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FRANCE, EUROPE, THE UNITED STATES

*Abdelkhaleq Berramdane**

Fascination and rejection have always characterized Franco-American relations, like an old couple who are not able to forgive: for France, the battle of Yorktown where Lafayette and Rochambeau contributed to the independence of the former British colonies; for the United States, American participation, twice, in the liberation of France. Neither one willing to credit its salvation to the other. A tumultuous relationship very much resembling the rocky history of the Statue of Liberty ("Liberty Enlightening the World"), offered by a still fragile Republic to a distant sister, who only begrudgingly offered it a pedestal. For centuries French literature has been rich in lessons on this subject: from Tocqueville's wonderment and the anti-Americanism of Baudelaire, Loti, Renan, Maurras, and many others,¹ to Victor Hugo's prediction of indestructible ties between a United States of Europe and the United States of America.

In fact, these troubled relations also resemble those between the United States and Europe. America, Europe's child, has always sought to emancipate itself, while Europe, it seems, does not want to admit that the child that it carried to maturity might be more successful than it and might seek to tell it how to behave. This sentiment is evident in both European and American literature, particularly in the works of James Fennimore Cooper and Mark Twain, which unceasingly highlight the disparities between the Old World and the New.

Have these divergences, which after all are quite natural given the inevitable conflicts of interest between Europe and the United States—and between France and the United States—reached a breaking point since the American invasion of Iraq? Ever since the fall of the Berlin Wall, and even more since September 11th, is not America seeking to "start the world anew" (to borrow words from Thomas Paine) in its own image? Are we witnessing a "continental drift," accompanied by a lasting antagonism between the United States and France?

In this three-way relationship—France/European Union/United States—where France is seeking international stature, the European Union a European identity, and the United States a world mission—French policy goals are marked by their continuity (as is also true for the United States). If the world has changed, France's two priorities since the commencement of the European project remain unchanged.

What Europe for France? France continues to want to make Europe into a *European Europe*, not an Atlanticist Europe, but a Europe that is emancipated from the United States.

Europe for what? France wants to make Europe a *Europe à la française*, a French-style Europe, which would be an enlarged extension of France, increasing its influence

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1. Philippe Roger has traced the genealogy of French anti-Americanism in his book *L'ENNEMI AMÉRICAIN: GÉNÉALOGIE DE L'ANTIAMÉRICAINISM FRANÇAIS* (2002).

on the international stage and providing a counterweight to the United States, today's hyperpower.

I. A EUROPEAN UNION

The Franco-American misunderstandings, differences, and divergences, which reached a breaking point during the third Gulf War (March 2003), have deep roots. They are the result of a different French vision of Europe and of its role on the international stage, whose contours were outlined by General de Gaulle even before he assumed power, and which throughout his years in power he worked to translate into action. Despite certain deviations from this policy by his successors in order to respond to changed strategic situations, the fundamental principle established by General de Gaulle remained a constant. As he confided to Alain Peyrefitte, "I want Europe to be European, that is to say, not American."² This vision is in stark contrast to that formulated by the United States after the Second World War, which envisaged a transatlantic Europe under American protection. For France, a European Europe had to be *balance point* between East and West. And after the fall of the Wall, it must become a *Europe-Power* (*une Europe puissance*).

A. A Europe as Balance Point

De Gaulle's European convictions, forged during the Second World War, were refined during the Cold War. He sensed that because of its location in the "heart of Europe" and its "universalist" past, France had to work for the unity of Europe, a "Europe from the Atlantic to the Urals." For de Gaulle, "Communism will pass. In the long run, no regime can survive against the national will."³ He then laid out the bases for French European diplomacy. One fundamental principle, cited *nolens volens* by his successors throughout the Cold War, guided his European policy: the rejection of American leadership, both political and strategic.

Rejection of American political leadership

Throughout the Cold War, the United States encouraged European *integration*. A Europe divided into states and nations would not be able to confront the resurgence of German militarism or dangers from the East. The European bloc had to be rebuilt. The first piece of the structure was the Marshall Plan, whose establishment was conditioned on the creation of a European organization to coordinate American aid. This was a prelude to the creation of other European organizations. Following principles enunciated by George Kennan, American leaders rejected an English-style, free-market-economy Europe. While waiting for Great Britain to join the European project, they thought that European integration could have at its core, at least at the beginning, the Franco-German twosome.⁴ They even envisioned a European

2. ALAIN PEYREFITTE, C'ÉTAIT DE GAULLE, VOL. 1 80 (1994).

3. See CHARLES DE GAULLE, MÉMOIRES DE GUERRE: L'UNITÉ 1942-1944 (1999).

4. See PPS/55: *Outline: Study of U.S. Stance Toward Question of European Union*, (July 7, 1949) in 3 THE STATE DEPARTMENT POLICY PLANNING STAFF PAPERS, 1947-1949 at 85 (1983); Klaus Schwabe,

federation.⁵ This Europe would of course have to develop under American leadership and protection because the United States had no intention of sharing its political leadership.

This approach was vividly expressed in the transatlantic partnership proposed by President Kennedy in his speech of July 4, 1962, in which he spoke of a Europe moving toward a *perfect union*, including the United Kingdom, a “partner” Europe, complementary, rather than a “rival,” to the United States. And throughout the Cold War, successive American presidents never really challenged this idea, despite it becoming evident, over time, that Europe was becoming an economic rival to the United States.

