

THE BROOKINGS INSTITUTION
CENTER ON THE UNITED STATES AND EUROPE

INTERVENTION DE NOËLLE LENOIR
PRESIDENTE DE L'INSTITUT DE L'EUROPE

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P R O C E E D I N G S

MR. GORDON: [In progress] -- we'll try to promote.

We've got lots of speakers on each of the panels, so we will not be having long introductory speeches; rather, we will try to generate conversation, and the Chairs will ask challenging, hopefully provocative questions of the panelists and get them to tell us what they think and encourage dialogue amongst them. And then we will also open up the discussion to those of you in the room.

Let me, before I introduce the panel and launch the opening discussion, just thank a couple of the organizations that helped us make this possible. The German Marshall Fund of the United States has been a longstanding supporter of our transatlantic work here, and we thank them. The Daimler Chrysler Corporation has been supportive and sponsors a regular dialogue we have at the official level with Europeans. The Council on the U.S. and Italy, we acknowledge Cesare Merlini sponsoring our work on Italy and the broader transatlantic dialogue, which has kept us busy

lately with some activities in that country. We have a partnership with the Luso-American Foundation in Portugal and with the Economic Policy Research Institute in Turkey, helping us keep a thriving Turkey program. The European Commission helped us with some work on the U.S., Europe, and the Middle East last year, which led to "The Crescent of Crisis" book which is outside, and is currently working with us on a project on U.S., Europe, and China.

There is much more and there are many more individuals that also helped make all of this possible, but I wanted to acknowledge all of those and apologies to anyone I overlooked.

Is the European Union Failing?

Politics and Policy after the Referendums"

Let us then turn to the question of the European Union with this distinguished panel. To my right--I think you know all of these people, but I'll briefly introduced them--Joschka Fischer was, of course, Foreign Minister for Germany for most of the recent years and is still a member of the Bundestag and active participant in all of these debates. We are delighted to have him here, doubly so, in fact, because Joschka Fischer was

willing to work for us twice today, not only discussing the European Union this morning, but he will be back this afternoon on the war on terror panel, and we are really grateful for you to come and participate in this way.

Noelle Lenoir, to my left, also well known to many of you, is the President of the European Institute at HEC Business School and was Minister for European Affairs in the French Government, in the government of Lionel Jospin, from, I think, 2002 to 2004.

MS. LENOIR: Raffarin.

MR. GORDON: Raffarin government, excuse me.

Andy Moravcsik, professor of politics at Princeton University for at least the past several years, was for about a decade professor of politics at Harvard before that. Again, his writings and work on the European Union are well known to all of you. He has been a participant in this conference before. He is also a nonresident senior fellow at the Center on the U.S. and Europe and Brookings. Andy, thanks for coming down.

And then finally, Jerry Baker, also a participant in the conference in past years, is

the U.S. editor of the Times of London, a regular columnist for that paper, writes for the Weekly Standard, formerly with the Financial Times.

A diverse set of expert views on the European Union, and let us begin with that, and I will turn first, if I could, to Joschka Fischer. We provocatively entitled this panel, I think, "Is the European Union Failing?" So I guess that is the opening question. We had the rejection of the constitution. I guess the basic question is: Does that mean that this constitution is dead or could it be revived? And if so, how can Europe move forward and what really are the lessons from what looks like a failure of the process?

Joschka?

MR. FISCHER: Well, thank you very much.

To give a very short and provocative answer, if the European Union would fail, this would mean a poorer America, because then after the Middle East you would have another very complicated region with an intense crisis. But I don't believe that the European Union will fail.

The Europe partly of the present crisis is a result of the success of the European Union. It's about enlargement and a serious challenge

after 1989 when the Wall came down. There is a new reality in Europe, and to adjust to this new reality is quite a challenge. But there are also different approaches to Europe, and I would say there was and maybe is a lack of leadership after the generation of Kohl and Mitterrand were out of power.

The different approaches, for the sake of discussion here, there are--if you define the European Union historically, you will see there could be a definition that for U.K. it's a tool to preserve the balance of power and to get--on the European Union continent to get the common free trade zone, which is in the British interest. For France, you can say it's a tool for dominance in the 21st century. And for Germany and Italy, you could say it's a tool to overcome the limits of the two lost wars in the first half of the 20th century. But that's history, and if Europe will follow this pattern, I think it will fail.

On the other side, if you look to the future and see the world as it is in the 21st century where you have the United States, you have emerging super economies in Asia, China and India, these are super-sized economies in the 21st

century, which will change completely also the rule of the international economic system. Even the most powerful or the biggest European nations, the most powerful are the two P-5 members, U.K. and France, and the biggest is Germany, my country, they are sized politically and economically. I don't believe that they can really--I mean, following their interests and play a role as they must play in this new global economy.

Therefore, from my view, there is no alternative but to feed for the Europeans for all of us, if we do not create the common unified Europe on the one hand, this means enlargement. And enlargement on the other side was also, I think, important to preserve peace on the European continent.

We shouldn't forget--I'm not talking now about the first half of the 20th century. I am talking about the Balkan crisis, where we experience exactly what are the generation of our parents or some elders here in the room where they made this experience, that at the end nationalism is the alternative to the European unification

process, and this will create severe crises and frictions in Europe.

So from my view, there is no alternative and knowing also--I mean, making the experience of the Orange Revolution, a Europe of integration on the one hand, Russia on the other hand, and something in between will be also a source, will be a source of instability and others will be invited to play games. So from my view, it's quite clear that the European unification process is for the sake of stability and sake of peace on the European continent crucial.

Now, the debate about the constitution, what is--or what were the major elements of the constitution? It's about a better efficiency. It's about a better efficiency of the institutions, and of a European democracy. This means a better efficiency and a better legitimacy of the European project.

From my view, there was a lack of leadership. There was no need for Tony Blair to go for a referendum. There was no need for Jacques Chirac to follow with a decision. These were not decisions based on the strong--I mean, on a very powerful pressure from the grassroots.

These were mostly tactical positioning of these leaders. And, of course, with the French, no, but I'm sure if the French would have voted yes in the Netherlands, the decision would be also a different one. And the whole mood would have turned. It creates, I think, the most severe crisis the European Union had faced since it was founded with the Treaty of Rome.

Now, we are where we are, and from my view it's very important that we move forward with efficiency on the institutions and more efficient and transparent European democracy, especially in the foreign policy. I mean, we don't--we do not have one European foreign policy imposed on the members states, but what we need is a common European foreign policy with an efficient institution; otherwise, I do not believe that the Europeans can really influence in a positive way the course of the international political system based on their interests and on their values. And by the way, I do not believe that the transatlantic relationship will have a future with a weak Europe, because America will be drawn in by her interest into international politics and the transatlantic relationship will be more and more a

historical structure but not a living structure. And, therefore, for the sake of the transatlantic relationship, I think it is very important to have a unified, to have a strong Europe.

The timeline, as far as I see, is that, I mean, up to the European elections 2009, if the crisis is not fixed in 2012 because the next budget round we'll have in 2013, then I think--and additional enlargements, then I think we will face a very severe crisis. It means that then the project threatens to fail.

I do not believe that the British position let's enlarge but stop talking about institutions and integration will work, because an additional enlarged union will create without efficient institutions which can balance the bigger size and, I mean, the more complicated interests of this enlarged union, at the end it will be a major setback.

On the other side, I don't buy the French position, which is rejecting further enlargement, because the experience of the Balkans I think is a very serious one. I don't believe that we will live with two Europes and, therefore, the integration means that we move forward with

enlargement. I think it would be very short-sighted to say that people don't understand it. I mean, the euro was a project promoted by Kohl and Mitterrand, not backed by the people but with real leadership pushed through. Additional enlargement, Bulgaria, Romania, but also the crisis region of the Western Balkans, and, of course, Turkey. Where would we stand nowadays if in last October we would have closed the door with Turkey with this radicalization in the Middle East? I mean, we would be in a much more messier situation than we are, but it is a serious challenge, and it needs to be tackled. The timeline, I would say optimistically 2009, pessimistically they will need up to 2012. Otherwise, I think this is not a process--this is not a static situation. This is a dynamic situation and the dynamic will turn around. So from my view, if this crisis will not be solved--it's mostly an institutional crisis and crisis of legitimacy--then we will face a serious threat for the very existing of the European integration process.

All in all, I am quite optimistic because the alternatives are weaker than the weak

structures of the European Union. The alternative is very, from my view, backwarded(?) and at the end, I mean, the Europeans have two options: either we trust on real leadership and we will see real leadership, or history once again will teach us a very bitter lesson. But in the end the Europeans will understand that, so I'm quite optimistic that we will muddle through this crisis, and at the end maybe implement Chapter 1. I think also the basic rights is crucial because in the future we will have more and more European space of freedom and security. This means that European institutions will intervene in the individual rights of European citizens. Therefore, you need a definition of the basic rights, but definitely Chapter 1 where you have the improvements, the reform of the institutions, could be and should be implemented. It won't be easy, but I think this might be the way out.

MR. GORDON: Thank you. A lot of big topics we will want to come back to you on. I think we have the agenda not just for the first panel, but possibly for the day. But let's turn to Noelle Lenoir. Joschka Fischer is optimistic, or at least he feels he has to be optimistic

because it will be a disaster if the European Union is dead. But you come from the country that rejected the constitution. You worked on these issues while it was being prepared. Tell us where you think we are.

MS. LENOIR: Well, first, thank you very much for organizing this meeting, and we can hope that at the end we'll have some good ideas to solve the European crisis. Indeed, it's a crisis - I must say - rather different from the previous ones. For once, it has not only to do with the CAP (the Common Agricultural Policy) but with the peoples of Europe, all the peoples of Europe.

I fully agree with what has been said by Joschka Fischer. He has played an enormous role in pushing ahead reforms which would have made the EU more efficient and closer to the citizens. But, a lack of European leadership - the main reason, in my view of the present crisis - did not make it possible.

If I can evoke three questions. First of all--

MR. GORDON: Let me just interrupt you. Can people hear in the back? I want make sure the microphone is okay. Can you hear back there?

MS. LENOIR: Is it okay?

MR. GORDON: Either louder, or you may actually have to hold the handheld near your mouth, because you are not wearing a tie.

[Laughter.]

MS. LENOIR: Well, I rarely wear a tie, but French women are perhaps specific...

MR. GORDON: Is that going to work?

MS. LENOIR: Do you hear me? Okay.

MR. GORDON: Sorry about that.

MS. LENOIR: I wanted to say that I fully agree with what has been said by Joschka Fischer, and if I had to sum up in one expression the real reason of what is happening now in Europe, it's a lack of European leadership.

Let's first turn to history to better understand what has happened recently, especially in France with the No vote. Second, let's see how to relaunch Europe in the short or medium term. Thirdly, we'll have to examine what the true purpose of the building of Europe is. Joschka Fischer was amongst those who raised the question of the goals of Europe, which I think has to be raised. I admit though that it's dangerous because there are now 25 member States of the EU,

tomorrow 27, and perhaps more in the future. It's becoming more and more difficult to define a common goal shared by all these countries. The present situation is moreover quite different from the situation in the post World War II context.

If we turn to history, the message was that of a peaceful and united Europe strongly supported, by the way, by the Americans through the Marshall Plan. I was born just after the war, and I still feel strongly about this message of peace. No war ever again is the motto. As you know, France, like most other European countries, had been at war with its neighbors almost all the time: with Great Britain first and then with Germany. French internal policies were defined in view of the risk of war. For instance, France is largely known for having an important birth rate in Europe due to its natalist policy. But very few know that this pro-birth policy was promoted at the beginning of the 20th Century because of the threat of a war with the Germans. Promoting a high birthrate meant having as many soldiers as possible to fight against the Germans... This example reflects the French fear existing at that time of a possible war with its neighbors.

A few visionary politicians tried to bring about a reconciliation between France and Germany after the Treaty of Versailles signed in 1919: Rathenau and to a certain extent Stresemann in Germany, Aristide Briand in France. But they failed. Why was such an endeavour a success in 1945? Partially thanks to the Americans, but more so thanks to the leadership of what we call now the "founding fathers" of Europe (Monnet, Schuman, Adenauer, De Gasperi, Spaak, etc.).

Now this is just history for most of the present new generations. Europe was built on the desire of peace and democracy. It was aimed at defending the EU nations against themselves, not against an outside enemy. Which doesn't mean that the peoples of Europe feel they all belong to the same political community. And that's the reason of the present crisis. For example, Europeans are not involved in the war on terror in the same way the Americans are. They don't feel at war and that's why there is no such sense of solidarity as you feel here in the U.S. facing terrorist threats. There has been these atrocious attacks in Madrid in March 2003 and London in July 2005. Everyone was horrified. But I am not sure that we

felt concerned as Europeans. We shared sorrow much more as neighbors of Spain and Great Britain. Vis-à-vis the European challenge, our enemy is ourselves (especially the French who are going through a moral and political crisis). Europeans don't feel as united as they should to regard the EU as the real common project of vital importance for all of them.

My second point , to answer to your question, is to examine what has happened in France. How does one explain that the French, whose entity is so embedded in Europe, have rejected the EU constitution whose idea was launched by their political leaders? What has happened since May 2005-- the riots in the suburbs, the rejection of the government's proposal to make labor contracts for the youth more flexible and attractive to employers - not only reflects peoples' distrust vis-à-vis politicians, but appears to be a kind of self denial. In that respect, the no vote to the referendum on the EU constitution was more a protest vote than an anti-EU vote.

