

INTERNATIONAL LAW ASSOCIATION PANEL DISCUSSION ON “DIVERGENCE BETWEEN THE UNITED STATES AND THE EUROPEAN UNION ON TRADE AND OTHER MATTERS”

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Webster’s dictionary defines “diverge” as “to go in different directions from a common point or from each other; as opposed to converge.” The noun “divergence” is defined as the act or state of diverging or branching off; a going farther apart; deviation or departure from a norm; difference.” The nature of the divergence between the United States and European Union (EU) has been described variously. In my own writings, I have observed, “there tends to be little about which the United States and Europe agree upon these days.” Others have framed the predicament more fancifully. For example, *Washington Post* correspondent David Ignatius has likened the overall state of relations between the United States and Europe to “a marriage that has gotten out of sync,” warning that if the divergence widens, “both sides will soon find themselves on very unstable ground.”

Robert Kagan draws an analogy with romance gone sour in his book *Paradise and Power: America and Europe in the New World Order*. “The danger,” he writes, “is that the United States and Europe could become *positively estranged*,” meaning shrill and indifferent toward one another. (Emphasis added.) Thomas L. Friedman of *The New York Times* has gone so far as to assert that the U.S. is virtually at war with France, declaring, “France is not just our annoying ally. It is not just our jealous rival. France is becoming our enemy.” A transatlantic public opinion poll published in the September 4, 2003 edition of *The Washington Post* confirms that, at the very least, Americans and Europeans have different social and cultural values.

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More so than in the past? Probably. Why? There are any number of explanations. *The Economist*, for example, cites demographic trends on one side of the Atlantic; political developments on the other. In its June 9, 2001, edition, *Economist* editors wrote:

The United States is a very different place from Europe, and the differences will grow. Demographically, Americans are increasingly Asian and Latino, less inclined when looking “home” to turn to Europe. Their affection for guns, religion, the death penalty and genetically modified crops seems strange to Europeans. Just as baffling to Americans is Europeans’ toleration of high taxes, fussy regulation and indulgent state help for idlers and unfortunates. While Americans remain individualistic citizens of a nation-state at the height of its power, Europeans are absorbed in an unprecedented enterprise of union-building. Good luck to them, Americans may say. Let them sort out their Balkan backyard.

Broadly speaking, what is it that Americans and Europeans tend to misunderstand or not like about each other? From the American perspective, rightly or wrongly, critics tend to view the EU as, among other things, unappreciative of the American largesse that helped rebuild Europe after World War II; socialistic in orientation, at the expense of individualism and personal freedom; disdainfully weak militarily, morally irresponsible, and unwilling to bear a fair share of the collective defense burden; and a potential competitor on the world stage, especially on the economic front.

The concern over Europe as a potential competitor is somewhat ironic since Americans tend to underestimate the extent to which Europe has already achieved superpower status politically and economically. On the one hand, as Joseph S. Nye, Jr. points out in his book *The Paradox of American Power: Why the World’s Only Superpower Can’t Go It Alone*, the United States is more powerful than any nation in recent history and plays the central role in globalization. On the other hand, as Nye makes clear, the EU is the closest thing to an equal of the U.S. and thus a potential challenger. Europe’s military capability is comparatively miniscule, but the economy of the EU is roughly equal to that of the United States. Moreover the EU’s population is larger, and the EU’s share of world exports considerably exceeds that of the United States.

In addition, the EU is simultaneously widening and deepening. A 10-nation expansion to 25 total members is scheduled for 2004. Cyprus and Malta will join the EU along with eastern European states—Hungary, Poland, the Czech Republic, Slovakia, Slovenia, Estonia, Latvia, and Lithuania—that were part of the former Soviet bloc. Meanwhile, European leaders are drafting and debating a new constitution that will modernize and cement their political union. Bolder ambitions for a broadened world role will likely ensue.

In fact, many Europeans have already developed a strong desire to compete with the U.S. at the superpower level, or at least diffuse or counter-balance American military supremacy. At this point in their historical development, Europeans tend to stress the limits of military power, emphasizing instead the more enduring influence of what Nye refers to as “soft” power. Exercising soft power means co-opting rather than coercing others, by setting an example politically, morally, and economically that they will choose to emulate. In this regard, Europeans do not believe that American behavior sets a good example for the rest of the world to follow.

Like many who live outside the United States, Europeans find what has been called American “exceptionalism” dubious and misguided. Francis Fukuyama, professor of international political economy at the Johns Hopkins University School of Advanced International Studies, described the American sense of exceptionalism in a September 11, 2002, op ed piece for *The Washington Post*. He wrote:

Americans believe in the special legitimacy of their democratic institutions and indeed believe that they are the embodiment of universal values that have significance for all mankind. This leads to an idealistic involvement in world affairs, but also a tendency for Americans to confuse their national interests with universal ones.