This idea of Europe could not fail to run counter to that of France propounded by General de Gaulle at the start of the Fifth Republic and retained since then, with some variations to be sure, by his successors. For de Gaulle, “supranationality [was] absurd! Nothing is above nations.”⁶ There is only one Europe, based on nation-states cooperating among themselves. This was a Europe whose institutional contours he had traced as early as his press conference on January 25, 1953, and to which he remained faithful: “Instead of an intolerable and impracticable fusion . . . , [there should be] an association . . . [with] confederal institutions.” Nevertheless, de Gaulle did not exclude certain forms of integration (e.g., a common market, a common agricultural policy) and in the long run the creation of a real “confederation which would be the crowning of a patient effort to develop common policies, a common diplomacy, and common security.”⁷

On the international level, Europe, according to de Gaulle, should be neither a “Russian colony” nor an American “protectorate.” If, following the war, he had accepted out of necessity the “limited sovereignty” imposed by the two great powers on their respective allies, he always considered that Europe had to be a “balancing force” between the two great blocs.⁸ In his speech of May 31, 1960, de Gaulle was very explicit: “France, insofar as it is concerned, has recognized the necessity of a Western Europe, once the dream of the wise and the ambition of the powerful, and which now appears as the indispensable condition of global equilibrium,” a Europe capable “of acting as a counterweight to the two mastodons, the United States and Russia.”⁹ General de Gaulle, and his successors (with certain nuances and even differences for some), rejected an American Europe, that is to say, a Europe tightly integrated and “submissive” to the Anglo-Saxons. “Europe will be European or it will not be,” he proclaimed.¹⁰ This is why he did not hesitate, twice, to veto the British candidacy (in 1963 and again in 1967), judging that Great Britain was simply an American “satellite,” a “Trojan horse” of the United States. He suspected that Great Britain

The United States, Western Security, and European Integration (1945-1963), in L'UNION EUROPEENNE ET LES ETATS-UNIS 38, 38-39 (Michel Dumoulin & Geneviève Duchenne eds., 2003).

5. George W. Ball, *The Past has Another Pattern*, 209, 213 (1982).

6. PEYREFITTE, *supra* note 2, at 88.

7. *Id.* at 90.

8. General Charles de Gaulle, President, Rally of the French People at Strasbourg (Apr. 7, 1947), available at http://www.charles-de-gaulle.org/article.php3?id_article=517.

9. PEYREFITTE, *supra* note 2, at 81.

10. ALAIN PEYREFITTE, C'ÉTAIT DE GAULLE, VOL. 2 355 (1997).

wanted to create, in the end, not a United States of Europe, but a Europe of the United States.¹¹ General de Gaulle never forgot what Churchill said to him on the eve of the Normandy invasion: “each time we must choose between Europe and the open sea, we shall always choose the open sea,” that is, the United States.¹² Since that time, the United Kingdom has become a member of the European Union, but recent history proves the truth of Churchill’s statement. For de Gaulle, as for his successors, “two policies, perfectly reconcilable, ought to be able to be developed, one for Western Europe and one for the United States. They ought to counterbalance each other.”¹³ From this he derived his *rapprochement* with China, and his position regarding United States-led wars in Southeast Asia.

Rejection of American Strategic Leadership

For the United States, the construction of an integrated Europe had to occur under an American umbrella. In any event, after the war Europe was in ruins and France and the United Kingdom, once European powers, were only shadows of their former selves. Present at the request of the Europeans, the United States sought to construct a European regional defense capability whose supervision and strategic management it would direct. De Gaulle, who had observed France’s decline and who always had “a certain idea of France,” rejected the idea that Europe’s strategic direction be assumed by the United States alone. Where Great Britain found refuge under the protective American wing, France refused to nestle there. Receiving Secretary of State John Foster Dulles on July 5, 1958, de Gaulle did not neglect to pass up the opportunity to point out to him that France, “given the great history of the country, [was] aware of having an important role to play in matters of global strategy . . . [However,] until now, not enough consideration had been given to France’s role or to her position in NATO or in the world.”¹⁴

Thus from the beginning, he felt that the Atlantic Alliance was certainly necessary, but not sufficient, because, “if France [was] attacked, the Treaty itself would bring it no aid.”¹⁵ He had also opposed the European Defense Community (EDC) foreseeing the creation of a European army, a “*mélange apatride*” (“a mix of stateless people”), in which French soldiers would be placed under an American commander-in-chief in Europe.¹⁶

11. During his January 14, 1963, press conference, de Gaulle declared: “If Great Britain enters the Union, the cohesion of all of its members would not resist it and in the end it would seem like an enormous Atlantic community, subordinate to America and its leadership.” (Translation of: “Si la Grande-Bretagne entrerait dans la Communauté, la cohésion de tous ses membres n’y résisterait pas et en définitive, il apparaîtrait une communauté atlantique colossale, sous dépendance et direction américaine.”)

12. Winston S. Churchill, Comments to Charles de Gaulle on the Eve of the Normandy Invasion (June 6, 1944).

13. PEYREFITTE, *supra* note 10, at 79.

14. BERNARD LEDWIDGE, DE GAULLE ET LES AMÉRICAINS: CONVERSATIONS AVEC DULLES, EISENHOWER, KENNEDY, RUSK 1958-1964 at 24-25 (1984).

15. CHARLES DE GAULLE, DISCOURS ET MESSAGES VOL. 2 at 287 (1949).

16. *Id.* at 564-73.

Once back in power, he hastened to re-launch France's nuclear rearmament. Despite American pressure¹⁷ and American refusal to cooperate with the French nuclear program (contrary to the what the U.S. had done with the United Kingdom),¹⁸ France quickly became a nuclear power. From then on, the United States sought to subject this power to its control by proposing its integration into a "multilateral force" under American command, a proposition that de Gaulle promptly rejected. Similarly, while accepting the Atlantic Treaty, de Gaulle hastened to criticize the military organization that emerged from it. As soon as he was back in power, he asked American leaders to reorganize NATO's command structure. For him, an integrated military organization was acceptable only to the extent that its scope of action covered the Mediterranean, and the presence of NATO's atomic weapons on French soil was tolerable "only if France was responsible for their supervision and had the right to decide on their use The use of these weapons had to be a French responsibility with American participation."¹⁹ Faced with repeated American refusals, de Gaulle then decided to withdraw from NATO (March 7, 1966), which entailed the dismantlement of American bases in France and the transfer from France of NATO's high command (SACEUR) and its Central European Command. Since then, France has recovered full sovereignty on its territory as well as plenary authority over its military forces. France is an integral part of the Alliance, but it is not integrated into its military organization. Not until the end of the Cold War did France consent to progressively reclaim its place and its role in NATO institutions, but this in the context of a new approach to Europe by France.