I must confess I was opposed to the launching of a referendum on the constitutional

treaty merely because, in France, referenda don't work. Everyone here knows the famous joke according to which "Great Britain is a constitutional monarchy and France has a monarchist constitution." Indeed, in France, intermediary powers are not very strong. The French Parliament, contrary to what is the case in a parliamentary regime, is much less powerful than the Executive Branch. The judiciary branch, contrary to what is the case in the US, is far from being considered as the third power. Local authorities enjoy extensive powers, but at the local level. It's a centralized political regime. This explains why French citizens are so inclined to take to the streets to make their voice heard. In my view, the no vote was in fact a kind of demonstration. It was not in the streets, but it was in the voting station and played the same role.

The second reason for the No vote is due to the French general dislike of economic competition. It's no secret that the French are not as pro-market economy oriented as the other Europeans. The UMP, which forms the center right majority in Parliament and is partially made of

former Gaullists, is because of this considered, according to an article published recently in the Economist, as more left-wing than the Spanish or Italian Social Democrats... The EU internal market is undoubtedly a great success and French corporate companies greatly benefit from it. After the war, big utilities were put in place (EDF, GDF, Renault...). Some of them have now been privatized. And these privatizations have been a great success. French companies of the "CAC 40" have deployed their activities on the single market and the creation of the single currency helped them to extend the scope of their activities throughout the market place. But the real issue for the French is social welfare. Europe had little to do with welfare but this has not been explained. Europe is thus often taken as a scapegoat since many politicians from the left to the right still see the liberalization of the economy as one of the reasons that causes unemployment... Jean-Claude Juncker, the Prime Minister of Luxembourg humorously said in a recent speech "I want to congratulate the French and the Dutch Governments whose people heard what they were told. Europe is so often presented by them

as being responsible of all the negative aspects of globalization. The electorate heard the message and consequently voted no to the European Constitution!" Too often, National authorities behave as if they were not accountable for the decisions they've helped make at the EU level. More and more political decisions are made at the EU level, but the level of political accountability is still national. This paradoxical situation raises difficulties. The only way to fill this gap for the time being is to inform people about the EU decision making process. The National politicians' role is key to helping citizens adhere to the EU project. If National Governments don't take it upon themselves to promote this project, the support of public opinion will not be obtained, and that's what is happening.

What to do in this context? First of all, I don't think that the refusal of two countries (out of 25) to approve the EU Constitution justifies stopping the ratification process. I am aware that in France it will be difficult to avoid a new referendum on the EU constitution. But, even, for instance, if a new

Constitutional treaty was presented now, it won't be more accepted than the present Constitution. Even if it is a shorter text, as is suggested by Joschka Fischer. It's too early. It's better, in my view, to go on with the ratification of the present text. If 23 out of 25 countries adopt the text (more likely 22 because I don't think that the British will adopt the constitution), it would be a success which would certainly have some influence on the French electorate.

The Nice Treaty, which is in force at the present time, contains a provision which states that as soon as 80 percent of the EU Member States have accepted the EU Constitution, the European Council must meet to examine the situation and decide what has to be done. It's likely that the drafters of the EU Constitution have envisaged a probable No vote, not by the French, but by the British.

I admit it will be hard to obtain a ratification from 80 % of the population of Europe by the deadline (October 2006). This explains why there are a lot of other proposals. For instance, Mrs. Merkel proposed that a social Declaration be annexed to the Constitution to reassure the French

that the so-called social model will be safeguarded. The issue of accountability remains the most crucial. From the very beginning, the European project has been hidden. Those who invented it--Jean Monnet and Robert Schuman in France--did not dare reveal its true political revolutionary dimension. When Robert Schuman, on May 9th 1950, launched the first European project through - the Coal and Steel community - he chose not to forewarn the Ministers of his cabinet (he was Minister of Foreign Affairs) that he would announce in his speech the building of an EU Community based on the reconciliation between France and Germany. He most likely thought they would refuse it. Two main persons did know in advance the meaning of this project: Jean Monnet who devised it and Robert Schuman who decided to adopt and promote the project in question.

But things have changed. In the age of the Internet, it's no longer possible to build democratic institutions in Europe without the EU citizens being aware of them. That's what European democracy is about.

MR. GORDON: We will. Thank you very much. We'll come back to all of that.

Maybe at this point we can bring Andy in and get an American opinion on this. Andy, react to whatever of that you want. You have taken a fairly relaxed view, I think, about the death of the constitution. So tell us why you're not so worried, if you're not, but maybe we could at the same time, when we come to you and Jerry, expand the question a little bit in the sense that you-- "Is the European Union failing?" could be about the institutions, but it could also be about Europe. And there is a view, felt strongly, indeed, in this country or in this town, that it doesn't--the European Union as an institution is one thing, but Europe itself, demographically, economically, militarily, is failing and falling behind.

So if you care to, maybe you could talk about that a bit as well.

MR. MORAVCSIK: Great. Thanks a lot. Can everybody hear me okay in the back? Yes? No? I'll hold this, too.

Well, I think there is another position on the constitutional debate and what we should learn from it, and that is the position that I think is taken by most politicians in Europe, most

French politicians even, most leaders now. It is taken by Barroso. And I think there are two aspects of that. The first is if there's going to be any movement forward on the constitution in the future, 2008, 2009, 2010, it's going to be a slimmed-down version with just a couple of clauses in it, the most important ones, a symbolic preamble, then maybe something about the Foreign Minister, maybe something adjusting voting weights. The substantive essence of the constitution, but not the form of a grand constitution.

And, secondly, many people take the view--it is often stated in the short term, but I think they take this view in the long term also--that Europe ought to be legitimating itself by pragmatic policies more than by abstract constitutional rhetoric or what Barroso calls a Europe of results. And the argument for that strategy is that Europe is really more successful in substantive policy terms these days than people give it credit for. It's coming off, leaving the constitution aside, its most successful decade ever. Enlargement was a monumental achievement, and probably the single most productive policy

promoting global peace and security since the end of the Cold War. It launched a single currency. You might like it as a policy, you might dislike it as a policy, but it's a successful one.

It's moved considerably toward foreign policy consensus. Everybody always talks about Iraq, but what about Iran where pretty much every European government has a similar policy? In the eight months following the collapse of the constitution, a budget went through. Negotiation with Turkey were launched.

MR. : Ukraine. Don't forget Ukraine.

MR. MORAVCSIK: Ukraine. Poll support for Europe is now higher than it was in the half-year before the constitutional debate. And perhaps most importantly, it has in substantive terms, again, in pragmatic terms, a stable constitutional compromise or constitutional settlement in place. Most people, elites and publics, like the basic constitutional form of Europe as it now stands with issues like taxing and spending, social welfare, education, and so on at the national level and issues having to do with economic management, particularly economic

management with externalities across the continent, at the Brussels level.

They tend to support the institutions. They want to see a little more foreign policy cooperation, but the kind of foreign policy cooperation that could be created with relatively little constitutional change.

I would say then that there's a lot of evidence that Europe is a mature constitutional polity. It's a constitutional polity like our own, and so part of the problem is posing a question like, Is Europe about to fail? Or will Europe fail?, it shows a certain lack of confidence, and a lack of confidence that I think is misplaced.

What if in the United States we suddenly said, gee, we don't have confidence in our institutions, we better start debating the fundamental essence of the American Constitution and then holding up clauses of it for referendum vote. That would be a very destabilizing thing. It's necessary if you believe, as my friend Joschka Fischer does, that Europe might really be in trouble in five years if it doesn't solidify its legitimacy base with a constitution. I'm more

optimistic because I think it can be legitimated on pragmatic results, and, therefore, I think I side with those who think that a renewal of a grand constitutional debate might be counterproductive at this point.

So that is on the constitution, and I guess they handed out stuff we had written, so there is an article of mine talking about that.

I think most Americans react to this kind of talk, and they say, well, that is great, but it is kind of high-falutin' institutional talk, we really care about concrete policies, and we're convinced the Europeans are not going to deliver on the concrete policy side because their economic performance is so weak and their ability to reform is so low that they really can't be a player going forward worldwide. And having challenged what was said before, I'll challenge what I know is going to be said afterward by taking an optimistic view about the European economy.

It seems to me when you look at the statistics about productivity growth, economic growth in Europe, and you get rid of differences in hours worked, differences in population growth, statistical artifacts of various kinds, there's a

small relatively short-term differential, maybe eight years out, in economic performance between the United States and Europe. I guess even I am old enough to have been through a couple of cycles of people saying, you know, Japan is going to be the next world power, China is going to be the next world power. Now people are talking down Europe, so I'm a little skeptical of long-term trajectories like this.

But even if you were to extend out the next eight years 50 years into the future, all that would happen would be Europe's percentage of global GDP would reduce from somewhere 20 and 21 percent to somewhere around 18 percent, which is not a world historical shift in power. This remains and will remain for the foreseeable future an extraordinarily wealthy, productive, and capable part of the world. But beyond that, I think that there is evidence that economic reform in Europe is possible. The small countries, many small countries, have already achieved it. The major problems are with the big countries. And I think there's a tendency for the myopic press and media cycle to overlook real successes.

Mr. Fischer's government had real successes in economic reform for which they paid some political price, and I think that is a noble thing. I suspect this government will be able to achieve something as well.

Mr. Villepin gets no credit, as long as he's still around--which may not be long, gets not much credit for messing up labor market reform with young people, but we forget that there was previous labor market reform under that government with some success.

And the EU gets bad press these days because certain cross-national takeovers, particularly in sensitive sectors like energy, are controversial, forgetting that, in fact, the last six months have seen more takeovers in Europe than ever before and a real movement toward consolidation of the economy across the board.

So I think, you know, it's easy to get caught up in six-month, one-year cycles. If you look at the long trends, it seems to me Europe is politically successful and will continue to be going forward, and it is economically better off than we think with more capability for reform than we think.

So that leaves us then turning back to the obvious short-term weaknesses in governments in almost every large country government, and that is a problem, but it's not a problem that fundamental constitutional reform in Europe either caused or will resolve.

MR. GORDON: Great. Let's bring Jerry Baker into the conversation, and then we can come back to others. Jerry, there have been various degrees of optimism about the EU expressed up here, but optimism on the EU has to be defined, and it's usually defined in a certain way, especially when the participants are German Foreign Ministers and Ministers for European Affairs and Ivy League professors. And that definition is that more integration is good and less integration is bad. Maybe you could share your thoughts on that.

MR. BAKER: Thank you very much. Yes, indeed. Well, as the token representative of the English here, you would probably expect me to indulge a little bit of traditional English euro-skeptic schadenfreude about the events in Europe over the last year or two, and for the most part, I won't disappoint you.

[Laughter.]

MR. BAKER: But, actually, I should also say that coming from the U.K., actually where I just spent a few days last week, Britain is actually itself not immune from the sense of political crisis that I think has engulfed Europe in the last year. As you know, Tony Blair, the Prime Minister, is living on time borrowed from an increasingly impatient neighbor who lives next door, and the mood there is getting pretty ugly. And Blair's government sort of reels from one set of problems to another, one crisis to another. Last week, he was losing--he was in danger of losing several members of his cabinet for everything from sexual activity to failing to completely transform the nature of the British Health Service. This week, he faces very important local elections on Thursday in which Labour is almost certain to do very badly, and there will be further pressure on him to go.

I want to address some of these issues that have all--that have been mentioned, and I also want to try and speak a little bit in the brief time that I have about what I think the new British Government, which will certainly take

office, you know, I think within a year, probably--it's unlikely to be that Blair can hold on for much longer than that--what kind of role that new British Government will play led by Gordon Brown, the current Chancellor, in the way Britain sees Europe and Britain's relations with Europe, and insofar as Britain influences the European agenda, where it goes from there.

Very briefly, so if I may, I'll quickly address the issues of the constitution in the last year. On the remarks made by Dr. Fischer and by Noelle Lenoir, I think the problem is--and this is the way--perhaps this is a very Anglo-Saxon way of viewing the world, or the Anglo part of the Anglo-Saxon way of viewing the world--that so much of what we hear--I think it is very striking that you hear European politicians talk about--they say the referendum is a terrible mistake to actually consult with people, actually to have a referendum, what a very bad idea. And we heard it again this morning; you know, the idea that we should consult people about important constitutional changes is not a good one because they might actually reject it. And, unfortunately, that is the way sometimes democracy

works, that people do sometimes reject what it is you are trying to do. And when they do reject what you're trying to do, the usual response in democracy is to stop trying to do it.

But, unfortunately, as I say, the attitude--the problem--and it encapsulates very neatly, I think, the problem of political integration in Europe over the last 30 years, which is that this has proceeded to a very large extent without the legitimation of popular support. And it's not just British. This is not just a British euro-skeptic view. You've seen it again and again.