Europeans equate American exceptionalism with imperialism and neo-colonialism because, in their view, it leads the U.S. to behave the way that empires do. The U.S. is seen as arrogating to itself an ultimate right to act unilaterally in regard to essential matters, to go its own way and make its own rules in the world. Or, as Dimitri K. Simes, president of the Nixon Center in Washington, D.C., explained in the November/December 2003 issue of *Foreign Affairs*, “empires generally expect neighboring states and dependencies to accept their power and accommodate to it. This often contributes to a sense that the imperial power itself need not play by the same rules as ordinary states and that it has unique responsibilities and rights.”

Europeans also fear the erosion of their culture and traditions—American “cultural imperialism”—as an unwelcome consequence of globalization. As for their political orientation, Europeans in fact seem to be more socialistic, and secular, than Americans, especially at a time when the U.S. seems to be experiencing, especially in the south, resurgent Christian fundamentalism.

European resentment of the U.S. often takes the form of personal animosity toward President Bush. Take, for example, Ignatius’s report on demonstrations against the President’s visit to London in the *Washington Post*’s November 21, 2003 edition. Ignatius wrote that his European critics “see in Bush all the things they don’t like about America—arrogance, belligerence, boorishness, self-

absorption.” The article quotes one 23-year-old British protestor’s description of Bush as “ignorant, stupid, war-happy and disgraceful,” calling him “just as bad as dictators in other countries.” Later in the piece, a London professor asks rhetorically, “how does one discuss global politics with the rancher from Texas?” The professor declares, “frankly, he [Bush] doesn’t care much about what the rest of the world thinks.”

European disagreements with America encompass a wide gamut, from world governance to human rights and the environment. Certain policies strike Europeans as especially egregious. These include the way in which the U.S. has allegedly minimized the role of the U.N. and the collective security framework; American opposition to the International Criminal Court (ICC); U.S. abrogation of the Nuclear Non-proliferation Treaty (NPT) in favor of space-based missile defense; and U.S. rejection of the Kyoto protocol on global warming.

Europeans are most notoriously at odds with the U.S. over the invasion of Iraq, objecting to the so-called Bush doctrine, which emphasizes preventive war and American unilateralism in the wake of the September 11, 2001 terrorist attacks. From their perspective, the United States was all too willing to bypass the U.N. on Iraq, and they are suspicious of American motives for the Iraq invasion.

The President’s domestic critics share similar sentiments about the Bush doctrine. For example, in the November 1, 2003 edition of *The Economist*, Harold Hongju Koh, professor of international law at Yale Law School and former secretary of state for human rights in the Clinton administration, tries to mollify America’s overseas critics by distinguishing what Koh calls “American national culture” from the policies of the current administration. According to Koh, “each prong of the Bush doctrine places America in the position of promoting double standards, one for itself, and another for the rest of the world.” He writes:

People living outside America sometimes suggest that the reason [for the Bush doctrine] is rooted in the American national culture of unilateralism, parochialism and an obsession with power. With respect, let me urge you to see it differently. The Bush doctrine, I believe, is less a broad manifestation of American national culture than of shortsighted decisions made by a particularly extreme American administration.

Meanwhile, the United States and European Union are locked in an array of WTO disputes that my scholarship has characterized collectively as an escalating trade war. These include, among other things, disagreements over tax breaks given to American foreign sales corporations (FSCs); the European import ban on genetically modified, or biotech, crops, referred to derisively in

Europe as “Frankenfoods”; and government subsidies to Boeing to finance the development of a new jet that will compete with Europe’s Airbus. A long-running dispute over the European banana import regime has apparently been resolved. So has a bitter controversy over U.S. retaliatory tariffs on imported steel, which the Bush administration has rescinded.

Nevertheless, ongoing friction over trade has led at least one observer to express concern for the long-term health of the multilateral trading system, the regime put in place under the GATT rubric after World War II that has since evolved into the WTO. According to Bernard K. Gordon, professor of political science emeritus at the University of New Hampshire, the U.S. has embraced a policy of economic “regionalism” that emphasizes bilateral or regional trade pacts with smaller states, like the proposed Free Trade Area of the Americas (FTAA), over comprehensive trade reform or liberalization in the global context. In Gordon’s view, regionalism poses a long-term threat to the WTO’s relevance and viability.

To Gordon’s consternation, however, U.S. trade representative Robert Zoellick is an ardent regionalist. Apparently, Zoellick regards regional alternatives to the WTO as bargaining chips the U.S. can use to force concessions from the Europeans in upcoming WTO talks. In an article for the July/August 2003 edition of *Foreign Affairs*, Gordon quotes a letter Zoellick sent him in late 2001, outlining the American strategy. Zoellick wrote:

I believe a strategy of trade liberalization on multiple fronts—globally, regionally, and bilaterally—enhances our leverage and best promotes open markets. As Europeans have pointed out to me, it took the completion of NAFTA [North American Free Trade Agreement] and the first APEC [Asia-Pacific Economic Cooperation] Summit in 1993-94 to persuade the EU to close out the Uruguay Round. I favor a “competition in liberalization” with the U.S. at the center of the network.