Despite certain rivalries (for the most part commercial, linked to the EU's common agricultural policy) and certain disagreements (particularly, with regards to President Reagan's Strategic Defense Initiative), French presidents from Pompidou to Mitterrand have followed the two fundamental policies established by de Gaulle. With the collapse of the Soviet colossus and the disappearance of the Soviet bear, the United States became the only real great power. The question for France is no longer simply how to oppose American tutelage over Europe, but also how to build, according to president Chirac, a "Europe-Power We have to respond to a necessity: [to give the European Union] a major role to play for peace in the world," which would counterbalance the American hyperpower.²⁰

B. A Europe-Power

With the collapse of the Soviet bloc, America had lost its principal enemy. Some, like Francis Fukayama, even proclaimed the "end of history":²¹ henceforth, liberal ideology, the market economy, and democracy would spread throughout the world. President George H. W. Bush, in a speech to Congress in September 1990, spoke of a "new world order," in which the United States would play the role once assigned by

17. LEDWIDGE, *supra* note 14, at 24-25.

18. PEYREFITTE, *supra* note 10, at 21.

19. LEDWIDGE, *supra* note 14, at 26.

20. President Jaques Chirac, Speech delivered to the Institut des Hautes Etudes de Défense Nationale, May 31, 2000 in LE MONDE, May 31, 2000.

21. See FRANCIS FUKUYAMA, THE END OF HISTORY AND THE LAST MAN (1992).

Hegel to Napoleon. In this context, Secretary of State James Baker's proposal of 1991 for a "Euro-Atlantic Community from Vancouver to Vladivostok"²² would integrate the European Union into a vast world body under American leadership. This idea was totally consumed in the Yugoslav conflagration. The United States had to intervene to put an end to this "tribal conflict" and to reevaluate its strategy of making NATO the structuring organization for Europe. The most spectacular turnaround in American diplomacy, however, was brought about by the administration of President George W. Bush. Immediately upon entering office in January 2001, Bush, surrounded by a number of neoconservative strategists, reconnected with an aspect of the American imperial tradition that was both messianic and religious. "The cause of America," Thomas Paine had declared two centuries earlier, "is in a great measure the cause of all mankind."²³ This messianism, reminiscent in some ways of France during the Revolution and the Napoleonic Empire, eventually came up against another form of messianism, championed today by France and Germany, that is ethical, universalist, and European. Its aim is to project European Union values onto the international stage and to make the European Union a force for maintaining a balance of power in the world.

A Power of Attraction

"[Europeans] have stepped out of the Hobbesian world of anarchy into the Kantian world of perpetual peace," says Robert Kagan of the Carnegie Endowment for International Peace and a leading exponent of neoconservative ideas.²⁴ America has to assert its military power without second thoughts in order to encourage and support a liberal world order and to assure global security. According to Kagan, the power of the United States differs from the weakness of Europe, which, having entered into "a post-modern paradise," has renounced *hard power*.²⁵ "That is why on the major strategic and international questions today, Americans are from Mars and Europeans from Venus."²⁶ Such divergences are bound to endure. "The divisive trend they together produce," Kagan notes, "may be impossible to reverse."²⁷

Even if the premises of this thesis, which is at the root of the thinking of the neoconservative members of the present Bush administration, seem well founded, the consequences to which they lead seem problematic to French leaders. For in fact it is not clear that the choice for Europeans is between the repudiation or the acceptance of dependence on American hegemony.²⁸ In reality we are presented with two models, *two visions* of the world. "There is not power on the one hand and weakness on the other; but rather two ways of thinking about the values and interests which contend

22. James A. Baker III, Sec'y of State, *The Euro-Atlantic Architecture: From West to East*, Speech to the Aspen Institute in Berlin, Germany (June 18, 1991).

23. THOMAS PAINE, *COMMON SENSE* 64 (Isaac Kramnick ed., Penguin Classics 1986) (1776).

24. ROBERT KAGAN, *OF PARADISE AND POWER: AMERICA AND EUROPE IN THE NEW WORLD ORDER* 57 (2003).

25. *Id.* at 53.

26. *Id.* at 3.

27. *Id.* at 11.

28. *Id.* at 15.

with each other,” notes Prime Minister Dominique de Villepin.²⁹ On the one hand, he adds, there is “American power . . . which has recourse to the classic elements of force, especially military power,” and on the other “Europe [which] has cast its lot with power based on law.”³⁰ Furthermore, European power is soft power, in comparison with American power, which is based on diplomacy backed by force. As the Belgian Minister of Foreign Affairs has emphasized “the United States seems to operate on the basis of *coercive force*, while the European Union operates on the basis of the *power of attraction*,”³¹ the attraction of its values³² which are not necessarily those of the United States.³³ Europe exerts an extraordinary power of attraction, as demonstrated by the many bids for membership in the Union and requests for partnerships from countries both near and far.

As emphasized by the work plan adopted by the European Council at the Laeken Summit on December 14-15, 2001, for the members of the European Convention chosen to draft a constitutional treaty for Europe, the goal is to make Europe into “a power wanting to change the course of world affairs in such a way as to benefit not just the rich countries but also the poorest. A power seeking to set globalization within a moral framework, in other words to anchor it in solidarity and sustainable development.”³⁴ The members of the Convention, by direction from the French government and from other European governments, have in fact inscribed these values in stone in the proposed 2004 Treaty Establishing a Constitution for Europe.³⁵ Moreover, they have included a general clause making these values overriding goals

29. DOMINIQUE DE VILLEPIN, UN AUTRE MONDE 340-41 (2003) (for the English translation, see DOMINIQUE DE VILLEPIN, TOWARD A NEW WORLD: SPEECHES, ESSAYS, AND INTERVIEWS ON THE WAR IN IRAQ, THE UN, AND THE CHANGING FACE OF EUROPE (Melville House 2004)).

30. *Id.* at 341.

31. Louis Michel, *Les Relations transatlantiques: Comment combler les relations de puissance entre l'Europe et les Etats-Unis d'Amérique*, in CAHIERS DE LA PESC: NO. 4 154-55 (2004).

32. According to President Jacques Chirac,

Europe has created a model: after totalitarianism, two World Wars, the Holocaust, and nearly fifty years of Cold War, it decided to break free from power games. Its peoples have established an area of peace, democracy, solidarity, and prosperity, founded on the freely conferred sharing of sovereignty. This had made the European Union an original and exemplary international actor.

President Jacques Chirac, Speech at the International Institute for Strategic Studies (Nov. 18, 2004) (transcript available online at <http://www.iiss.org/conferencepage.php?confID=70>); see also Mario Soarès, *Réflexion d'un Sage Européen*, LE FIGARO, May 27, 2005.