In fact, not a lot of people know this, as they say, but actually Britain is the only country to have had--is one of the few countries that has had a referendum on Europe in the last 35 years, and we've actually supported the European Union. Other countries have rejected the euro. Other countries have rejected previous constitutional arrangements. Ireland rejected the Nice Treaty the first time around. Denmark has rejected the euro twice. Sweden has rejected it. France very nearly rejected the introduction of the euro, as you'll recall, by a sliver of a

percentage, and then, of course, France and the Netherlands rejected the constitution last year-- all of which has happened over the last 15 years. This has been the pattern in Europe, which is political leadership, intent on an integrating process, for reasons which may be very good ones-- I mean, let's not get into the issues of motivation or indeed of the substance of what they're trying to do, but they proceeded with it without popular support, without legitimation from elections, without legitimation from democratic processes. And that is what has gone wrong, and that is why Europe finds itself in this place where it is today. The euro, which I agree has certainly been implemented and is functioning, but it's creating tremendous problems, still, too-- you're seeing some of the problems in Italy getting worse by the day. Italy is going to have to face a decision I think at some point whether it actually even stays within the euro zone.

But, more importantly, again, these have been things that have been pushed through without proper, widespread, popular consultation, and I just believe that you can't--and the British people have certainly taken this view--that you

can't push this process of integration so far without in the end expecting people to say, "Enough is enough." And I think that's what's happening.

And, again, to take up something that Dr. Fischer said, which is that one of the reasons for European integration is the fear of nationalism, and nationalism--of course, nationalism. Europe has a very baleful history of nationalism, a nationalism that has been absolutely ruinous not only for Europe but for the world. But I fear that the danger is--and, again, the evidence of the last 15 or so years is that the more that Brussels or the more that governments, member governments, especially the most influential member governments, in Paris and Berlin and to some extent even in London, push a process of European integration, the more you resist--you risk a blowback from popular movements, which do produce extremism and nationalism. You're seeing that in France to some extent now. You've seen it in Austria. You're seeing it even again in Britain. I think the far right party, the British National Party, will do rather well in the elections in Britain on Thursday, something we've

never had in Britain. We've never had an extremist right-wing party, if you will, and to some extent, certainly in Europe, in continental Europe, and to some extent as well in Britain, this is being produced by this unwillingness among the European elites, among the European political leadership to consult, to legitimate what they're trying to do with popular support. And I think that's where we are in Europe, and that's what we've got here.

Now, people say, well, you know, actually the constitutional results last year, and we've heard this again this morning, that the French-- well, they weren't really rejecting Europe as such, and it's true always whenever we have a referendum, things get complicated and you don't know exactly the details of the debate. But I think it was pretty clear what the French were rejecting last year, and everybody I've spoken to--I spent some time there, and everybody I've spoken to there says that the French were--I mean, Norman Wass (ph) said this this morning--were reacting against a kind of vision of an economic Europe, a liberal economic Europe as they call it in Europe, which they didn't want. It was seen as

an Anglo--an attempt to institute Anglo-Saxon free market economics into France by the back door, something that they simply weren't prepared to accept. Now, again, you can argue about the merits of that. What you can't argue about is that that points to a vision of their own country, a vision of their own political and economic arrangements for their own country that differs very markedly from what lots of other countries, many other countries in Europe want to do. It obviously differs very markedly from what Britain wants to do and what Britain began to do with Margaret Thatcher's Prime Ministership beginning in 1979, which was a radical economic reform program. But it differs, too, from--look at what those countries--many of the countries that were released from the burden of communism after 1989 when they joined the European Union--before they joined the European Union, they, too, favored a low-tax, open-market, free-trading, economically liberal country and an economically liberal Europe.

And, again, it's perfectly reasonable for countries to disagree on what is the right direction for Europe or for their own countries to

take, but that is the point of having a political system in which sovereignty rests at the national level, and one of the many problems with the European integration process over the last ten years, typified by the constitutional process, was that it was removing power more--removing sovereignty further and further away from the nations and towards a pan-European entity, which simply doesn't have widespread European popular legitimacy. So that is the political--that's the reason the Europeans find themselves in this political condition, the condition that they are in today.

Let me just briefly turn to Andy Moravcsik's very, very, very (?) interview. I mean, I expected to come here and have to sort of indulge in some schadenfreude about the state of Europe. Actually, I'm going to have to sort of stand back and admire Europe's extraordinary economic performance apparently over the last ten years. It's not really recognizable to be absolutely honest, you know, on a reasoned look at the statistics, the data of economic performance over the last decade. As you know, labor productivity has been very weak. If you look at,

again, compared with the United States, the United States labor productivity has accelerated at about 2.5 percent a year--has grown, sorry, at about 2.5 percent a year for the last ten years. Europe is stuck back at about 1 percent.

I do agree with Andy, this is a relatively recent phenomenon. We shouldn't get carried away with the idea that what we have seen over the last 10 or 15 years, especially when 15 years ago people were saying United States is finished, the United States economy is going to be overtaken by these incredibly productive and industrious Europeans, and now, of course, they're saying something different. I completely agree that we should not just simply extrapolate from these recent historical trends grand visions of what the future holds. But I do believe if you look at the hard economic data in Europe, whether it is labor productivity, whether it is the labor force participation, which Europe has--European labor force participation has been extremely poor, and there's no significant indication of that actually improving dramatically. Again, Britain is the exception on this.

If you look at the fiscal condition of Europe, fiscally Europe is in a much--I mean, everybody here is obviously very focused, and rightly, on the long-term challenge of an aging population, Social Security and Medicare. Look at the position in Europe, which is much, much worse, where the demographics are much, much worse, where the birth rate, as you know, in much of Europe is extremely low and where it's getting--it's under replacement rates in many European countries now. And the one factor that could alleviate that, that could vitiate the effects of those problems, which is immigration, is incredibly politically contentious.

One of the things we have seen in Europe in the last year, particularly in France, before this latest round of political crises, was the issue of how the integration--the successful integration of immigrants into European society and into the European economy. And, again, despite what Andy says, while that has been--again, we have a big debate about immigration particularly poignant today, what's going on in the United States. But the United States has proved so much more effective at integrating

immigrants into its economy than the Europeans have. This is a profound economic challenge that the Europeans don't really show--and, again, despite what Andy said, have not shown in the last few years, really serious ability to get to grips with.

So, yeah, I do think Europeans have been ignoring the bigger economic challenges that they face, the economic challenges of deregulation, of labor market reform, of fiscal reform, of significantly reducing the role that the state plays and the rate of taxes in their economy. I think they've been ignoring those bigger problems, pushing ahead instead with this political process against the will to a very large extent of many of the people of Europe. And I think that's why they find themselves in the position that they're now in. And I think that, you know, unless--I think slowly probably that realization is dawning. They have got their priorities wrong. I think they will be helped along in that process of realizing that they've got things wrong by the Prime Ministership of Gordon Brown in Britain, who has spent the last ten years essentially lecturing the Europeans on what they've got wrong in their

economy, and I think will take great pleasure as Prime Minister in probably continuing that.

You know, the old joke always used to be that you could always tell when the British had arrived in the Brussels airport because the whining continued long after the engines had been turned off.

[Laughter.]

MR. BAKER: I think under Gordon Brown that's going to take on a whole new meaning. I think people will get used to a political--to a government in Britain that is markedly less enthusiastic about Europe, even than this one, which Tony Blair started off being very enthusiastic, but is going to be--Labour will get considerably less enthusiastic about Europe, and the political opposition is, of course, even more euro-skeptic.

So I think we are seeing, you know, for Europe itself big, big challenges, big questions that have not really been dealt with, and I think Britain will also face perhaps even bigger questions about the nature of its relationship with Europe unless--certainly if Europe continues

uninterrupted, essentially, by the problems of the last year.

MR. GORDON: Jerry, thank you very much.

Everybody has now had their say, and at this point panelists are welcome to reach to each other, disagree with each other, get angry with each other, cut each other off and so on. Maybe we'll give Joschka Fischer and Noelle Lenoir a chance to do that initially, and Andy as well to the latest set of remarks, which essentially I think said that those of you who are optimistic are optimistic because you choose to be. I think you called it (?) -mismus. You just need to be, so you are, and, in fact, according to Jerry Baker, Europeans don't support the European integration project and Europe is in big trouble. Is that actually the situation?

MR. FISCHER: Thank you very much.

Gerard. I mean, you woke me up.

[Laughter.]

MR. FISCHER: It's very, very important because, I mean, now it's--that's Europe for the American audience.

I learned something from your contribution, that at the end, I mean, you think

that the direct rule by referenda would be perfect, so that we should transform in Europe and the European Union and political decisionmaking process towards Switzerland. But then you have also to tell the price for that. I mean, you can say you are opposing the euro. Fine. Britain is not part of the euro. But the rest of us are very happy.

You cannot blame the euro for the mess in Italy and for Berlusconi. I mean, Italy was one of the big, big winners of the implementing of the euro. The Italian economy, I think only the--they reduced the interest rates by entering the euro I think about 50 percent or more. And this was lost by performance by a government--I don't want to qualify it. But this benefit for the Italian economy and don't talk with Italian greens or leftists, speak with the Italian representatives of (?) or whoever, read the economic pages in Italian newspapers, and you will see this was a bad performance, bad politics by a national government. You can't blame the euro for that, so please don't do it.

And immigration. The right, you have now a rebirth of the European right thanks to the

European Union because we pushed forward. I mean, this is ridiculous. Sorry to say that. The national front is not growing in the U.K. or (?) is not growing because we had the constitutional process. Immigration, enlargement--these are the two major core issues. And immigration is not a European problem. It's a national problem. The situation is completely different in Germany than in Portugal. For example, the reaction on immigrants or in the United Kingdom or in Ireland, it's different from France or Belgium. So this is not a European policy. This is not part of the European integration process. This is a national challenge. And thanks to a new geography in Europe, at the end of the Cold War this was--from my view you can't blame the European institutions for that. We have now a new geography, a new economic geography in Europe, and I have a completely different view what Europe really--I mean, the power of Europe, if you look back, to integrate ten more member states was crucial. And ten more member states, from 15 to 25, and within the next year I think 27. And others will follow.

So if you would go for a direct vote in Germany, say yes to the integration of new member

states, you will lose it. And I think the same in France or in the U.K. You will not win a direct vote about enlargement. So please be consequent, if you think direct vote is important, let's go for direct vote about enlargement, and this would be the kiss of death immediately. And this would be a severe blow against peace and stability on the European continent. So you have to make up your mind. Either you are in favor of your heroic principle of direct vote, then implement it, but not selective. Do it again and again. And this will be completely directed against the interests of the U.K. and all the other European nations, because we will not win these votes.

If you would go in Germany--I'm talking about my country, but I'm sure this is the truth about direct vote in all the member states. Shall we enlarge the European Union with Romania and Bulgaria? What do you think?

MR. BAKER: Well, several European countries are already committed to a direct vote on many of these issues, you know, particularly the role of Turkish membership.

MR. FISCHER: They are committed now. Whether they will do it within 15 years, we'll

see. We'll see. But the consequence--look, from my view, we have to define what is the European Union about. Is it about an ideology that we need a common Europe? I don't have an ideological approach. I have a historical approach, and I'm looking to the future. And the European Union is not a super state where we'll overcome the national states. It will be always much more less than the United States. But it will be much more than a loose federation.

So it's a new experience based on national states. From my view, we have three challenges. The challenge is our history, and it's a serious challenge. The challenge is our neighborhood. We cannot deal with our neighborhood. Look to Russia. We cannot deal with our neighborhood. Look to the Middle East and the Mediterranean where our security will be defined. We cannot deal with our neighborhood. Look to Africa. When Africa will start to export its conflicts in the 21st century, Europe will be the major redress for these exports. We cannot deal with immigration in a common democratic and space of security without having efficient institutions and to deal with that.

We have to pull part of our sovereignty where Europe is the fitting size for dealing with these challenges in the future, and other parts of the sovereignty will be rested on national states.

So I think we have to move forward in that direction, not driven by ideological reasons but by common interests. And, therefore, we shouldn't blame Europe. I mean the European bureaucracy, pan-European institutions.

The city of Munich has a bigger bureaucracy than the whole European Union. I think even the city of London might have a greater bureaucracy than the whole European Union. So we are talking a very powerful democracy, sir. But once again, from my view, without the European Union--or let me go back one moment.

Talking after 1989 with the Eastern and Southeastern Europeans, the answer was always very simple. What was at the top of their national agenda? To be a member of NATO and to be a member of EU. Why is that so? Because it means security and development. Very closely interlinked.

If you look to the Mediterranean, I am old enough, I remember very well Franco Salazar.

I remember the colonels, the military dictatorship in Greece.

Look to Ireland. Ireland nowadays is per capita the second richest country in the European Union--a labor-importing country. Knowing the national history of Ireland, of Spain, of Portugal, of Greece, I mean, this is a tremendous success story of the European integration process. And this transformation by enlargement shouldn't be stopped. This is very important for peace and stability. And even, I mean--but we will come to Turkey later.

[Laughter.]

MR. FISCHER: We'll have a debate with the other side, I think.

MR. GORDON: We've got a lot of people out there and up here who want to jump in. Noelle, do you want to react? I know Andy does, and we want to make sure we have time from the floor as well.

