



THE ATLANTIC COUNCIL  
OF THE UNITED STATES



CHATHAM HOUSE

## Transatlantic Dialogues on International Law:

### Preparing for the Next U.S. Administration

Draft Agenda

London, December 5-6, 2008

**Friday, December 5**

**10:15 am Welcome and Introductions**

**10:30 am Session I: U.S. and EU Approaches to International Law**

*Kim Holmes, The Heritage Foundation*

*Philippe Sands, University College London*

What do the last eight years tell us about U.S. and EU approaches to international law?

To what degree did the experience of those years reflect earlier U.S.-European differences over international legal matters? How significant were those differences?

Were transatlantic differences during these years a temporary aberration, or the result of genuinely and consistently distinct approaches?

Were these differences fundamental or more related to implementation?

Or did they differ depending upon the topic addressed: national security/environmental/human rights/economics?

Has there been a reduction in differences over international legal issues during the second half of the administration? If so, in what areas? And to what should this change be attributed?

To what degree is there a consensus in the United States about the role and future of international law?

How unified is the European view of international law at this time? What is the long term vision in Europe for the future of international law?

What are the external influences on that view?

**11:45 Coffee**

**12:00 pm Discussion continues**

**1:00 pm Lunch**

**2:00 pm      Session II: Identifying Future Convergence and Divergence, *Introduction***

***2a) How Great a Change in 2009?***

*Jane Stromseth, Georgetown Law School*

How is the U.S. approach to international law expected to change, if at all, with the arrival of a new administration? how will that affect the design and implementation of the new administration's approach to international legal issues?

What are the parameters and environment that will shape a new administration's view of international law?

**Session III: Identifying Future Convergence and Divergence, *The Specific Issues***

In each of the following areas, the following questions will be considered: Are there likely to be significant changes in the U.S. or EU legal approaches to this specific topic? Or will the approach remain more or less constant?

To what degree will it be possible for the U.S. and EU to work together in this area in the future?

To what degree will differences persist in this specific area of law, and what will be the causes of those persistent differences? Will these differences be significant enough to limit U.S.-EU cooperation in this area, and what will be those limits?

*(Discussion of each of these areas will necessarily be brief, and some topics will be taken up in greater detail at later workshops.)*

**2:45 pm**

***3a). International Criminal Tribunals:***

*Laura Olson, American Society of International Law*

*Elizabeth Wilmshurst, Chatham House*

What difference would U.S. membership in the International Criminal Court make, and is that likely in the future? If not, what are the factors that will limit U.S. involvement? What are alternatives, short of membership, that might foster greater U.S.-EU agreement in this area and benefit international criminal justice? Which other tribunals or mechanisms might provide a place for U.S.-European cooperation in supporting international justice?

**3:45 pm**

**Coffee**

**4:00 pm**

***3b). Law on Use of Force and International Humanitarian Law***

*Françoise Hampson, University of Essex (invited)*

*Derek Jinks, University of Texas at Austin*

How do the traditional rules on the use of force apply in an age of global terrorism and WMD? How should IHL related to the types of conflicts that the United States and its European partners face today, in particular asymmetric warfare and situations in which civilian roles are blurred? What are the rules applicable to a conflict carried out against terrorists throughout the world? What law applies to security detainees in internationalized non-international armed conflict? What future initiatives

could bring more clarity? As allies, can the U.S. and European governments agree in this area?

**Saturday, December 6**

**9:00 am**

**3c). *The Role of Treaties***

*William H. Taft IV, Fried Frank and Atlantic Council*

*Stefan Talmon, University of Oxford*

Are there fields other than those mentioned above which would benefit particularly from U.S. and EU participation in treaties, for example, the law of the sea, the environment, and arms control? Are there mechanisms which would make it easier for the United States to participate in such treaties, for example, by allowing reservations or “opt-outs”?

**10:30 am**

**Coffee**

**11:00 am**

**3d). *Enforcing International Law: From Sanctions to Use of Force***

*Donald Donovan, Debevoise & Plimpton, LLP*

*Guglielmo Verdirame, University of Cambridge*

Does international law simply reflect power relationships in the global arena? If it is more than that, how should it be enforced? Are sanctions a possible enforcement mechanism on which the U.S. and European governments can agree? What kind of sanctions? And what legal barriers might the U.S. or EU face internally when attempting to impose sanctions? What are other alternatives for enforcing international law, from tribunals such as the WTO dispute resolution process to the use of force, and how do the U.S. and European governments differ over their use?

**12:30 pm**

**Session IV: Initiatives for a New U.S.-EU Partnership in International Law**

Based on the previous sessions, are there possible initiatives, either jointly or separately, that could foster a combined approach in the future? Which initiatives might be especially appropriate to launch in the early phase of a new administration, and which might require a longer time frame? What are the areas where a focus might simply exacerbate transatlantic tensions over international law?

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