33. On the differences in values between France and Europe on the one hand and the United States on the other, see JACQUES ANDRÉANI, L'AMÉRIQUE ET NOUS (2000), and by the same author, *Les Etats-Unis et l'Europe: une relation turbulente, Un point de vue européen*, 9 QUESTIONS INTERNATIONALES 23 (2004).

34. Laeken Declaration 273/01, The Future of the European Union, (Dec. 15, 2001) available at http://europa.eu.int/constitution/futurum/documents/offtext/doc151201_en.htm.

35. Article I-3 § 4 of the draft Treaty Establishing a Constitution for Europe:

In its relations with the wider world, the Union shall uphold and promote its values and interests. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.

Treaty Establishing a Constitution for Europe, Dec. 16, 2004, 2004 O.J. (C 310) 1, art. I-3 § 4. These values are reiterated in article III-292 with the notable inclusion of multilateralism. *Id.* at art. III-292.

for the different types of international action that may be undertaken by the European Union.³⁶

Thus in order to propagate its values, the European Union uses soft power, “this aspect of power—to make others want what you want . . . ; which co-opts, rather than imposes,” a power based on influence rather than on coercion.³⁷ This *soft* approach can be explained with historical and institutional reasons. The priority of brute force, the choice of unilateralism, and the scorn of international law in international relations of the present Bush administration are approaches which run counter to the European project, which is founded on respect for law, the search for compromise through negotiation, and the rejection of hegemonic ambitions and the use of force. More serious, America’s vision of the international order is perceived by the “Old Europe,” (headed by France), as a danger to the universal message of which Europe feels itself to be the bearer; worse still, the American vision appears to be a threat to the foundations and the very existence of the European Union as it has been progressively built for more than half a century. As General de Gaulle declared in 1964, “American imperialism [and] American supremacy [are] an enormous danger to the world.”³⁸

A Power for Global Balance

Europe is a historically “unique model,” based as it is on a balance between unity and diversity and between federalism and national sovereignty. At the moment of “the construction of a new international order founded on justice, law, and solidarity . . . [let us make] of Europe a force for balance” in the world, proclaimed Dominique de Villepin, former Minister for Foreign Affairs and current Prime Minister.³⁹ In the “reestablishment of the global system” presently in progress, Europe must be able to play a central role. There are three aspects of this task, which French leaders have ascribed to the European Union.

First, the rejection of unilateralism. No power, whether it be the principal power or not, can take sole charge, or be the bearer of the vision, for the construction of a new global balance.⁴⁰ French leaders reject the translation of American hegemony into a unilateral, simplifying approach to the world, one which contrasts the axis of good to “the axis of evil,”⁴¹ a vision of international relations which, encouraged by the ideas of Samuel Huntington, sees the battle against terrorism as a “war [ad infinitum] to save

36. *Id.* § 3.

37. JOSEPH S. NYE, JR., *THE PARADOX OF AMERICAN POWER: WHY THE WORLD’S ONLY SUPERPOWER CAN’T GO IT ALONE* 9 (2002).

38. PEYREFITTE, *supra* note 10, at 77. General de Gaulle confided to Alain Peyrefitte in 1962: “America can explode because of terrorism or racism or what have you, and become a threat to the peace. The Soviet Union can explode because communism will collapse and its nationalities will quarrel. It can become threatening.” PEYREFITTE, *supra* note 2, at 386. (Translation of: “L’Amérique, confie en 1962 le général de Gaulle à A. Peyrefitte, peut exploser du fait du terrorisme, ou du racisme, que sais-je, et devenir une menace pour la paix. L’Union soviétique peut exploser, parce que le communisme s’effondrera, que ses peuples se chamailleraient. Elle peut devenir menaçante.”).

39. VILLEPIN, *supra* note 29, at 167.

40. *See id.*; *see also* Patrick Sabatier et al., Interview with Michel Barnier, Minister of Foreign Affairs, *LE MONDE*, Mar. 3, 2005.

41. President George W. Bush, State of the Union Address (Jan. 29, 2002).

[western] civilization."⁴² Because, as Prime Minister Dominique de Villepin remarks, "unilateral action is utopian, but above all it is obsolete No state is in the position to respond to the triple challenge of security, economic growth, and social improvement The affirmation of a solid multilateral system is the key to the order of tomorrow."⁴³ And this multilateral system, reflection of a multi-polar world, is based on three elements. First, a necessary respect for state sovereignty. Thus, for President Chirac, "we are friends and allies of the United States, but we aren't servants."⁴⁴ This rejection of limited sovereignty applied to the allies of the United States is also accompanied with the rejection of the American idea of reduced sovereignty authorizing world-wide military intervention and sanctions against "rogue" states,⁴⁵ as determined by the interests of the United States. Multilateralism also rests on the respect of legally-established alliances. France rejects the idea of an alliance *à la carte*,⁴⁶ such as that formulated by Donald Rumsfeld in the aftermath of the attacks of September 11, that "the mission determines the coalition, and not the reverse,"⁴⁷ and applied in the cases of Afghanistan and Iraq—devaluing NATO by turning it into a mere repository of resources. Moreover, France rejects the idea that NATO, through "non-article 5" missions, should become a little U.N., encompassing all security problems, with a mandate to intervene without limit anywhere in the world. Finally, it is a "multilateralism which must be based on a reformed and strengthened United Nations,"⁴⁸ because only the United Nations has the legitimacy necessary to lead or authorize international action, particularly military action.

Second, the rejection by France and other European Union countries of the preventive war doctrine, as formulated by the present Bush administration in *The National Security Strategy of the United States of America* of September 2002 and implemented during the Iraqi conflict. Admittedly, the "Bush doctrine" speaks of *preemptive* war, but it is in fact what international law calls *preventive* war, since the United States—which wishes to remain the principal military power in the world—intends "to act against such emerging threats before they are fully formed."⁴⁹ If every country adopted a preventive doctrine, and intervened militarily on its own, the world would undoubtedly degenerate into chaos, for how can anyone judge a threat

42. See generally SAMUEL P. HUNTINGTON, *THE CLASH OF CIVILIZATIONS AND THE REMAKING OF WORLD ORDER* (Touchstone 1997).

43. VILLEPIN, *supra* note 29, at 199-200.

44. President Jacques Chirac, Address at the NATO Summit Press Briefing in Istanbul (June 29, 2004), <http://www.elysee.fr/>.

