2. Individual member states of the EU must realize – if they still haven't so far – that they by themselves have no weight whatsoever to realistically influence their future fate. The 15 EU member states realized this in spring 2003 when the US started the Iraq war without consulting any European partner – not even the British with their “special relationship”. This was the reason we decided at the Gymnich Foreign Ministers' meeting in Kastellorizo in May 2003 to write the first European Security Strategy and we adopted it at the Summit in Copenhagen in December 2003. This brings me to the third point:
3. The central point of that European Security Strategy was that we need to improve the EU's capacity to act. Have we improved since 2003? Any sober analysis will tell us: we have not. Actually, especially after enlargement, we have become worse, above all because our decision-making processes are far too slow. The existing consensus rule makes the EU vulnerable vis-à-vis third countries to pick us apart by blackmailing individual countries. We need to introduce (some kind of) qualified majority voting in Common Foreign and Security Policy, not for voting down a particular member state on certain issues, but to become more resilient and to accelerate decisively the decision-making process in Brussels.
4. Fourth and last point: We have no time. If we think that we deserve a breather, because – alas! – we have, for all practical purposes, survived the corona crisis and its economic consequences, we are quite mistaken: The financial deal brokered by the German EU Presidency and the Commission last year only secured the bare survival of the EU. To set up the Next Generation EU Fund we borrowed so much money from the

markets that our children will pay back until the year 2058. We can never again afford to repeat this effort. If we do not invest the NG-EU Fund wisely, if we do not make the EU politically and economically fit for the future now, the EU will fail to play any decisive role on world stage and will not be able to determine its own fate to the benefit of us, the EU citizens.

I think it is worth the effort. It is our Europe, our prosperity, our way of life, our future.

Thank you very much.