MS. LENOIR: Very shortly, I agree, you cannot play with referenda. It's something which is serious. And I personally think that it was a mistake for the French Government to launch this referendum, first because of the decision of Blair

to launch such a referendum, which had, as you know, just a national and political purpose. It has not to do with Europe because I think that Tony Blair is perhaps one of the most pro-European British citizens and British Prime Ministers. So it was a mistake, and it was a bit irresponsible. And how did it happen in France? It just happened because Chirac saw that inside the Socialist Party, more than 60 percent of the militant had voted in favor of the constitution. And he said, "Well, I'm a bit tired, my government is a bit tired. I will have a plebiscite." And even de Gaulle, you know, even de Gaulle, he had a good result at referendum once, in 1958, 82 percent, like Chirac in 2002, but for other reasons. And then he had to leave in 1969 because the people, they don't want to be asked a question which is not the real question they're asked.

So I think that even in the U.S. you don't have the referendum at the federal level, which is wise. And you have very, very important development in the federalism. And I think that with the tabloids in Great Britain, it is completely irresponsible to launch a referendum on Europe, because you know the result in advance.

And in France, if you launch today a referendum on death penalty, perhaps in other countries as well, you have a yes vote on death penalty. And on the euro, perhaps also you'll have a no vote and -- [tape ends].

-- and Kohl decided to give up the mark in favor of the euro; 65 percent of the population were against. So the question of leadership in the present democracy, in an information society is really a key issue, and you cannot say a referendum is good in one case and is not in another case. You must really think of how to do with this process. Even Rousseau talked about the referenda in "Direct Democracy," and he thought that it was for the people-- [French] -- you know, people who don't exist are so like God, you know, virtuous that they really answer the question.

So I think that the referendum is not something frivolous. It's really very important. And that's why--second--well, what you said, I think that it illustrates what we French think sometimes of the British, because I think that as you know, one of the issues of Europe is that the French pretend to have a better model the British,

and the British rightly consider that their model is now more important and more influential at the EU level. So you cannot say if you--you know, if you don't beat them, join them. And I think that one of the issues of Europe now is also reconciliation between nations, which are not at war but which pretend to have the key of the right model of Europe. It's much more a pragmatic and political issue.

And, lastly, the polls, of course, you are not to follow the polls, but the polls show that Europeans by and large want a more political Europe. They want an accountable Europe. They want more common defense policy, more common foreign policy, 75 percent of them. They want political institutions. They don't want less Europe. Of course, the message was not rightly sent a year ago, but I think--I don't think that--I don't know in Great Britain, but I don't think that by and large Europeans want the end of the European project. And the big issue is, What about pioneers countries? You know that is the big issue at the present time, apart from pragmatic, more practical agenda, concrete agenda. What about pioneers countries? And I think that

the question is to be raised. I was very much against it, but now I don't know.

MR. GORDON: Thank you.

Andy, very briefly, and, Jerry, I promise we'll come back to you.

MR. MORAVCSIK: Yes, let's just underscore what we just heard. There is no evidence that the Europeans rejected existing European policies in those referenda. Six percent in France, 3 percent in the Netherlands is the maximum number you can come up with that might have done that.

The only policy that's the least bit controversial in a mass political way is enlargement to Turkey. That's 15 years off. And as Joschka Fischer pointed out, that's a question for a trade-off between leadership and democracy. And Americans, who always sort of laugh when they hear Europeans talk this way because they got, "Oh, those elitist Europeans, but we Americans live in a populist democracy." I remind you, we don't live in a populist democracy. We live in James Madison's democracy. And no political system in the world looks as much like James Madison's democracy as the European Union. It's

all about checks and balances, and that's the way control is maintained there, until all of a sudden, say, as Americans that we believe in some kind of popular politics by referendum is just, frankly, absurd.

And Noelle Lenoir is right also, that when polled, Europeans on substantive policy areas and on trust in institutions favor the course now being charted by the EU. In fact, they have greater trust in European institutions by and large than their own, particularly their own elected politicians.

But the question then you take from that is: What should be the rhetorical strategy for dealing with a world where you have this kind of public reaction? And the reason you have it is because none of the issues people really care about--social welfare, immigration, the things Joschka Fischer talked about--are EU issues. So when you force them to get involved in EU politics, which is essentially what a referendum does, what do they do? They import the issues they care about into the EU domain, even if they are inappropriate.

So I think the logical conclusion one draws from that is don't deliberately politicize, don't deliberately pose the big question, don't deliberately say let's have a big public debate about the *finalité* of Europe, because if you do that, you import a bunch of issues that have very little to do with Europe, and you generate the kind of result which I think no political philosopher or constitutional lawyer or right-thinking citizen would really think is the essence of democratic deliberation.

MR. BAKER: Okay. Let me say first of all, I'm not in favor of plebiscitary democracy, and let me knock down this Aunt Sally because it is fairly ridiculous, the idea that I'm suggesting we should have a referendum on everything.

However, within the EU, the referendum process has become quite well established now. Many countries have had multiple referendums on the subject. It's a quite well-established principle, but Britain had never had a referendum, my own country, certainly not a country that believes in plebiscitary democracy, had never had a referendum before 1975. The EU was the first issue on which we had a referendum. It is

becoming established that when you make important constitutional change--it's law in some countries, it's been established by convention in other countries. When you make an important constitutional change, it is reasonable and right to consult the people, and that's what you do. I mean, I must admit I'm puzzled. You see--you know, you look at France, and apparently it's okay for French policy to be dictated by students sort of rioting in their universities and to change the government's policy, but it's actually not all right, apparently, for the people to come out and vote and say they don't like that policy.

So I'm not in favor of plebiscitary democracy. It's not true but it is very well established now that you have occasional referendums on major constitutional issues. And, unfortunately, the idea is that's apparently a bad idea and we should ignore it.

Secondly, on the euro in Italy in particular--I don't want to get into too much detail here on the euro, but I don't suggest the euro was directly responsible for Italy's problems, although I could have made a particularly important point on this, which is

that essentially Italy lied to--the Italian Government falsified its accounts to make sure that it met the Maastricht criteria before it got into the euro. If it hadn't done that, its problems--and the euro's problems, actually--would be rather less than they are now. So, actually, yes, it is true that the Italians did benefit from lower interest rates as a result, but the cost of that was that they essentially, as I say, produced a set of false accounts and are suffering from that now.

There's no question also that, again, without saying the euro is causing their problems, if they had the old flexibility of a floating exchange rate, they would be able to devalue their way out of what is a huge problem for them at the moment, which is that--

[Simultaneous conversation.]

MR. BAKER: --between Italy and the rest of Europe, and, you know, more generally on the issue of the way in which Europeans regard the enlargement. It's exactly as I said to Dr. Fischer. There are countries that are committed to having referendums on enlargement, and, actually, you know, I mean, the idea that this

should just be pushed ahead again without any attempt to consult people on what they think about enlargement I think is--it just seems to me to be, at best, foolish and, at worst, really quite dangerous, because if you do try and press ahead, for example, with Turkish accession to the EU without knowing full well the level of opposition or hostility that there is in some countries, including in Germany, but actually particularly in France, but so many of the other countries, too--not incidentally my own, and I correct you on that, Dr. Fischer. If there were a referendum on enlargement in Britain, it would almost certainly win because the British people have always favored enlargement. The last poll on Turkish accession, for example, showed something like 68 percent in support.

So not in Britain, but in other countries you would get negative results. But if you push ahead knowing that there is that opposition, the influx, the labor mobility and all the changes that come in with accession, you push ahead knowing that there is the hostility in your country to that, then I think you're on a very

dangerous path, and I think it is, frankly,
irresponsible.

MR. GORDON: Jerry, thanks. I want to
bring the floor in. I've already had a lot of
people catch my eye. I will ask them--already
Jonathan Davidson, Bob Lieber, Cesare Merlini,
Daniel Vernay, Sophie Clement I've already seen,
but other people I don't know whose hands I see
and now acknowledge. I will only ask you, because
of time, to be brief in your comment or question,
just say who you are and please watch the time.

Jonathan Davidson?

MR. DAVIDSON: Thanks very much. Is that
working? Yes. I thank the panel very much indeed
for a lively debate, and as always it's very hard
to disagree with the word that Dr. Fischer in
particular says. But I feel that there's a point
at the core of this argument that hasn't yet been
fully reached.

The success of European integration is
due fundamentally to the binding nature of the
community approach. At the same time, this is
built on a treaty-based system which requires, by
definition, unanimity amongst the member states.

Now, this is increasingly impossible to operate, at 25, 27, 30-plus, especially now that the referendum genie is out of the bottle. How are we ever going to get agreement at 27, 30-plus and so on while you've got referenda on the agenda? And it's hard to see how the referenda can ever be put back--that genie can be put back in the bottle.

Constitutional settlement or treaty revision, whatever you call it, is required to preserve what we've built, to enable the system to work at 27-plus, to improve, as Dr. Fischer said, the foreign policy workings of the union, and to clean up the impossibly convoluted nature of the present treaties. That's the settlement I think that Dr. Fischer was pointing to as necessary in 2009, '12, bracket.

The dilemma, the fundamental dilemma, which I don't feel the panel has addressed is: How are we going to have that treaty revision? Let's stop calling it a constitution. Let's just get the necessary revision of the treaties or these agreements on these things that have to be done. How is the union going to achieve that while we depend on a treaty-based system and while

some countries certainly are going to insist on referenda? It's simply impossible to get unanimity in those circumstances.

MR. GORDON: Thank you. We're going to gather a few, so if you'll hold your--Bob Lieber.

MR. LIEBER: Bob Lieber, Georgetown University. My question is addressed to the optimistic members of the panel, and some of what we've heard, particularly on the economy, reminds me of the old line about a man who is caught *in flagrante* by his wife, and he says to her, "Who are you going to believe? Me or your own lying eyes?"

On the economic front, you've got the--

MR. : It's almost better to believe me.

[Laughter.]

MR. LIEBER: On the economic front, you've got the reality that America's economic growth rate and numbers on--is about roughly double the EU figure, taken in the aggregate; on unemployment, about half the EU rate, particularly when you look at the big three continental European countries; on issues such as globalization, international competitiveness,

demography, immigration, labor force participation, accountability, the intractable issue of maintaining Europe's fabulous social welfare state, which has been so important for social consensus; on the issues of enlargement and the unwieldiness of the EU, which Jonathan has just rightly referred to.

My question is whether the optimists on the panel are simply going to insist that muddling through will do the trick, that one way or another these issues will go away or improve by themselves, or whether they feel that some sort of new, different, or adaptive initiatives are going to be necessary in confronting these very real problems.

Let me also say that the issue isn't so much that matter of referenda, nor is it to deny that the achievement of Europe isn't of great historical importance, nor is it to say that Europe's success and continued unity is not of enormous importance for Europe and for America. But I think from where I stand, it looks as though the reference to these really acute fundamental underlying problems has not been dealt with directly.

MR. GORDON: Thank you.

Cesare Merlini?

MR. MERLINI: First of all, let me say that I tend to believe that Italy will remain in the euro zone.

I say I tend to believe, because I'm an intellectual--if I was a diplomat or a former representative of the government, I would say it will remain in the euro zone.

This having been said, two points. The first one relates to the non-alternative in my--

MR. GORDON: Hold the mike closer, Cesare. I don't think they can hear you.

MR. MERLINI: The non-alternatives part of pragmatic steps and reviving the constitutional debate, we can proceed and we will proceed on both paths or both tracks. There will be pragmatic steps, and there will be a development, in my view, further development of the restricted groups. I don't know whether I can be referring to that when you call them pioneer groups, such as the Euro, the Shengan (ph) group, and so on and so forth. And at the same time, we will find ways to revive the debate on the treaty, and I agree that

it might be wise to call it a treaty rather than a constitution to reduce the drama on this debate.

The third point relates to enlargement. I agree on the importance of enlargement, and I tend to believe again that we will continue on enlargement. But this is my question to the panel. I am really concerned about what is happening in the countries which have just joined the European Union, particularly the most important of these countries, that is, Poland. One has the sense that the leadership that led these countries into the EU is becoming weaker and weaker, and there is a new leadership which tends to be rather nationalistic. And I think this spells negative not only for the functioning of the EU, but also for the prospect of getting new countries into the EU.

If one has the sense that the leadership of these countries--when these countries joined the EU, then somewhat they lose their political clout after joining the EU, I think this spells negative for the EU. I think this is a point which might be worth addressing in the discussion.

MR. GORDON: Thank you, Cesare.

Daniel Vernay (ph) from Le Monde.

MR. VERNAY: Thank you very much. Three brief points.

First, about referendum. If you call for referendum, you have to fight for--

MR. : Right.

MR. VERNAY: what you believe in--

MR. : Right.

MR. VERNAY: --if you believe in something. And it was not the case in France, it was not the case in the Netherlands.

MR. : The Netherlands.

MR. VERNAY: Second point, again, about referendum. I think the mistake was to try to solve some fundamental problems with tactical means, and Madame Lenoir has said about the goal of Chirac in organizing a referendum was to use or to take profit from the majority in the Socialist Party or to speed(?) the Socialist Party. And now at the same time we are (?) down the constitution, the necessity of the referendum for further enlargement, this was an attempt to try to solve the question of the referendum about the constitution, to (?) the population. And now we must have a referendum in France for every enlargement beyond Romania, Bulgaria, and Croatia.

And I suppose the results of these referenda will be negative and it will be a mess in the European Union.

Third point. I think the constitution was an attempt to solve the contradiction between enlargement and the present functioning of the European institutions. This attempt failed, but the contradiction remains. We must solve the contradiction between enlargement, which we cannot stop for the reasons Joschka Fischer said, but we must improve the functioning of the institutions. And what is the possibility to--what is the way out of this contradiction, I don't know. Maybe it could be core Europe, and I would ask the question if you think it could be a way out of the present situation.