45. President George W. Bush, Address to the Nation from World Congress Center in Atlanta: War on Terror (Nov. 8, 2001).

46. France rejected any intervention by NATO to stabilize the situation in Iraq (even though it had agreed to it in Yugoslavia and Afghanistan) on the ground that, according to Jacques Chirac, "any intervention by NATO in this region seems to us to entail a great risk of confrontation between the Christian West and the Muslim East." President Jacques Chirac, Address Following the G8 Summit in Sea Island, Georgia (June 10, 2004) available at <http://www.elysee.fr/> (last visited Feb. 21, 2006).

47. Donald H. Rumsfeld, Defense Secretary Rumsfeld Speaks in Washington (Sept. 23, 2001) (transcript available at <http://transcripts.cnn.com/TRANSCRIPTS/0109/23/se.02.html>).

48. President Jaques Chirac, Speech at the International Institute for Strategic Studies (Nov. 18, 2004) (transcript available at <http://www.iiss.org/conferencepage.php?confID=70>).

49. THE WHITE HOUSE, *THE NATIONAL STRATEGY OF AMERICA* 4 (2002), available at <http://www.whitehouse.gov/nsc/nss.html>.

that is not yet fully formed? “The doctrine of self-defense would be enlarged abusively, without limit or constraint . . . Force must be put in the service of law,”⁵⁰ French leaders stress forcefully.

Third, “Confronted with a new world,” asserts Dominique de Villepin, “it is imperative that actions of the international community be guided by principles. First and foremost is respect for law. Keystone of the international order, it must be applied in all circumstances.”⁵¹ This is not the case with the policy followed by the Bush administration. It has greatly accelerated the movement for the dismantling of international law already under way for several years in the legal policies of the United States, which have erected into near dogma constitutional nationalism and a double standard. For instance, the American Constitution and American legislation prevail over international agreements,⁵² including the United Nations Charter, and that whenever the vital interests of the United States are involved it would be a “mistake” to ask the U.N. “to sanction the use of . . . power.”⁵³ On the other hand, according to Robert Kagan’s observations, the present Bush administration employs a “double standard”:⁵⁴ the international rule applies to others, but not to the United States (for instance, American nationals must not be subject to the jurisdiction of the International Criminal Court) and also the rule of law is not applicable to the enemies of the United States (for example, the non-application of the Geneva Conventions, judged to be “obsolete,” to persons considered by the Bush administration to be “enemy combatants” or “irregular combatants”;⁵⁵ and the authorization of the torture of Iraqi and Al Qaida prisoners,⁵⁶ etc.). This conception, damaging to the very credibility of the new order that the United States wants to impose on the rest of the world, strongly and deeply conflicts in the most obvious way with the convictions of Europeans, and of France, which sees itself as the leader of a French-inspired Europe.

II. A EUROPE À LA FRANÇAISE

France, even though today a mid-level power, would like to “retain its [former] rank on the international stage;” France, “beacon to the world,” wants to remain as “the third international reality,”⁵⁷ after the United States and Russia. But what is to be done when it no longer possesses the political means to pursue its own policies? De Gaulle—who never forgot how he himself, and through him, a defeated France, were treated by Churchill and Roosevelt as negligible during and after the Second World

50. VILLEPIN, *supra* note 29, at 118-19.

51. *Id.* at 104.

52. See ABDELKHALEQ BERRAMDANE, *LA HIÉRARCHIE DES DROITS. DROITS INTERNES ET DROIT EUROPÉEN ET INTERNATIONAL* (2003).

53. Condoleezza Rice, *Promoting the National Interest*, FOREIGN AFFAIRS, Jan./Feb. 2000, at 45, 47-48.

54. Robert Kagan, *Power and Weakness*, 113 POL’Y REV. (2002), <http://www.policyreview.org/jum02/kagan.html>.

55. Memorandum from Albert Gonzales to the President (Jan. 25, 2002); Memorandum from President George W. Bush (2002), in LE MONDE, Jan. 8, 2005.

56. Memorandum from the Ministry of Justice on the rules of conduct during interrogations (Aug. 1, 2002), in LE MONDE, (June 10, 2004, Jan. 8, 2005).

57. ALAIN PEYREFITTE, *C’ÉTAIT DE GAULLE*, VOL. 4 292-94 (2002).

War—came to realize that the future of France depended on Europe. “What is the purpose of Europe?” he confided to Alain Peyrefitte:

It must be used to prevent us from being dominated, either by the Americans or the Russians. The Six of us ought to be able to do just as well as each of the two superpowers. And if France manages to be the first of the Six, which is within our reach, it will be in the position to wield *Archimedes lever*. It will be able to lead the others along. Europe is a means for France to become again what it ceased to be after Waterloo: the first in the world.⁵⁸

To build Europe and to be captain of the team, this has been one of the major directions of French diplomacy since the beginning of the Fifth Republic until today. In so doing, France’s objective is, and always has been, to counterbalance the *transatlantic partnership* so that it might “confidently move forward.”⁵⁹

A. Europe as a Lever to Increase French Influence

Paul Valery predicted at the beginning of the 20th century that Europe was visibly aspiring to be governed by an American authority; all European policies pointed in that direction.⁶⁰ But France still rejects this notion. The successive presidents of the Fifth Republic, with great continuity, but not without certain stylistic differences, were all convinced that France, as a mid-level power could only be strong *by* and *in* Europe. Like his predecessors—de Gaulle, Giscard d’Estaing, and François Mitterand—President Jacques Chirac repeatedly reminds France that “Europe increases [the] strength [of France] on the international stage.”⁶¹ This is so because Europe serves both as a vehicle for French policies and a megaphone for its strategic ambitions.

Europe as vehicle for French policies

“The European Union is a multiplier of [French] influence.”⁶² This effect is felt first in Europe. Because how indeed could France *project* its ambition to act effectively in the world through the Union if the Union had not already imbibed, or been infused with, *the French vision of Europe*? That is why French leaders work to *instill*, *infuse*, and *diffuse* their idea of power in the construction of Europe. They want to “bring into being a real European power,”⁶³ and strive to give it both body and soul. According to

58. *Id.* at 175 (emphasis added).

