



DEBATE

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Thank you for clarifying that. I did not say that Europe was a dispensable continent. I think that it is an indispensable continent, as you know, for inspiring the rest of the world to achieve a zero prospect of war and, frankly, to respect international law.

In response to Minister Badinter's comments about the United States and international law, I wonder whether the panellists can solve one of the great paradoxes of our times. Why is it that a country that respects the rule of law so much at home and has inspired so much of the writing and thinking on international law is at the same time a country that opposes vehemently the spread of international law? At the UN Security Council in May 2002, the United States delegation objected to the President of the International Criminal Court (ICC) coming to meet Security Council for a dialogue. They objected to just having a dialogue. When I was on the Security Council the United States campaigned very hard to get American soldiers to be given immunity from ICC prosecution. Why is it, therefore, that you have this paradox of a country that respects the rule of law at home and fights against it globally and can the panel solve this paradox?

Dominique MOISI, Special Advisor at Ifri

Someone else may like to answer this question, but I have one quick answer, which is one word – exceptionalism. That is a key word for understanding America culture. It is the feeling that America is unique and therefore that it cannot be judged by others.

Joschka FISCHER, Former German Minister of Foreign Affairs

If you would allow me one short remark. In the end, even the US had to follow the course in the direction the International Court of Justice. With Darfur, the US was interested in having an indictment for major war crimes there and the question at that time with Condoleezza Rice was how this should be done. In the end, it was quite clear that it would have made no sense and would have been extremely cost intensive and expensive to create a specific international court for Darfur. The Bush administration accepted that the case should be referred to The Hague. I think that that was a positive turnaround where, in the end, America, the most powerful nation of our times, also accepted *de facto* – not *de jure* – the reality of the International Court of Justice.

Robert BADINTER, Former French Minister of Justice, former President of the Constitutional Council

Joschka is right about Darfur. It is quite an important moment in the history of the International Criminal Court. In regard to the United States, I am going to tell you exactly how I feel. In the negotiations held with our American friends I never understood that fundamental hostility to an institution whose only mission is to ensure that criminals committing crimes against humanity are brought to trial. They should know that, in the Statute of Rome, the competence of the Court is only subsidiary. It is only if the State to which potential defendants belong does not want or is unable to try



them that the International Court can do so. The Court's first principle is that it is for national courts to dispense justice. It is only when they do not want to or they cannot do so that it must intervene. Otherwise it would be unable to cope. I always said to our American friends: "But you have said it yourselves, America is a legitimate State. America is a very sophisticated State. What are you afraid of? Supposing that an investigation brings to light some crime or other committed by a senior officer or official of the United States during an operation, you have military tribunals in the United States. You will try them. How can that really harm you in the slightest?"

There was no proper answer to that except for mentioning the obvious anti-Americanism among some who would have the United States systematically pursued in investigations that would be anti-American. That was the rhetorical argument. The truth came to me one day during a conversation in Washington with senior American jurists who told me: "It's very simple. The Statute of Rome provides that the immunity associated with the function of head of state shall not apply. Here, that does not apply. Who has the final, the ultimate responsibility for the actions of the armed forces? And the American special forces who are frequently in action come to mind, it is the President of the United States. It is just not on. There is absolutely no hope at all of the United States ever ratifying the Treaty of Rome". On the other hand, what one can and what one should hope for and what Joschka mentioned is that the United States, when faced with intolerable crimes, will rally the other members of the International Community with all of its might and say in effect to the members of the Security Council: "We are in agreement for Darfur, for Libya, for Syria", at least for having an investigation because I say it for your benefit, my dear friend Ivanov, take heed. The problem with all justice is evidence and God knows they are demanding at The Hague. It is evidence and one must make sure it is gathered when it is still possible to do so and when it is still there, whether it be statements from witnesses, some of whom will disappear, or material evidence. The sooner the investigation is carried out, the better it is for the future of those legal proceedings. That is the way it is. I do not believe that one can say anything more about United States other than to hope to see it support and act within the framework of the Security Council without expecting it ever to ratify the Treaty of Rome.