Gordon, for his part, fears that a rising tide of Asian regionalism will propel China into the role of a global trade hegemon. This would not only diminish American stature and influence in Asia, which is crucial to American interests, but globally, as well. In other words, Gordon’s worry is that under a regionalist regime, China, not the United States, will become the center of the network to which Zoellick refers.

Others have suggested that divergence between the United States and Europe is less consequential than on the surface it may seem. As my fellow panelist Peter K. J. Berz, first secretary for trade, Washington, D.C. delegation of the European Commission, will point out, the U.S. and EU are engaged together in commerce worth some \$2 billion a day, roughly three-quarters of a

trillion dollars annually. The total, combined amount in dispute between the two sides at the WTO represents a relatively miniscule fraction of this amount. Moreover, mechanisms for consultation, information exchange, and joint cooperation have been institutionalized at all levels across the entire spectrum of American-European interests and relations. The WTO dispute settlement process itself offers a constructive forum for airing and resolving misunderstandings or grievances. Nations used to go to war over their trade disputes. These days, they settle them peacefully at the WTO.

To the extent that American-European relations do need to be enhanced or repaired, the place to start might be with the following realizations. First, there is convergence between the U.S. and EU in regard to key issues, like the economic development of the poorer countries. The U.S. wants aid recipient nations to commit to the rule of law, economic reform, and the eradication of poverty, as well as equal rights for women. Similarly, the EU has declared its goal of making "aid and preferential trade arrangements with the [developing] states dependent on their democratization, including equality for women and improved management."

Second, as Nye points out, despite their differences, the United States and Europe are the parts of the world closest to each other in basic values, which are rooted in the Enlightenment. Nye also points out that nowhere on the planet do the United States and Europe threaten each other's vital or important interests.

Lastly, the United States and Europe need each other in a world where terrorists and their state sponsors seek to obtain or develop weapons of mass destruction. As *The Economist* has observed:

[The United States and Europe] are, together, not only the main engine of the world's economy but the main custodian of its liberal values. They have strong interests in common, and each has additional interests in persuading the other to be at least partly involved in less obvious areas of concern: America needs European help in Asia, Europe needs American help almost everywhere. Why? Because neither power, not even the United States, is usually strong enough, on its own, to carry the day. Moreover, experience—remember Bosnia—shows that one without the other makes little headway, whereas the two together can be effective.

Ignatius has concluded, "solutions exist, or can be found, for all the problems that beset the allies, so long as they prepared to work to settle their differences."

That work should start with each side coming to grips with the other's anxieties. Americans must recognize the EU, for it is one of the truly remarkable accomplishments in human history. Because of the EU, the leading European nations have maintained peace and achieved economic prosperity

after two world wars that nearly destroyed their continent and civilization during the first half of the 20th century. The process and beneficial results have transformed the European thinking. As Robert Kagan explains in *Of Paradise and Power*:

Europeans today are not ambitious for power, and certainly not for military power. Europeans over the past half century have developed a genuinely different perspective on the role of power in international relations, a perspective that springs directly from their unique historical experience since the end of World War II. They have rejected the power politics that brought them such misery over the past century and more. This is a perspective on power that Americans do not and cannot share, inasmuch as the formative historical experiences on their side of the Atlantic have not been the same.

He goes on, “within the confines of Europe, the age-old laws of international relations have been repealed. Europeans have pursued their new order, freed from laws and even the mentality of power politics. Europeans have stepped out of the Hobbesian world of anarchy into the Kantian world of perpetual peace.” In other words, what Americans might regard as Europe’s unwillingness to share the burdens of maintaining order and democracy in a troubled world is in fact what Europeans see as their mission to spread peace and the means by which they realized it. American bellicosity and unilateralism threaten this sense of mission. The United States, by contrast, remains “stuck in history,” as Kagan sees it, with American strategic thought dominated by what he calls the “lesson of Munich,” the inescapable conclusion that villainy and aggression must be preempted forcefully.

The Europeans should respond with greater sensitivity to the heroic irony of America’s predicament in the world, and with more appreciation. After all, as Kagan writes, “the United States has played the critical role in bringing Europe into [its] Kantian paradise, and still plays a key role in making that paradise possible.” The irony for the U.S. is that it cannot, as Kagan puts it, “enter the paradise itself.” Instead, he asserts, the United States, “mans the walls but cannot walk through the gate.” He concludes, “the United States, with all its vast power, remains stuck in history, left to deal with the Saddams and the ayatollahs, the Kim Jong IIs and the Jiang Zemins, leaving most of the benefits to others.”

My conclusion is that relations between the United States and European Union would be enhanced if each side accepted what the other has become, and the role each has played in the other’s destiny.