59. VILLEPIN, *supra* note 29, at 151.

60. See PAUL VALERY, REFLECTIONS ON THE WORLD TODAY (Francis Scarfe trans.) (1948).

61. President Jacques Chirac, Referendum on the European Constitution: Statement to the French by M. Jacques Chirac, President of the Republic, (May 31, 2005), http://www.elysee.fr/elysee/fr/anglais/speeches_and_documents/2005/referendum_on_the_european_constitution_statement_to_the_french_by_m_jacques_chirac_president_of_the_republic.30886.html.

62. Interview with Michel Barnier, Minister of Foreign Affairs, LIBÉRATION, (Feb. 7, 2005).

63. President Jacques Chirac, Déclaration aux Français sur le référendum sur le traité établissant une Constitution pour l’Europe, (May 26, 2005), http://www.elysee.fr/elysee/elysee/fr/francais/interventions/interviews_articles_de_presse_et_interventions_televees/2005/mai/declaration_aux_francais_sur_le_referendum_francais_sur_le_traite_constitutionnel_pour_l_europe.29980.html.

Michel Barnier, former Minister of Foreign Affairs, even if “Europe is [today] a power in the world, it is not yet a world power. This transition is our greatest challenge.”⁶⁴

Also, for French leaders the drafting of the Treaty Establishing a Constitution for Europe, signed in Rome on October 29, 2004, was the ideal opportunity to crystallize in a foundational text their national aspirations. They succeeded in part, thanks to help from Germany. They succeed to such an extent that to the question: “Does the Treaty strengthen France in Europe?” President Jacques Chirac responds “yes, [without hesitation].”⁶⁵ Among other things the constitutional treaty increases the number of votes France has in the European Council by 50%, accepts its social and cultural models (protection of the public service sector, safeguarding the French cultural exception), and incorporates the values it holds dear (the Charter of Fundamental Rights).

In addition, the constitutional treaty accepts, in part, French institutional ideas for Europe. It represents a compromise between French and German conceptions.⁶⁶ Most notably, it provides for a strong and stable Union presidency—halfway between a French-style president and a German-style president—who would lead and coordinate the work of the European Council and who would be responsible for representing the Union abroad and capable of speaking for Europe on the international stage.⁶⁷ It also provides for a Minister of Foreign Affairs, with a triple responsibility (to the European Council, to the President of the Commission, and to the European Parliament), in charge of the PESC/PESD (*Politique étrangère et de sécurité commune/Politique Européenne de Sécurité et de Defense*, or Common Foreign and Security Policy/European Security and Defense Policy) and assuring the consistency and coordination of the Union’s external relations.⁶⁸

Furthermore, the constitutional treaty accepts, in part, France’s strategic choices for Europe. First, the proposed Treaty Establishing a Constitution for Europe constitutionalizes and consolidates, albeit cautiously and pragmatically, the strategy of military power for the Union, a policy introduced by France along with Germany and with the cautious support of the United Kingdom (since the Cologne Summit of June 3-4, 1999). This is a strategy of existential autonomy with respect both to NATO and to the principal European military power, the United States. Thus, the constitutional treaty is leading slowly but surely toward a common defense, as championed by France, resting on civil and military instrumentalities, on the

64. Michel Barnier, Minister of Foreign Affairs, Address at the 30ème anniversaire du centre d’Analyse et de Prévision “Comprendre pour agir” (July 9, 2004).

65. President Jacques Chirac, *supra* note 63.

66. See the Franco-German contributions to the European Convention headed by former French President Valéry Giscard d’Estaing (the Convention produced a first draft of the constitutional treaty which was later amended in small ways by the Intergovernmental Conference): (1) in the area of European security and defense policy (CONV 422/02, CONTRIB 150, Nov. 22, 2002); (2) in the area of justice and home affairs (CONV 435/02, CONTRIB 156, Nov. 28, 2002); (3) with respect to the institutional structure of the Union (CONV 489/03, CONTRIB 192, Jan. 16, 2003); available at <http://european-convention.eu.int/bienvenue.asp?lang=EN>.

67. Treaty Establishing a Constitution for Europe, Dec. 16, 2004, 2004 O.J. (C 310) 1, art. 1-22.

68. Treaty Establishing a Constitution for Europe, Dec. 16, 2004, 2004 O.J. (C 310) 1, art. 1-28. For further discussion of this subject, see ABDELKHALEQ BERRAMDANE AND JEAN ROSSETTO, *LE DROIT INSTITUTIONNEL DE L’UNION EUROPÉENNE* (2005).

availability of national forces placed at the disposition of the Union, and on a European Defense Agency for armaments (article I-41 of the Treaty).

Finally, in accordance with the Union's "global vision of security," called for by France, with German support, the constitutional treaty elaborates a strategy of functional autonomy for the Union.⁶⁹ On the one hand, such a strategy aims at the defense of the independence and territorial integrity of the Union with the inclusion of a clause calling for collective solidarity against terrorism (article I-43) and the borrowing of the collective self-defense clause from the UEO⁷⁰ (article I-47). On the other hand, it aims at the actual projection of Union power beyond its "frontiers." In this respect the constitutional treaty incorporates certain joint Franco-German proposals. To this end it provides for: (1) crisis management missions anywhere in the world that would be entrusted to all member states together or just to some of them (I-41 §1 and §5); (2) enhanced cooperation in the area of defense (article I-44); and (3) "structured cooperation," a more limited form of cooperation outside of the "Euro-defense-zone," open to those member states with sufficient military capacity (article I-41 §6).