Hubert VEDRINE, Former French Minister of Foreign Affairs

Just a very brief word, you have given the crux of the answer when you speak of American exceptionalism. Let us add total sovereignism. For the United States, it is not a special position either in international law or in international justice, it is quite simply unthinkable for the United States that anyone should decide for them, in any sphere whatsoever, and judge an American on anything at all, and impose anything at all on an American. That does not preclude the reverse since the US Senate has passed so many unilateral laws on sanctions over and above the sanctions of the United Nations against other countries that, at any given moment, three quarters of humanity would be under sanction, in theory, if we had followed the US Senate. If by some mysterious event, the right of veto in the Security Council should disappear, the United States would leave the United Nations the very next day. I think that this will not change as long as the United States is the United States.

From the floor

This is more a question for Mr Ivanov. Less than a week ago, at the Ministerial Conference of the Organisation for Security and Cooperation in Europe (OSCE), Russia did not allow a resolution or text on Internet freedom, especially bloggers, to be adopted. It seems that this is an issue that is a central point, especially in the latest demonstrations that we have been seeing in Moscow. Do you think that what is going on in Russia could be a turning point or could influence things positively in the sense that they would allow this or, more negatively on any decision on the freedom for people who express themselves on the Internet? You also mentioned the bleeding away of the elites who want to immigrate from Russia and I know that there is another concern, which is the fact that 30,000 young people, mainly young men, are killed by drugs every year in Russia. Do you think that there is a double bind for the Russian elite now that if they strengthen themselves against freedom, the elites will flee the country and even more young people will die every year from drugs because they see no future in Russia?

**Igor IVANOV, Former Russian Minister of Foreign Affairs**

I think that this is a kind of artificial mixing of different problems. We have the problem of drugs, which is a disaster for the young generations, but it is not only in Russia. However, that is not because they cannot go onto the Internet and get information. I agree that it is one of the country's very serious dangers, but I repeat that it is not because of there being no accession to the Internet or not having the possibility to get information. This is a problem of society in general and it is necessary to take long-term measures.

Talking about drugs, without trying to justify this, we are in a very delicate geographical position. Drugs come from one side – Afghanistan – but there are also artificial drugs coming from Europe. That is why we are under double-pressure with drugs coming into our country. I repeat that I am not trying to justify it. It is necessary to develop the culture and have some restrictions, but this is a real problem.

Talking about the decision of Russia not to support that resolution, I will be frank. I did not read the resolution, so I do not know exactly what the text was. However, when I was Minister and introduced a draft resolution on Internet in New York, we tried to cover a broad range on Internet related problems including cyber security today. As for control of Internet, it is an open question whether such control is feasible and technically efficient – at least in a country like Russia.

I can tell you that these demonstrations were organised through the Internet and not through TV or radio and that again demonstrates that there is free access to Internet information. That is why I do not think that it is possible to block it today. I am not an expert in these issues, but, as the experts say, it is impossible to block it because people find other ways of distributing information, and I do not think that it will be the Government's intention. That is why my opinion is that the Internet today plays a more and more active role in lives of the younger generation and the political elite for many reasons. One reason is because the TV is bad. TV is under control and provides mainly official information, which people do not want to listen to. Secondly, radio is also not so strong. That is why people mainly have interconnection through the Internet. I think that it is gaining such a strong position in society that it would be very difficult to cut it.

Anil RAZDAN, Former Power Secretary of India

I am from Asia and there has been a substantial discussion on Europe over the last two or three days. I see that Europe is probably emerging from being a trading block to perhaps being in a few years a very strong political block in the years to come. What do you think about this? Would that make it a very difficult decision for the UK and Russia? I think that the UK is physically closer to Europe but emotionally closer across the Atlantic to its North American friends there. Similarly, Russia, I would like to believe, is physically just sitting across from Europe but is emotionally very close to the other Asian countries. Therefore, if Europe were to harden up as a very strong political block in the years or decades to come, what would be the reaction or interface across the fences?