Thank you.

MR. GORDON: Thank you. I don't want to overwhelm the panel, but maybe we can take a couple more. From the back here? Right over here.

MS. CLEMENT: Yes, thank you. Sophie Clement (ph) from the Foundation for (?), previously from the [inaudible].

MR. : A little bit louder.

MR. GORDON: Just speak loudly right into it. I think it's on.

MS. CLEMENT: Okay. Just one point to support the fact that Europeans support the European integration process, because it has been rather criticized here, and maybe I'll touch upon points that have been raised by previous participants.

What polls showed, especially (?) if you make a proper analysis, is not--that the issue is not the European project as such but more the way it is done. And I'll make a few points to support this approach.

The first one is that French and Netherlands rejections had absolutely not the same causes. In the French, rejection was mainly on socioeconomic malaise and filling of the huge gap at the political level between Brussels and the national level, first. The other point is the issue of political accountability. In France, Europe is very often instrumentalized for options of a national political decision, and very much criticized to avoid addressing other national-level certain very difficult issues to decide. So I'd agree that it's mainly tactical.

Another issue is that mainly the European process has been until now top-down, and this has been stressed, and suddenly the issue of civil society being more involved is addressed, but this implies certain things--the issue of political leadership, responsible to explain, and the issue of political accountability, and this cannot be done within a few years short term. This is why many believe more and more that the issue of the constitution cannot be reopened and that the issue is more what can we keep from that text to go further, because if there had to be a decision now and a reopening of the debate, no one is sure of what the outcome would be, even at the national level, and also between the different European countries.

Second point, integration. What is gaining ground within the European parliament and with the (?) bloc resolution right now is the issue of the limits of absorption of the European Union and more and more the issue of deepening and enlargement. And the huge consensus among the different political sections and movements is interesting to see that the EU has a limit of absorption and that in the case of referenda, I

would agree with Daniel Vernay that you're absolutely not sure of what the outcome would be concerning enlargement in Europe more and more, and not only at the civil society level but also the level of institutions, and that would be interesting.

So three points to make what's a necessity to define Europe's interest and strategic objectives has not been done at all concerning the European project and enlargement.

The second point is the issue of constructing cooperation and call it the way you want, pioneer countries or more flexibility or anything else. And the issue of qualified majority voting because there's absolutely no possibility of unanimity at 25.

And the third one is what do you keep from the constitution.

Thank you.

MR. GORDON: Thank you. I want to give the panelists a chance to respond. Let's take a final comment from Carlos Pasquale, head of foreign policy studies at Brookings, and then we'll come back to the panel.

MR. PASQUALE: Just a quick question on the international agenda. Dr. Fischer, you referred to it a little bit, but it seems that in many ways a lot of the conflict and the tension between the United States and Europe has been on the international set of issues. These new challenges that have arisen on terrorism, proliferation, as well as frustrations with other kinds of issues that none of us have figured out how to deal with, internal conflicts with other states, within other states, such as the situation in Darfur.

And it seems that for the U.S.-European relationship one of the things that will be critical is the capacity of Europe to be able to deal with its ability to respond to these changing international challenges.

Can it, in fact, do that at a point in time when European Union institutions are having such a difficult time dealing with the issues that Europe faces from within?

MR. GORDON: Thanks, Carlos.

Why don't we come back to the panel, maybe in reverse order. Jerry, do you want to--

MR. BAKER: Yeah, just very briefly.

I'll just really address this issue of the role the European Union has played in economic performance over the last 50 years or so. And it's very easy, you know, for someone espousing the kind of euro-skeptical views I do to sound as though we're just saying everything that Europe has done has been terrible and there has been nothing good at all. That's not right, and I don't dispute for one second the achievements that the European Union has made for Europe. I think people tend to overstate the role that the European Union has played, by the way, in keeping the peace in Europe. The peace has been kept in the Europe for the last 60 years because the United States has been there, not because of cooperation between--institutional cooperation between European countries. It's been the U.S. role. But don't--we should not disdain the role that European integration, economic integration has played, and economic performance.

The United States--economists have long recognized the United States is--one of the great reasons for the success of the United States is an integrated single market, 300 million people now,

which tends to create tremendous economies of scale and benefits of integration and various other things. And it's been a very, very good thing that Europe has moved together to integrate its economy. That is something that I have to say was actually championed and aggressively promoted by the British Government in the 1980s, the creation of a single market. And the single market has been great success.

And, again, it's that that is the reason for some of the spectacular economic performance of countries like Ireland or Spain and Portugal last year. It's not because of specific policies pursued by the European Commission, but because they have had access to this tremendous single market. In fact, the other reason that Ireland has had spectacular growth, as I said--

MR. : And some money.

MR. BAKER: --is the whole--

MR. : And some money.

MR. BAKER: And some money, that's true.

MR. : Don't forget that.

MR. BAKER: That's been a small part--I mean, in the last seven years, the big factor has been actually an overstimulative monetary policy

for Ireland from the ECB, which has produced high inflation rates, dramatic deterioration in financial conditions in Ireland as a result. But I don't disdain that. The economic performance of the European Union over a 50-year period has been extremely important, and the integration of the single market--the creation of the single market and the integration of the European economy has been very beneficial.

I think Europe's problems began in earnest when this process was taken too far. The euro was a step too far. The constitution was a step--was another step too far. It has pursued that process without the political legitimacy that is necessary for that to continue. And as I say, I think if it continues to do that, it will create much more political problems and will not address its underlying economic problem.

MR. GORDON: Great. Andy?

MR. MORAVCSIK: Okay. Quick points.

On the economy, look, we can trade statistics all day. I think it all comes down to actually the future performance of the German economy, which is at the heart of Europe, and this is a country that has the largest export surplus

in the world. It's putting through economic reform while spending 20 times as much of GDP on reunification in a way that proved much more difficult (?) than we have spent in Iraq. And so I think they've actually done pretty well in the last ten years, and the investment bankers I talk to are actually gung-ho about Germany, and I think, you know, these things change decade to decade.

But I want to talk about the institutions and talk to the question that Jonathan Davidson and Mr. Vernay raised. I don't think there's a lot of evidence that the EU is ungovernable at 25 or 27. I've looked at the voting studies in the Council, the voting studies in the parliament and so on. There's no real reason to believe that this is going to be all that much more difficult anymore than there is reason to believe that the United States is more difficult with a Senate of 40 rather than 50 or 60, because people break down into coalitions around these issues.

So we'll have to see if that turns out to be the case, but I don't see any empirical evidence that that's actually the case. The real issue is the issue about constitutional change at

unanimity, and that the problem there is not the new countries. The problem is the opposition in old countries to what they imagine to be the implication of the new countries, but as we've talked about, it is not. And I have a solution to that, which is consistent with what I suggested before, and I think it is the only feasible solution, and that is bore them to death. Okay? Instead of putting forward a big, high-profile, politicizing constitutional proposal and inviting them to debate it, you do the opposite. You take--let's take one example: the Foreign Minister. Don't say we want a Foreign Minister for Europe. You say--which is, in fact, the truth--we would like to rearrange the bureaucratic relationship between the Council and the Commission in regard to external affairs of the European Union and the external representation of the European Union. You can make it 74 pages long, and then you dare, people in France, to come out in large numbers and vote against it.

I don't think they will because this, like most things that the European Union deals with, A, they support in principle and, B, it's

too boring for them to pay a whole heck of a lot of attention to it.

So this is really a question of political management rather than a question on the issues.

MR. GORDON: Noelle, that's a direct provocation to France. Andy is saying enough about *finalité* and (?) and all of that, poor people today--

MS. LENOIR: And grandeur of France.

Just a word about the way the EU constitution has to be adopted to come into force. It's not a Constitution but a constitutional treaty, legally speaking. Consequently, it must be unanimously approved by the 25 Member States of Europe. I'm persuaded that if such proceeding had been applied in 1787 to approve the American Constitution, the United States would never have existed. Regarding the EU Constitution, the fact that there was a consensus amongst the 25 governments concerned, including Tony Blair's, is a remarkable event. 27 political leaders were in fact around the table (Bulgaria and Romania being there as observers) and they all agreed to sign the Constitution. By signing this document, each of these governments agreed to take on the

responsibility to obtain the approval of the text either by referendum or by their Parliament, according to their choice or to the obligation derived from their Constitution (only two countries --Denmark and Ireland-- are obliged to submit European treaties to the approval of the people by referendum).

It is obviously too early to envisage a real supra-national --in other words-- a real federal Constitution to be approved by a majority of EU Member States. As a result, it will be more and more difficult for Europe to progress.

My second point is about recovery of Europe's economy. The recovery of the three biggest continental economies --Italy, Germany, and France-- is key. In my opinion, had French economy--and thus, employment-- taken a turn for the better, the Constitution would not have faced all the problems it is now faced with. Governments have to be very courageous to perform the necessary reforms to promote their Nations' competitiveness. And it's known that it's difficult to be courageous when you are a politician and when you don't want to leave power too early.

My third point has to do with foreign policy. I very strongly believe that the development of a true EU foreign policy will play a major role to boost Europe's political dimension. It is an intergovernmental policy: it is not based on the so-called "community method", and is strictly defined and implemented through unanimous voting. But the sole image of a Europe able to assert itself as a strong actor on the international scene may have a significant impact on citizens, and thus be useful for the building of a European citizenship. No one can deny that Europe has been very successful in building democracy inside its borders. This will continue to be the case in Bulgaria and Romania which will gain access very soon to the EU, later on in Croatia and Macedonia and in Turkey much later on. Building democracy is one of the main achievements of Europe. It is now urgent to build Europe's identity vis-a-vis the rest of the world. This will be hard because the Nation States of Europe still have different views on external relationships. Look at the issue of the embargo on weapons concerning to China. France and Germany wanted to lift the ban, but finally they

agreed to do like the other Member States who preferred to maintain this embargo.

MR. : Some in France and Germany, very important people, asked for that, but others--

[Laughter.]

MS. LENOIR: Similar discussions arose with regard to the ban on the embargo on funding the Hamas. Such lift was not agreed upon by all the other Member States. But a compromise was found to ensure that the Palestinian population is not deprived of necessary aids. Every European politician is aware that initiatives can no longer be launched except by unanimous approval, when it is important. Relationships between Europe and China, Russia or the Middle East do not only concern governments. They are important with regard to European citizens. For, in this field of external relations, the citizens of Europe look at what is done on their behalf at the European Union level.

My last issue has to do with politicization of Europe. This is a good thing. The EU is a political entity. Therefore, it has to be politicized. There is an EU Parliament, the

only one in the world to be of a federalist nature. The election of EU deputies is based on direct universal suffrage throughout Europe. The real issue has to do with the Executive branch; how to make it closer to the citizens ? This would take too long to discuss.

MR. GORDON: Thank you.

Joschka Fischer?

MR. FISCHER: Well, I agree fully that for peace and stability, the decision, and a very wise and farsighted decision, of the United States to stay fully committed in post-war Europe was crucial. But the second decision for peace and stability was this great vision, especially of two great Frenchmen, to overcome this conflict of national interests by stepping forward, integrating in common institutions, that's the second part. And I think both are closely linked together, if you watch very carefully the post-war development in Europe, and the second post-war development after 1989.

Secondly, I mean, it's fine. What I learned, it's--the U.K. vision of a Common Market promoted Europe and the rest was, well, plunder.

By the way, I mean--

MR. GORDON: Did you say "plunder" or "blunder"?

[Laughter.]

MR. FISCHER: You are the Englishman. You will teach me what is the difference.

[Laughter.]

MR. FISCHER: And, secondly--or, thirdly, I mean, without the money which is invested--and this is one of the very rare win-win situations. It's hard to sell at home. But on the other side, because it's taxpayers' money on the one hand you are investing, and the returns are--you could see in the trade figures on the side of private companies. But it's one of the very--the European integration process based on the genius--on the British genius of the Common Market and based on the investments on the transfers of monies which were invested in the new member states and in the poorer member states, this is one of the very rare win-win situations in political history and economic history.

So from my view, this process should be promoted, and I wouldn't be too pessimistic about Poland and other member states. I mean, knowing very well the post-war history of Western Germany

and all the conflicts we had there, this needs time. Five decades of communist occupation, before the Nazi occupation, the destruction of the Second World War, the nightmares of this period, this needs time to develop an owned road to democracy. And looking to the developments to the economic basic figures in these countries, I mean, this is a very split picture. Because, on the one hand, these are booming countries and, by the way, enlargement is not the only answer to the question of the development of the populations. The United States is importing individuals by immigration. The EU, by enlarging, is enlarging the Common Market and opening their--another opportunity. It's not sufficient enough because we have to deal with immigration, and it's a very sensitive issue in many European countries because, again, there is a certain tradition which is different from the United States. But I am sure--I mean, I know very well how complicated--I mean, we needed decades to bring a consensus, to promote a consensus in my country to say farewell to the old citizenship law, which was based on blood, more or less; on the other side, to open now for a new immigration law that Germany understands herself as a country

with immigrants. It's terribly complicated, especially with the conservative part of this society. But I am sure we will move forward as we are doing that in the economic reforms.