If "France is building itself up and strengthening itself in Europe," it is also positioning itself as a world power through the European Union.⁷¹

Europe as megaphone for France

Europe is an instrument for the projection of France's ambition to be a factor on the world stage and for the amplification of its role as global actor. But it is also an instrument for the projection of the global power of the United States. Europe serves the strategic ambitions of both the United States and France. As Zbigniew Brzezinski judiciously notes, "Basically, France would like a world in which [its] voice, projected by Europe, echoed throughout the globe. Most French citizens understand that, by [itself], France is a middling power. But if Europe's power can be harnessed, France will be able to attain the world role to which [it] clearly aspires."⁷²

France positions itself as a world power not only through the European Union, but also through other international organizations. For the United States, however, international organizations are primarily institutions that limit (or occasionally legitimize) American omnipotence. In this respect the European Union is a lever for increasing France's power, just as are international organizations, especially the United Nations Security Council and NATO, where France has veto power. Through the Security Council, France's voice is heard and counts, as is amply demonstrated by its attitude within the Security Council at the time of the Iraq war and later by its conciliatory attitude toward the United States at the close of hostilities, when the

69. Dominique de Villepin & Joschka Fischer, Contribution presenting joint Franco-German proposals for the European Convention in the field of European Security and Defence policy, (CONV 422/02, CONTRIB 150, Nov. 22, 2002), available at <http://register.consilium.eu.int/pdf/en/02/cv00/00422en2.pdf>.

70. Union de l'Europe Occidentale (Western European Union).

71. VILLEPIN, *supra* note 29, at 169.

72. Interview with Zbigniew Brzezinski, former National Security Advisor under Jimmy Carter, LE MONDE (July 13, 2004); see generally ZBIGNIEW BRZEZINSKI, LE VRAI CHOIX: LES ETATS UNIS ET LE RESTE DU MONDE (2004).

United States once again referred the Iraq matter to the U.N. And France's role within NATO is undeniable, as is demonstrated by its opposition during the Kosovo conflict to American bombing of certain targets in Serbia and its opposition to any relief of allied forces by NATO.

However, France alone, if isolated in Europe, cannot effectively influence its partners or cause them to follow its lead. An alliance *within* the European alliance is necessary: thus we have the Franco-German couple. General de Gaulle understood this as early as the 1960s, when he concluded the Franco-German Élysée Treaty of Friendship on January 22, 1963. And since then, this agreement has never come undone. The Franco-German couple has become the driving force behind the European project. The great advances from the Single European Act to the Treaties of Maastricht, Amsterdam, and Nice, and finally the proposed Treaty Establishing a Constitution for Europe have been above all the work of the Franco-German axis. Moreover, within this tandem, France intends to remain, if not the leader, at least the equal of Germany. Witness the bitter Franco-German bargaining during the European Summit in Nice in December 2000. President Jacques Chirac, in effect, rejected at all costs any uncoupling of France and Germany with respect to the number of votes that each of the two countries would have in decision-making in the Council of the European Union. For the chief of state, it was vital that France retain the same number of votes as Germany, despite Germany's greater population since its reunification and its more advanced economy.

But how can France's echo be amplified on the international stage when its voice becomes increasingly muffled and its influence weaker within the European Union? One of the principal effects of the successive enlargements is the *dilution* of the French presence within the Union's institutions.⁷³ The increase in the number of member states has led to a reduction in the number of French members of the European Parliament (from 87 to 72), the loss of a second French commissioner, and the diminution of French voting power in the Council; not to mention the decline of the use of the French language, an important means of influence, within Union institutions. France's image and its political influence within the Union are also suffering from the arrogance of its leaders (as was the case during the Union's internal divisions concerning the Iraq war)⁷⁴ and from the wariness of certain member states of the idea of a European power, which would be built *against* the United States. Finally, the blocking of the French project, by opening Union membership to Turkey, a move favored by the United States, and finally accepted by France, seems to indicate a renouncement by President Jacques Chirac of a Europe as a power in favor of a European space (sort of a Euro-Mediterranean union), an idea favored by the United Kingdom and the United States.

73. Before the fifth enlargement, France, Germany, Italy, and the United Kingdom each had ten votes and Spain eight votes. A qualified majority required sixty-two votes out of eighty-seven. As of November 1, 2004, Germany, the United Kingdom, France, and Italy each had twenty-nine votes, and Spain and Poland had twenty-seven. A qualified majority now required 232 votes out of a total of 321 votes, also representing 62 percent of the population of the Union.

74. President Jacques Chirac had declared that the leaders of the Union's future member states who had supported the United States had "wasted a good opportunity to shut up." See Charles M. Sennott, *War a 'Last Resort,' European Leaders Declare at Summit*, BOSTON GLOBE, Feb. 18, 2003, at A1.

B. Europe as a Counterweight to the Transatlantic Partnership

Since the end of the Cold War, the United States and Europe have each reclaimed part of their respective freedom. The alliance is no longer a vital *necessity* in the face of a common monolithic enemy. It has become, according to French leaders, a *choice* to be made to confront the multiple and shifting dangers and challenges of today. And “it is in the interest of the United States to understand that neither it nor the Europeans can confront alone the world’s challenges.”⁷⁵ Each must be aware, advises President Jacques Chirac, that “the long-standing preeminence of the West and its example” is “now being challenged” and that a “multipolar world” is already a reality, with Europe as one of its components.⁷⁶ This multipolar vision is not shared by American leaders.⁷⁷ They seem to fear the emergence of a real European power that would rival that of the United States in spite of the fact that French leaders unceasingly call for a “refoundation” of transatlantic relations on a more equal footing.⁷⁸

Europe, a Counterweight to the Transatlantic Partnership?

On the one hand, with the disappearance of the Soviet bloc, European integration no longer seems to be a priority for the United States. Europe seems to be less and less at the center of American foreign policy. This *devaluation* of the European Union appears to be fostered and encouraged by the neoconservatives—who are very influential in the present Bush administration—who recommend that Washington slow down the process of European integration, if not push for its dismemberment, and encourage enlargement of the Union to the detriment of its deepening in order to better dilute the European project.⁷⁹

On the other hand, the United States wants to protect itself against the European will *to exist* and to become a world player, capable of rivaling the United States itself, if not threatening its hegemony. A politically and economically powerful Europe, emancipated from military dependence on the United States might compete with the United States and even contest its preeminence.

The American attitude toward Europe thus remains ambivalent, oscillating between relative disinterest and the fear of witnessing the emergence of a counterweight to the United States. This ambivalence is evident on the political, economic, and military levels.