Joschka FISCHER, Former German Minister of Foreign Affairs

First of all, let me start with my assessment of Russia. It started a few years after the end of the Cold War and the withdrawal of the Red Army and Russian soldiers going back to Russia and the Russian Federation. What we experienced not only in Germany but also here in Vienna, the Czech Republic and other places was that the Russians came back, the Russian middle class and upper-middle class came back and nowadays there are strong Russian minorities in cities. For example, in Berlin, after the Turkish and Asian minority, the Russian minority is the second biggest, with shops, newspapers, TV and radio stations and everything. Flights between European and Russian cities are sold out and there are many flights every day. I think that the majority of the Russian population, at least the middle class that lives in the Russian cities, 80% of the Russian population lives west of the Urals and they are looking towards Europe, for understandable reasons.



What we could do, and one of the negotiation issues between Russia and the EU is about freedom of travel and the visa regime, is if in the follow up of the present developments the EU could move ahead with easing the visa regime, I think that that would be a very positive contribution. However, for the majority of Russian people, the vast majority are looking towards the west, and the first station when they look towards the west is Europe. That is a geographic reality and there are also very strong historic and cultural connections between the different European nations and capitals and Russia. I therefore do not see Russia turning to Asia. Russia has Asian interests, and they are very strong, but talking about the major perspective, I think that the Russian perspective will be towards Europe and I see that as a positive option.

As for the UK, I think that the UK has shot itself in the foot with this decision, and I will tell you why. America, in dealing with its own challenges, has an interest in a strong Europe and no interest in a partner that objectively is getting smaller and smaller, and the UK is also in a complicated economic situation, to use diplomatic words. A UK playing a key role, which would be possible if it had a different approach to the European Union, and a different and stronger role in a future EU would be much more attractive to the United States than a UK that has opted out of Europe. I think that that is one of the major issues in the now starting and accelerating domestic debate in the United Kingdom. At least, you can read it as a central argument in the commentaries nowadays. I therefore think that even in the transatlantic perspective of the United Kingdom, which is a very strong and admirable tradition in the United Kingdom, they have shot themselves in the foot. The Americans will turn to a stronger, more united and powerful Europe and not to the UK.

Igor IVANOV, Former Russian Minister of Foreign Affairs

As you know, in our country before and after the revolution we had different tendencies. One was in favour of the development of relations with the West and Europe and the other was with Asia. I think that geography does not play such an important role today. The world is a globalised world today and that is why it is necessary to develop in different directions.

Talking about Europe, I am very pragmatic. I cannot imagine Russia being a member of the North Atlantic Treaty Organisation (NATO) or the European Union, but I am very much in favour of developing relations with both structures. With the European Union, what we have to do is create a solid legal base for our cooperation and the non-visa regime is only one of them. We have to create such a base and that is why we agreed to create common spaces. What does common space mean? It means that we play with the same rules on the same legal basis, without formally being part of the European Union. That is how I see future development, in transportation, for example, creating the same alliance of transport, and in energy security, creating the same basis of energy security and not discussing whether Nabucco should contain the South Stream project, but have a common energy strategy, and the same thing in other fields.

At the same time, we have to understand that you cannot bring raw materials from Siberia to Europe. That is a stupid thing that you have to calculate today. That is why we have a huge market in the Asia-Pacific region and we have to use that privilege to have one part in Asia and the other part in Europe and develop those relations. That is why we are members of all the main regional organisations, such as Asia-Pacific Economic Cooperation (APEC) and other structures and we will develop those relations. There will be a summit of APEC in Vladivostok in the summer and our main idea will be to develop energy security, transportation security, food security and other fields where we can play a real role and develop relations with those countries.

Dominique MOISI, Special Advisor at Ifri

I promised Igor and Robert that they would be free by six o'clock, so we cannot take any more questions. I would therefore just like to thank them very much. I also want to say that coming out of this session I feel more than ever that the real topic of these conferences on global governance is the rehabilitation of the idea of progress. We come out of a



session, following another session, with the idea that the world can be improved, even if only at the margin. Thank you very much to all of you.