Immigration is a serious challenge in Europe, but it's partly answered by the enlargement process. And I wouldn't be so pessimistic about Turkey. From the present-- nowadays, it would be, "Forget about it." But Turkey wouldn't fit nowadays to the European Union. Turkey is a very split picture. If you go to western Turkey and the southwest, you will see a European country. But, I mean, the decision will be made in the east and the southeast, and, of course, this needs time and the Turks understand that perfectly well. Whether one day there will be a European Turkey which will fit to Europe, yes or no, and by the sheer size of Turkey I think there must be a serious decision about that on both sides, we cannot play games with that because Turkey is really, I mean, a big size.

But I wouldn't be too pessimistic. The major interest, at least in the German debate, between the two sides, the no and the yes side about Turkish accession has one strategic position

in common, that both sides have an interest that Turkey will be a success story in the modernization of the economy and of the society. Even the Christian Democrats, who are against an accession of Turkey, understand perfectly well that the modernization of Turkey--and this depends very strongly from the European Union. The modernization of Turkey will be crucial.

So, all in all, I'm not too pessimistic, but it's a serious challenge. Core Europe? I don't believe in core Europe. Why? Because the core collapsed. It's very easy. I mean, France is one of the two heart chambers, and the Netherlands is also a founding member state. So I don't see at the moment that core Europe would be an answer. And I agree, I mean, I agree fully with Mr. Baker that we have to take the decisions by the people very serious. I'm not rejecting the results. And I do not believe that we can say, well, we have to move forward and forget about the referendum. No. There is now--the old project was a project of the elites. It still exists. But there is now a serious lack of legitimacy. This project is partly delegitimized by the French and the Netherlands referendum. And it will be a

serious challenge how to overcome this delegitimation. I mean, we might have our differences about Europe, yes or no and which perspective, but we have no difference in this issue.

And maybe those who were promoting the constitution were not ambitious enough by presenting it to the people but not on the national level but--I mean, there were some voices. My friend, Danny (?), for example, who said from the very beginning let's have a European-wide referendum, a constitutional act. But that's--I think is lost milk now. It cannot be done now because it would be lost.

The boring strategy, yeah, it's--I like it, on the one hand.

[Laughter.]

MR. FISCHER: But I would say that even if you would have had a treaty about adjustments of bureaucratic structures and so on and so on and so on, and Chirac would have brought that to the people, this would have--he would have lost. I mean, this is another part of the reality, because there is a crisis in France at the moment, a typical pre-revolutionary situation which cannot

be solved within the institutional framework, and even the most boring treaty would have been--at the moment when we would have had a referendum, this would have been lost in France, is at least my view.

So I will come to an end. There is all the questions you raised. Yeah, well, there is one question about anonymous vote and the contradiction out of that. The Europeans have two options: to solve it by an agreement, this means an anonymous agreement; or to be in a serious crisis. I would predict this crisis around the European elections. They have an opportunity if they adjust and use the elections--there are some creative ideas how to use the elections, and I think very important ideas. And if not, then you will see with further enlargement, with the next budget, with all these issues, and with the pending contradictions in the institutions, there will be a serious crisis after the--at the beginning of the next decade. So either they can manage it, or a crisis which will be--put tremendous pressure on them. So, all in all, I wouldn't be pessimistic. Maybe this is a realistic approach not to be pessimistic.

Thank you very much.

[Applause.]

MR. GORDON: Well, thank you. Thank you all.

Andy, I think some might say that some of you leaders are already trying the boring approach, but I don't think that applies to this panel, which was the opposite of boring. It was excellent. Thank you all very much.

Joschka Fischer will be back this afternoon when we talk about the war on terror.

In a couple of minutes, just a couple, we have an excellent panel on Russia, so let me ask you--there is coffee next door, but take only the time that we need to get the next panel up here, because we want to begin on time. Thank you all very much.

[Recess.]

**"Is Russia Lost? The Future of Russian Democracy
and Relations with the West"**

MR. GORDON: Can I invite people to come back to their seats so we can begin? We have some speakers on very tight schedules, and it would be really good if we can get started so we have time with them. Thank you.

[Pause.]

MR. GORDON: Please, make your way to your seats so we can get started. Thank you.

I think everybody knows the Chair for this panel. Fiona Hill is a senior fellow here at Brookings, a great expert on Russia, Eurasia, and the entire region, and she will be taking the chairmanship and introducing the speakers. Thank you all very much.

MS. HILL: Thank you. Most importantly, can everybody hear? Were the mikes okay? Just checking.

I'm sorry that we're being so cruel in terms of depriving you of your coffee, especially as it's always important on a Monday morning to have lots of coffee to get the week going. But, unfortunately, some of our speakers have other

events that they have to attend, so we have to cut off the discussion at 12:20 today.

So I'm going to dispense with introductions for our speakers. You'll find, if you picked it up at the front desk, the little handout for the session which gives you some very brief bios of our speakers, and then some of the small reading material.

I want to begin by posing for our speakers a few very short questions. Obviously, there's been a great deal of attention paid recently--in fact, every time you pick up the newspaper, there's at least three articles, it seems, on Russia these days to the issue of whether Russia has taken a rather different turn over the last several months under President Putin.

We're obviously at a very important time because Russia has just taken on the chairmanship of the G-8. There will be the summit of the G-8 in St. Petersburg in July. And Russia is also going to be taking on the chairmanship for the Council of Europe, so this is going to be actually a very important time for Russia being very much in the political spotlight.

And as most of you will be aware, there was a recent report put out by the Council on Foreign Relations, a task force report, in March, that suggested, in fact, that Russia is going in the wrong direction--not just is Russia going in the wrong direction, but U.S.-Russian relations have been taking a wrong turn.

So I'd like to actually ask our panelists if they believe, in fact, do they agree that as the Council on Foreign Relations task force has reported, the Russian domestic political trends have become more regressive or authoritarian over the last several months, if, in fact, there's been a significant turn in Russian foreign policy, if incidents like the Ukrainian-Russian gas crisis in January or the recent invitation by the Russian Government to Hamas to visit Moscow represents some kind of categorical change in Russia's foreign policy, or is this simply more of the same? Do we see a continuity here? And, in fact, how important is the Russian-U.S. relationship at this particular juncture?

Now, I think the panelists that we've got today are eminently suited to look at this in a much broader perspective over the last several

years, to look at trends in Russia and to see--and to give us the benefit of their experience of working on this issue.

We have Dan Fried, who is the Assistant Secretary for Russia and Eurasia in the State Department and who has been a long-term Russia watcher.

We have Strobe Talbott, my boss and President of Brookings, who, as most of you know, worked this issue in great depth in the 1990s.

We have Anatol Lieven, formerly of the Carnegie Endowment next door, now with the new America Foundation, who most of you know is a prolific commentator on Russia.

And, of course, we have Dmitri Trenin from the Carnegie Moscow Center, who has been a great correspondent about Russia from Russia itself and a great explainer, I think, of Russian policy for most of us here from on the ground.

What I'd like to do is begin with Dan to give a five-minute perspective from his point of view, somebody who is working the policy right now; turn to Dmitri for the view from his perspective from Moscow; then ask Anatol and then Strobe to wrap up here, to each give five minutes

of their thoughts on this. Then we'll have a little discussion, and I'd like to bring you in from the floor to ask more questions and also to offer your own thoughts.

Dan?

MR. FRIED: Thank you. It's a pleasure to be here after many years of work on these issues, and particularly a pleasure having had the pleasure of working with Strobe Talbott in the 1990s on some of these issues, which hopefully gives us some perspective--

[End of Tape 1, begin Tape 2.]

[In progress] --both in the United States and Europe, about Russia and about our, that is, the transatlantic community's policy toward Russia.

Most of that debate focuses on the negative, and there is, unfortunately, ample material to sustain that kind of negative debate. But let me start by stating what it is the United States wants in relationship with Russia and then try to address Fiona's questions and talk about the major areas of difficulty and the major areas of promise.

As the Soviets used to say, there are objective as well as subjective factors. Objectively speaking, there is no reason for the United States and Russia to have tense relations. There is every reason for us to have cooperative relations.

The United States, in our grand strategy, and if you read the recent national security strategy document, you'll see what I mean, does not look at Russia as anything but a potential partner, and we regret, when that partnership does not appear to be realizing its potential, but we do not look at Russia as, in any sense, an adversary.

Now this sounds like a banality but if you go--every time I'm in Moscow, I read and hear that Russians believe that the United States does regard Russia as an adversary or at least a country to be contained. This is not the case. We want to work with Russia as a partner and, again, there is an objective basis to do so. We share many common threats, whether it's narcotics trafficking through Central Asia, whether it's Islamist extremism, nuclear weapons proliferation-

-we do have or ought to have common interests, which we should pursue.

We do have an active positive agenda which gets somewhere between little and no press commentary today. I just came back from a NATO-Russia ministerial meeting at which the NATO-Russia work plan was adopted, it's quite practical it deals with a number of cooperative initiatives, which ten years ago, would have been seen as visionary when Strobe Talbott was busy setting up the first NATO-Russia institutionalized relationship.

Again, I mention this so that there is a certain balance between the negatives and the positives in the relationship. We're working on counternarcotics strategy with the Russians. We're working on counterterrorist cooperation, counterproliferation strategies. There is a positive agenda at work.

But where do we have areas of problems? And here there are two major categories.

One is our concern about the direction of Russian democracy. Now to answer the first of Fiona's questions, I don't and we don't particularly see a downturn in the last several

months, but we do see a deterioration in the last several years, and this is almost universally recognized.

It isn't as if we regard the 1990's as a paradise of good governance. Clearly, it was not. But it was a period of considerable hope when communism in the Soviet system was taken down and there was at least the prospect that it would be replaced, as was the case in Central and Eastern Europe, with rough but, as time went on, less rough market economic systems.

The problem we have today is that we do not see the development of strong institutions which are essential for the functioning of a modern democratic state. We see the development of one strong institution which is the Kremlin and the presidential administration and the weakening of alternative centers of power. Now it is probably a good thing to restrict what many Russians call the unchecked power of the oligarchs but the question is not whether their power should be checked but how it is checked and what it is replaced by.

Is it being replaced by institutions of a modern free market system? Bank regulators.

Securities Exchange Commission. The rule of law, commercial, strong independent institutions which can put capitalism into some kind of framework of the rule of law.

We don't see the development of those strong institutions. We don't see the development of a gradually more responsible free press. We see the shutting down of the electronic media.

We see a print media which is still free but becoming, unfortunately, rather an island. We see NGOs sprouting up in the country which is a good thing, but we see a certain--there seems to be a glass ceiling above which NGOs dare not or do not move.

Now I do not say and we do not believe that Russian democracy is lost. The question comes up, is it lost? Is it over? Well, no, it is never lost, it is never over. I do not believe that Russia history is fate. I don't believe in cultural determinism. It would be strange if the Bush administration, which has championed the principle of democracy in the broader Middle East, and believed it possible, did not also believe it was possible in Russia, with obviously far more of

a democratic history dating back to the reforms in the 1860's and then after 1905.

But we are troubled.

The Second area where we have major problems are Russia's relations with some of its immediate neighbors.

In Georgia, we very much regret Russia's policy of close relations with separatist entities. This is especially regrettable, given Georgia's recent--I mean the past six months or so--emphasis on a diplomatic solution. We regret that Russia has not done more to help solve the Transnistrian problem.

On the positive side, Russia has played and is continuing to play a very constructive role on settlement of Nagorno-Karabakh through its membership of the Minsk Group. This is a problem. It is beyond belief that Russia should be threatened by a democratic, successful, functioning Georgia

It reminds me of what Clemenceau said about the origins of World War I. He said he didn't know what historians would write but he did know what they wouldn't write. They wouldn't write that Belgium attacked Germany.

The notion that Georgia constitutes a threat to Russia is rather fanciful. A functioning, prosperous, well-run Georgia is not a threat to Russia. A decayed, dysfunctional Georgia could be by subtraction, because into Georgia would flow separatists and terrorists into the Pankisi. Finally, a last word about energy which has enjoyed tremendous press attention in the last six months and even the last week, thanks to Gazprom's rather interesting version of public diplomacy outreach.

Russia is going to make billions of dollars under any conceivable circumstances, and it will make a lot of money, and not only do we not have a problem with that, it's, well, first, inevitable, and secondly, development of Russia energy resources is a good thing.

The question is how these are developed. Is the system open or closed? Is the system commercially based or politically based? Is downstream and upstream investment permitted or is it only downstream investment for Gazprom while upstream investment is somehow not allowed?

We do believe in an open system. We do not believe in monopolies. We believe, to be

quite specific about it, that there should be no monopoly, no one party should have complete control over gas transit from the Caspian and Central Asia. This is not a new policy. In the 1990's, the United States supported Baku-Jayhan [ph] oil pipeline. So it stands to reason that we would support similar projects from the Caspian with respect to gas, and if there was any doubt as to the need to develop such a pipeline, I think that Gazprom's behavior has certainly energized many Europeans.

Again, it's hardly an anti-Russian strategy. Russia will certainly benefit from an open investment regime. An open investment regime will give Russia the resources it needs to develop its gas fields which are in inaccessible places.

Now let me finish because I know my time is up.

The G8 is going to be a venue at which these issues are discussed. The frozen conflicts, Georgia, Transnistria, Belarus, are very much on the G8 agenda. Energy security is something the Russians put on the G8 agenda, though I don't know that they define it quite the way we do.