On the political level, the Bush administration is divided. It is careful to see in the European Union an ally capable of helping the United States in areas like the struggle against terrorism, the proliferation of weapons of mass destruction (the cases of Iran and North Korea), and with regional conflicts (Afghanistan and the Middle East). But

75. Interview with Michel Barnier, *supra* note 62.

76. President Jacques Chirac, Special Address to the International Institute for Strategic Studies (Nov. 18, 2004), <http://www.iiss.org/conferencepage.php?confID=70>.

77. In her June 26, 2003 speech before the International Institute for Strategic Studies, then National Security Adviser Condoleezza Rice declared: “Multi-polarity is a theory of rivalry; of competing interests—and at its worst—competing values.” (transcript available at <http://www.iiss.org>).

78. VILLEPIN, *supra* note 29, at 344, 348.

79. On American neoconservative literature, see SALAMÉ GHASSAN, QUAND L’AMÉRIQUE REFAIT LE MONDE 355 *et seq.* (2005).

it is also apprehensive with respect to European institutions, favoring bilateral alliances with loyal countries (like the United Kingdom), and taking advantage of divisions between European countries (as was the case at the time of the Iraq war and with respect to the International Criminal Court with American pressure on candidate states to conclude bilateral agreements with it to exempt American nationals from the jurisdiction of the Court).

On the economic level, it is clear that the European Union and the United States are two superpowers and indispensable partners (with respect to commercial intercourse and the flow of investments between the two entities). But this does not preclude rivalries, as the negotiations for the liberalization of trade within the World Trade Organization demonstrated. Especially telling is the increase in disputes between the United States and the European Union that have been brought before the organization pursuant to its Dispute Settlement Understanding.⁸⁰

Finally and most importantly, on the strategic level, the United States has finally accepted that the European Union possesses an *autonomous* European defense and security policy, separate from that of NATO. But the United States still seeks to control it, as witnessed by the different arrangements concluded between the two organizations, with the following results: (1) the affirmation, to NATO's advantage, of a "right of first refusal," that is, a right of preemption in favor of NATO to deal with a given crisis; (2) the Union can decide to undertake military operations with its own resources, but only in exceptional situations—it must accord priority to the mechanisms established by the so-called "Berlin plus" agreement of March 17, 2003, by resorting first to NATO resources so as to avoid needless duplication. Given these conditions, we might very well wonder if the United States really accepts an active role for Europe or if it does not consider the Union simply as "a reservoir of forces available to support American initiatives or to take over from the United States in post-conflict stabilization situations."⁸¹

A Renewed Transatlantic Partnership?

From the American perspective, the European-Atlantic partnership is necessary for both entities. It might even rest on two pillars, but two pillars unequal in size, in what would be, in effect, an *asymmetrical relationship*. According to Zbigniew Brzezinski:

The only real option is not a European partner of equal weight, and even less a European counterweight, but a European partner with weighty influence in the shaping and implementation of a shared global policy. The exercise of critically important influence, even if it does not involve exactly an equal share of decision-making, requires a willingness on both sides to act together when action is needed.⁸²

80. See, e.g., proceedings concerning European steel, agricultural subsidies on both sides of the Atlantic, American Foreign Sales Corporations, genetically modified organisms, etc.

81. JEAN-FRANÇOIS PONCET, ET AL., RELATIONS TRANSATLANTIQUES: QUELLES PERSPECTIVES POUR LE SECOND MANDAT DU PRÉSIDENT BUSH? RAPPORT D'INFORMATION No.307 (April 14, 2005), <http://senat.fr/rapsen.html>.

82. BRZEZINSKI, *supra* note 72.

France rejects this unequal dependence, which it finds obsolete at the very time when “we must embark upon a real refoundation of the global system.”⁸³ According to the former Minister of Foreign Affairs Michel Barnier, “alliance does not mean allegiance. A renewed Atlantic Alliance must rest on two pillars [European and American],”⁸⁴ but “two symmetrical and equal pillars, sharing the burden but also the responsibilities.”⁸⁵ A European power would not necessarily come into being to the detriment of the United States. To the contrary, according to French leaders, a stronger Europe would contribute to a stronger partnership. What is more, they add, it is in the best interest of the United States for Europe to provide a counterweight to the American vision. “A European power would actually be useful to everyone, even to the United States, which would be better served by being able to work out friendly and cooperative limits to its own actions.”⁸⁶ In conclusion, we cannot treat France’s wish for independence and its positioning as a great power as simple “whims without consequence.” It is hard to consider the presence of the United States on the old continent as a *vital necessity* without which Europe would return to its old demons; it is likewise difficult to conceive that any “challenge to the Atlantic relationship would be fatal to the destiny of Europe.”⁸⁷ The Cold War is over! A new era has begun. In this age of globalization, we are witnessing the emergence of new entities, of new centers of power, and Europe is certainly one of them. There is no question that the Atlantic partnership will remain a necessity, but a necessity of choice—a “balanced partnership,” in the words of Jacques Chirac—which serves the interests of both protagonists if they want to continue together to enjoy global preeminence. Otherwise, the relationship might continue to deteriorate. As Alexis de Tocqueville wrote in 1835, “[T]he two continents [Europe and America] can never live entirely independently from each other: there exist too many natural ties between their needs, their ideas, their habits, and their customs.”⁸⁸ But even at the dawn of the 21st century, this dependence has to be equal and mutually advantageous.

83. VILLEPIN, *supra* note 29, at 342.

84. Interview with Michel Barnier, *supra* note 62.

85. The approach is shared by Germany: “We can only have stable transatlantic relations if the two pillars of this bridge across the North Atlantic are able to bear more or less the same burden,” asserted Joschka Fischer, former German Foreign Minister, Speech at Princeton University: Europe and the Future of Transatlantic Relations (Nov. 19, 2003).

86. Isabelle Lasserre & Grégory Rayko, *Interview with Hubert Védrine: Pour une “Europe puissance,”* 106 POLITIQUE INTERNATIONALE 21 (2004/2005), available at http://www.politiqueinternationale.com/PI_PSO/fram_dp_106_05_re.htm.

87. BRZEZINSKI, *supra* note 72, at 124, 128. According to Brzezinski, Europe “cannot be secure without America, it cannot unite against America.” *Id.* at 293.

88. 1 ALEXIS DE TOQUEVILLE, DE LA DÉMOCRATIE EN AMÉRIQUE 524 (Flammarion 1981) (1835).