These issues need to be dealt with seriously.

We need to work with Russia on Iran. We need to work with Russia in the Middle East. We want a Russia partner.

I can be quite unambiguous about this. But that partnership needs to be across the board.

We need to be working together and we need to be working together accepting a common set of principles. We need to work through these difficulties and we need to realize the promise if those relationships, that relationship which is, as I said at the beginning, based in our objective interests. Thank you.

MS. HILL: Thank you very much, Dan.

Dmitri, how do things look from the perspective of Moscow?

MR. TRENIN: Well, Fiona, first of all, thank you so much for inviting me over.

It's a big unfair that this is going to be a asymmetrical dialogue, in a way. If I were coming from, God forbid, the Russia foreign ministry, I would probably offer a well-weighted, very balanced picture of how Russia wants to cooperate with the United States and what problems

are created by others, and how Russia would want to fix those problems and advance alongside with the United States toward a better and brighter world.

Now since I have the privilege of being an irresponsible analyst sitting in Moscow, I will give you a different story.

And I thank Fiona so much for having laid out the substance of the discussion, and rolled it into actually two very simple questions, that of course beg for very serious answers.

The first question, whether we see an increase in repression and authoritarianism.

Well, let me say, first of all, the Russia political system is authoritarian. It's not an issue for debate. It's a fact. It's mildly authoritarian, I grant you; but it's authoritarian.

My second point here would be that Russia is not walking away from democracy. Yeltsin's Russia was, I grant you, freer, in some ways, good ways and bad ways, than Putin's Russia if I were to use this cliché which I personally don't like.

I think there is a Russia beyond Putin's Russia and you cannot simply--that's only a small part of the picture.

It could be less free but it's not less democratic, because in the 1990's we didn't have democracy, we had, let's say, more freedom and more whatever.

What we see now is more concentration of wealth and power, more concentration of political control, that there's no question but whereas Yeltsin's Russia was chaotic democracy, this is a less chaotic one.

And democracy as well as freedom, that's what the name is, Russia's future, it's not Russia's past. My next big point would be here, that 1991 was, first of all, a revolution of money in Russia. It's not a revolution of democracy and human rights.

However, money brings freedom with it. The more money you have, the more freedom you have, and the Soviet Union, I think it's very important to underline--the Soviet Union was a moneyless society. Money was not there. Money was not part of the system.

The Russia Federation is a country where just about anything and everything revolves around money. That's the cardinal difference between the Russian Federation and the Soviet Union.

Now ever since 1991, Russia's story has not been a story of evolving democracy. It's been a story of evolving capitalism. It's very rough and very unpleasant for a lot of people but it's very real, this capitalism, and it's evolving. It's about ten years, twelve years old, since the [inaudible]. But it's been progressing ever since.

As to the rule of law, I doubt that it will emerge out of the kind hearts and fine minds of liberals and democrats. I think that the rule of law in Russia, as well as in the history of Western countries, will emerge from the desire of the greedy people to have their riches guaranteed by something better than just appointing a successor.

And the more people you have who need that guarantee, the more money needs to be guaranteed, the farther advanced you will be along the path of what I would call, eventually, rule of law.

At the other end of the system, you do have something like a middle class emerging. Something like 20 percent of the country is middle class and many of them, well, let's say some of them, are middle class by any standard.

And those people are not interested, for the time-being, in politics, but they're clearly interested in their well-being and they're interested in protecting their property rights.

And when we're talking about property rights, we should not focus on this or that oligarch. We should focus on a very broad segment of people who can have real money, if they, for example, sell their apartment or buy their apartment.

So democracy in Russia is a long-term proposition.

In the two and a half minutes remaining, let me turn to foreign policy.

I agree that there has been a turn, and a very sharp turn in Russia foreign policy in the last, I would say two years.

To roll it into one little phrase, I would say that Russia has basically left the Western political orbit. Through the 1990's and

the early 2000's, it revolved around the Western core like some kind of a Pluto in the system, and some people, as I heard when I offered this analogy, some people told me that Pluto is not really a planet. So I think that applies to Russia even more.

But now Russia is in the process of building a system of its own. What it means is that some of the former Soviet states it regards as falling essentially within its system basically.

It doesn't want to annex them but certainly wants to influence them, certainly wants to have very serious economic assets in those countries, and of course humanitarian and other interests.

Relations with the West are highly competitive, although they are not antagonistic. I don't think that we're about to relive a Cold War but there will be more and more competition. I think competition outclasses, with all due respect, Dan, I think competition outclasses cooperation, and it will do so for the foreseeable future.

In the thinking of the Russian leadership, international relations, after all, are mostly about competition and rivalry, if not so much about cooperation.

First of all, you compete, and then according to the results of the competition you can choose to cooperate or not, and that applies to the policy world and the commercial world.

The self-confidence of the Russian leadership is at its highest since the Soviet Union's attaining of nuclear parity with the United States in the early '70s, and even then, I would grant was slower than what it is today. It's abominably high. I think that overconfidence and arrogance are punishable everywhere, and they will be punishable eventually in Russia but that's where we are today.

I think that the people who run Russia believe that essentially their country is friendless in the world. There's no one in their thinking who is interested in a strong Russia, and whereas in the 19th Century, Alexander III, at the close of the century, was famous for saying that Russia has only two true friends in the world, it's army and its navy.

Today's Russian leadership would probably say we only have two friends in the world, that's oil and gas. But that's about where--I'm coming to the end.

And I would say that the Russians are being very cautious. They don't want to be dragged into what they see, an emerging clash of civilizations, and they see Iraq and Iran as part of that. And Hamas is partly a desire to send a message to the world, as I said elsewhere, that we're not furniture. On the other hand, it's trying to reach out to the Muslim community saying basically we will not be against you. You can be, regarding the Ukrainian gas deal, I think you can be cynical and naive at the same time.

When the Russians cut off gas supplies to Ukraine but not to Europe, they envisioned that Ukraine would stop pilfering the gas from the er supply.

But then very naively, they thought that the Europeans would blame the Ukrainians but of course the Europeans blamed the Russians, and I think that's a lesson they have learned.

Very lastly, I agree that there's a wrong direction, I think for the U.S.-Russian

relationship, that's clearly the case, and one good thing, however is that at the close of the 1990's, when Russia was lost the first time, we got rid of the illusions. I think that now, that Russia is being lost a second time, we're getting rid of the pretensions, and that could be a good thing arising out of this pretty bleak situation. Thank you.

MS. HILL: Thanks very much, Dmitri. That was pretty provocative. I think it sounds like Russia should be singing the cabaret song of "Money Makes The World Go Round."

And you certainly finished on that note, that at least U.S.-Russian relations are going in the wrong direction, if not, perhaps Russia itself, and Anatol, maybe that's something that you might like to pick up.

MR. LIEVEN: Well, Fiona, thank you very much for inviting me. I did warn you, of course, that I didn't really agree with these questions. I think they have a certain leading quality. So I decided to replace them with questions of my own which I regard as more--

MS. HILL: In true democratic fashion.

MR. LIEVEN: Precisely. I also have to say that I disagree with the title of this panel.

MR. : I'm glad you came.

MR. LIEVEN: We can lose an umbrella, we can lose our wallet, because we own an umbrella and we own a wallet. We don't own Russia or any other major country in the world, and therefore, in one critical sense, we can't lose them.

I think it is well worth always remembering that Russia policy is determined in Moscow, not in Washington, and Russian interests are decided by Russians, not by Americans.

Anyway, as to my three questions, which are very much in that realistic spirit, they are first, on balance, have the policies of the Putin administration served the interests of the Russian Federation and the Russian people?

Secondly, on balance, are the policies of the Putin administration supported by a majority of the Russian population?

And thirdly, what are the most important interests of the United States with regard to Russia?

Now on the first point, frankly, there shouldn't be a great deal of discussion. The

Financial times, as I'm sure you know, has certainly not taken in its editorial pages a very pro Putin line in recent years, but in its survey of Russia two weeks ago, the survey opened with the following passage.

"Russia, in 1997, was chaotic, struggling to pay wages for millions, months away from a humiliating debt default and financial crisis. Russia today is firmly controlled from the center, in its eight year of robust economic growth, and displaying self-confidence not seen since the 1970's.

The economy grew 6.4 percent in 2005, down only slightly from the previous six year average of 6.7 percent. Real wages increased 9.8 percent."

So when American officials and other commentators tell the Russian people that the Putin administration, on balance, has been such a disaster to Russia, what they're really saying, to paraphrase a previous speaker, is, Who do you believe? Me, or the evidence [inaudible]?

The Russian population, to answer the second question, responds in the way recorded by the Levada polling organization in March,

independent polling organization or at least it's always been so regarded, which showed 72 percent of Russians mostly approving of Putin's policies and his record in office as opposed to 26 percent, mostly condemning them.

According to the same organization, United Russia has the support of 41 percent of the population, and communist and nationalist parties have a combined total of 37 percent

Now the Russian parties that we tend to call democrat have the support of about 7 percent, at present, and even when they had the state on their side, in the mid 1990's, they never got a combined total of more than 15 percent.

And so it does sometimes seem to me that there is a rather symmetry between our approach to Russia and the Russian population in this way, and the old Soviet approach to various countries around the world, which was of course to define as the people that section of the people who supported the revolutionary vanguard, who were transforming these societies in a positive way.

The other, whatever it was, in this case 85 percent of the population, was of course made up of dregs of the former regime, deluded and

ignorant masses, but whose interests and whose views certainly didn't need to be taken into account because they were, in some way, automatically illegitimate.

It is not perhaps altogether surprising, that this is an approach which doesn't gain much favor in the mass of the Russian population, and so I think is something which we need to remember all the time.

The policies of the Putin administration are supported by the great majority of Russians. These are the policies which were desired by the great majority of Russians, according, once again, to every independent poll, in the 1990's as well.

If we were confronting the Putin administration over these policies, it doesn't much matter, frankly--I mean, it matters but not in long-term existential terms, that we're confronting a given Russian administration.

What matters very much is that we're confronting what is seen by ordinary Russians, by the mass of the Russian population, by the mass of the Russian nation as in their vital interest.

Now finally, on the score of what are the most important interests of the United States,

well, in order to define these, first, I think we have to remember one essential fact, which is that any strong Russian state is going to try to play a fairly strong role, to some degree, on the world stage as a whole, certainly on the territory of the former Soviet Union.

And also by definition, as with any other reasonably strong state, it is going to defend what it defines as the vital interests of the Russian Federation.

In that sense, I'm obviously troubled by some of the recent trends in Russian policy but I can't say that I'm deeply surprised by them because I have regarded some such policies as inevitable, ever since I was there in the 1990's, which is to say that if Russia ever did recover a reasonable degree of strength, it would pursue policies very similar to this, under just about any realistically conceivable Russian government.

Now it may be argued, therefore, that it is in our interest that Russia should remain very weak.

But I would disagree with that, because after all, when Russia was very weak, generally compliant to our wishes in the 1990's, but also

very weak, we were obsessed with threats from Russia that were coming from Russian weakness. Perhaps first and foremost, the issue of loss of control over weapons and materials of mass destruction, but also genuine fears of the Russian Federation breaking up, thereby creating a whirlpool of instability in Asia, and losing control, or even just losing control over sections of its territory which could therefore become themselves safe havens for terrorists and roots of instability in the whole region.

When it comes to the vital interests of the United States, I think, once again, these shouldn't really be seen as very problematic with regard to Russia. First and foremost, obviously, if we talk of vital interests, we have to look at threats to the well-being or even the physical existence of ordinary Americans. First and foremost, that of course comes from terrorism. Secondly, from weapons of mass destruction, above all, the threat of weapons of mass destruction reaching terrorists, but more indirectly, nuclear and other proliferation in the world.

And then thirdly, I would say, obviously, reasonably free and guaranteed access to energy supplies from the former Soviet Union.

Now there is certainly no good pretending that these vital interests of the United States are wholly compatible with the interests of the Russian Federation. However, they're also certainly not completely incompatible.

It seems to me, therefore, that the obvious first duty of American diplomacy, in dealing with Russia, is to work out which of our interests is truly vital, how far these are compatible with vital Russian interests, and then to deal accordingly.

The problem is that in recent years, American diplomacy does not seem to have been capable of doing that. The result is that we've pushed forward, simultaneously, on a whole set of issues at one and the same time, which we have treated, at least rhetorically, as equivalent, or almost equivalent.

As a result, we have, I'm sorry, what, from a realist perspective can only be seen as a ludicrous situation in which the reunion of Abkhazia with Georgia, along lines, by the way,

which are totally incompatible in terms of an overall legal approach, with our approach to the Nagorno-Karabakh conflict, or the Kosovo conflict, is sometimes treated, as I say, if only in American rhetoric, as if it were equivalent with the threat of the proliferation of weapons of mass destruction, a ludicrous position, if one is looking at the true interests of the American people.

So I would say first duty here in Washington is to work out what really matters to us and then deal with the Russians accordingly. If we pursue the present policy, that, oh, sure, we want partnership with Russia, but on each and every issue it has to be partnership on our terms, we're not going to get anywhere. Thank you.

MS. HILL: Thanks, Anatol. another provocative presentation.

Strobe, what are we to make of it all?

MR. TALBOTT: Three provocative presentations that leave me, I think, in the position, maybe most usefully, of responding to a couple of things that have been said. Maybe what I'll do is start by picking up on what I take as Anatol's principal message, which I agree with,

and then relating it back to what Dan said at the outset.

I think, to boil it down to a headline or a bumper sticker, Anatol, what you're saying is don't see this as a Putin problem, see it as a Russian problem because "Putinshen" or whatever you want to call it, "Putinism," is in fact much more than an individual personality.

And Dan, what I took from your opening remarks, a great deal of which I agreed with, not surprisingly, is that it's not all a problem. There are nonproblematic aspects to the relationship and there are opportunities.

I would pick up on the p word, partnership, not the other p word, Putin, for just a moment, and say why I think it is perhaps time, maybe not in Dan's line of work, but those of us who have the luxury of being kibitzers from the outside, to jettison the work, and to substitute another one for it, and the one that appeals to me, and others, and that is featured in the Council on Foreign Relations Task Force, is engagement.

And this isn't to make too much out of semantics. But partnership, which, by the way,

was introduced into the vocabulary of U.S.-Soviet relations by Gorbachev himself, to a rather astonished Bill Crowe, who didn't have any talking points on how to deal with it when Gorbachev first talked about partnership, and it was in a context of suing for peace in the Cold War.

What partnership implies to me, and to many, I think, is a degree of commonality and perspective and shared interests that simply does not exist now between the United States and Russia, and one reason that engagement works better, I think, cause I think it serves actually Dan's purposes in managing the relationship at a government to government level, and it serves the rest of our purposes, whether we're in the private sector, or in the NGO sector, because it stresses the importance of engaging with, as much as possible, a Russian society in all sectors, which it's a positive word, it can be sustained, and it doesn't have some of the "baggage"--I almost said garbage, that was a Freudian slip--much of the baggage that has caused partnership I think to turn sour, both in Russian mouths and in American mouths.

Just to put a somewhat sharper point on a couple of things that have already been said, I'm just going to single out what I see as two of the really big problem sides of developments in Russia.

And the first is one that Dmitri was eloquent on and it has to do with money. It isn't just money. It's money plus the security services. We have seen the kind of morphing or evolution of a new species of a ruling circle in Russia and it's what I would call the "kleptocratic siloviki" [ph].

That's a mouthful. That definitely wouldn't go on a bumper sticker. But it's new. We all remember, not without too much nostalgia, Yuri Andropov, who was the kind of paragon of the old security services. But part of his "schtick" and his appeal was that he was clear, and that remained part of the Checkist approach to the world for a long time. It isn't anymore. And that is a big part of what we are dealing with now and it is a factor in politics and it is a factor in the absence of or the travesty of the rule of law, which I think has potentially really devastating implications for Russia as it tries to modernize

its economy, which I hope it will get around to doing, and looking ahead to a day when it will not have high oil prices to provide a pretext for not modernizing the economy. Russia has got to get a grip on that problem.

The other issue is decentralization in reverse. There's no question, or at least it can certainly be plausibly argued that Yeltsin went too far with decentralization and devolution of power, but the pendulum has swung so far back in the other direction, that what you have really going on in Russia right now is not just recentralization but defederalization of a state that calls itself a federation.

And where I think that is going to come home to roost, most dramatically, is in the North Caucasus, where you're attenuating the accountability between local and regional governance and the central governance at a time when you have really a metastasis of the Chechnya problem, and Chechnya I think--Fiona, check me, cause you've been taking careful notes--Chechnya has not come up in this conversation so far, and it should come up in every conversation about Russia, and it isn't just Chechnya anymore.

And refederalization plus the Chechenization of the North Caucasus spells big trouble.

And that leads me to put in a pitch, that in the course of this conference, that those of you who will be participating do spend some time now and later, and something that I know that Fiona and others in the room, Craig Dunkerley [ph] spent a lot of time on as a diplomat, and that is OSCE.

There is a role for OSCE in Russia that is being under-attended, and I'm glad to hear that the NATO-Russia Council is doing better. But Russia may disdain OSCE, but it's going to need it at some point, because Chechnya is never ever again going to be governed, in any meaningful and civilized sense, from Moscow. That's a prediction I would make, and there's got to be some arrangement down the road, and it'll probably be one that needs to involve the OSCE.

The last point I would make is about the G8, and there's been a lot of talk about that, and I was among those who hoped that the St. Petersburg G8 might be used for whatever small leverage it gave us to influence President Putin

on the issue of Russia's internal direction. I think it is too late for that now, and for understandable reasons.

President Bush is not going to have a lot of one on one time with President Putin, and there is no question what issue President Bush is going to give priority to, and that is going to be Iran. And quite properly so.

So I think whatever opportunity there was there to use the St. Petersburg G8 to address this cluster of issues is probably gone, and Peter, you're going to have to help me with my German.

We have to look ahead from St. Petersburg to Heiligendamm. Am I pronouncing it more or less right? A small Baltic seaport town where the G8 is going to meet in 2007 with Chancellor Merkel in the chair. And I kind a like the sound of that from what I have heard about Chancellor Merkel's instincts and views on the Russia issue, her predecessor could talk in fluent German to Putin, Chancellor Merkel can talk in fluent Russia to Putin and to Russian democrats and reformers, and this is a potentially good development and we have a year to see if there is any utility left in the G8, and there will only be utility left in the G8,

or the Heiligendamm G8 will be the last one ever if--and I'm going to pick up on Dmitri's metaphor here.

If Russia thinks that it wants to graduate from being a failed planet on the outer edges of the solar system to being the star in a new solar system, exerting gravitational pull on a bunch a little moons or planets around it, that isn't going to work for Russia, because there's this thing called globalization and that's a whole other conference, and we've had a lot of those conferences. But Russia cannot isolate itself from the outside world, any more than we can isolate Russia, and that means that they are going to have to, at some point, face up to the gap between their observance of international norms in the breach as opposed to actually following over those international norms, if they are going to make it as a modern country, and that's what the premise of the G8 was, and we need to get back to that if the G8 is going to survive for another year.

And by the way, the 2007 G8 will be a year before 2008, which means the issue of how Russia plans to run its presidential election in

2008 will be a fitting topic for discussion at that meeting. Thanks.

MS. HILL: Thanks very much, Strobe. Before turning over to the floor, I'd like to just put a couple of questions [inaudible] from some of the things that have been said.

I'd like to actually start with Dmitri and pick up some of the things that both Strobe and Anatol have just said.

Dmitri, I think it's certainly true, as Anatol pointed out, that certainly during the 1990's, most of the concerns of the Russia population were centered on their well-being, on economic issues. They certainly weren't really focused on political questions, certain not on the big foreign policy issues, and there's a great deal of dissatisfaction of course with the Yeltsin government. I mean, remember that Yeltsin's popularity at the end of his tenure was barely in single digits.

MR. TRENIN: Yeah, but he was winning elections, as we all know.

MS. HILL: That's right, and we know how he was winning them in many cases. But when you do get to some of the specifics of President

Putin's policies, I think there is a little bit of a difference in terms of the level of popularity. I think Anatol is right, that certainly, in general terms, Putin himself, in a sort of general view of his policies, is very positive. When you start asking people about specifics, about government politics, and about the support for the government itself, the government of [inaudible] is a fairly different picture.

And Strobe is right, that one of those areas where there has been, let's say, a rather negative view, has been on Chechnya and the North Caucasus, and it's still a major problem for Russia, though to be fair, Chechnya itself looks a lot more stable now than the rest of the North Caucasus do.

But I wonder how some of these domestic problems are still resonating in Russia. I mean, certainly, the great floods of oil revenues and gas revenues has masked an awful lot of the underlying structural problems that people used to be concerned about. Overall, people are living much better than they have done in the past. There's a general greater satisfaction, even though poverty levels, relatively poverty perhaps

has increased, even though absolute poverty has really gone down in Russia.

So I mean, I wonder, from the level of population, how people generally feel, in your perception, about the state of Russia right now, picking upon what Anatol said.

MR. TRENIN: Well, I think, Fiona, that there are two things here. One is the level of support for President Putin, which I think is high and stable, and is more or less what the public opinion polls say. On the other hand, you have a high degree of depoliticization of the Russia people. They don't care all that much about politics. If you had a poll in Russia and you asked the question, whether the Russia had to go through elections every several years, a large body of the Russian population would say no, we don't need elections.

And a large body of the Russian people will say no, we don't need more than just one party.

Of course the Kremlin will never accept that because the Kremlin clearly believes that its legitimacy is drawn from the elections process,

and they all depend on that. So you can be sure of that.

It's economic issues and private issues that are absolutely taking the center stage in Russia, and I said once, jokingly, that you have the Freedom House index on the one hand but you also have the Ikea index on the other hand, the number of Russia cities that Ikea stores. And that's your middle class, and those stores are pretty well frequented by lots of Russia people everywhere.

And if you look at how Russian, say, political talk-shows are doing, they're not doing very well at all. But is there a demand for that. That's a big question. There's a lot of demand for entertainment. There's a lot of demand for nonpolitical issues. There's very little demand for politics.

I think it's absolutely right to say that there is no supply of democracy, top/down, but there's very little demand for democracy, bottom up, at this point. It's not that society does not know where its interests are.

I think that you have to accept that people would focus on the immediate things first,

and actually, this is, in a way, a reaction to the tumultuous years of Gorbachev and early Yeltsin.

They want to do something for themselves. The biggest, the most serious problem the Russia people are talking about these days is the skyrocketing real estate prices in Moscow, which make it very difficult for new couples to hope for an apartment of their own if a square meter costs 2000, 1500, \$3000, depending on which part of Moscow you're talking about. That's hard. So that's what moves people, and other things--let me very quickly comment on this Chechenization issue.

I plead guilty to not mentioning Chechnya, but, in fact, Strobe, as you know, Chechnya today is not ruled by Moscow or from Moscow.

It was Putin's policy, early on, to Chechenize the conflict and that policy, although I was very critical of that policy, that policy seems to be working.

What you basically have is Chechnya where this guy, Aslan Kadiev [?], basically has gotten from Moscow what Dudayev, the first separatist president, was always claiming and demanding, and was never getting. And now Kadiev is asking the

Kremlin, very politely for the time-being, to withdraw the Russian forces for Chechnya, and at some point this will be done.

The other side of the deal of course is that very few Russians are actually dying in Chechnya. It's Kadiev's forces versus the other side.

MR. : Insurgents.

MR. TRENIN: Insurgents. They are insurgents today. They will be in the government tomorrow. Maskhadov's defense minister has been elected to the Chechen, call it pro Moscow parliament, on the list of the Union of Right Forces Party.

And Kadirev himself, as you know, was the enemy, the battlefield enemy in the first war. So these things are working but they're working in a very subtle and very complex way, and the North Caucasus is a running sore of Russia. This is extremely complex. Moscow doesn't know how to deal with that. But it's not just the problem of the federation. Russia was not a federation in 1991. Come on. It was officially known as a federation. It has not been a federation yet.

Whether it will become a federation some time later, we will see, but it's not a federation.

And the North Caucasus, it is in many ways a very special region of Russia, where some of the normal democratic procedures would probably have to wait. This is, in some parts, parts of the greater Middle East, and you know what I mean. Thank you.

MS. HILL: Dmitri, let me just press you on one other thing in that regard.

We all know that Chechnya played a certain role in the transition from Yeltsin to Putin back in '99, 2000, but given what you've talked about here, and then also this issue about the political sentiment of the Russian population at this point, the point that they would rather in fact politics left them alone. They've had too much of politics in the 1980's and 1990's.

And as you mentioned, there might be a sentiment even that elections are not really that important and there's a great deal of cynicism about them, I think, on all fronts.

How do you see 2008 playing out in terms of the succession?

MR. TRENIN: Well, I don't think that you will need another war to propel another unknown person to the presidency in Russia. And I think that's--and Strobe said it--that's a very important year and a very important decision that will have to be made. But I would disagree with Strobe that that's the decision for Russia.

I think we more or less know what kind of a election it will be in Russia. Maybe one of the candidates selected by Mr. Putin, and the collective Putin, who will be presented to the nation, and people will vote for him. It will be genuine vote because people will be voting for no change, for stability, and it's the "government leave me alone vote."

So I think we know what kind of an election it will be, and it could be, Mr. Medvedev, could be Mr. Sergei Ivanov, could be someone else. I think that supreme power will stay within the group of people who are currently wielding it. You have a situation, and when the people who basically own Russia also rule it, and they're not going to walk away from that. But it's interesting how the constitutional system may change and change profoundly as a result of 2008.

Mr. Putin is not stepping down from Russian politics.

I think he is stepping down from the presidency, and the trick of course is for Putin to continue to play a role, to some extent, not dissimilar from the role of Deng Xiaoping in China.

For a long time they were thinking about the various scenarios. I think that they've just come up with a brilliant scenario, a truly brilliant one. For Mr. Putin to step down as president and to become the head of the constitutional court of the Russian Federation.

Well, he's a lawyer. The constitutional court of Russia is the United States Supreme Court before Judge John Marshall. So you don't really what it is. Potentially, it can have vast powers. It can declare any decision by anyone unconstitutional and thus be the real check and balance on the system.

Another thing that they are doing right now is they are modernizing the former building of the imperial senate in St. Petersburg. It's just across the square from St. Isaac's. It's just next to the Bronze Horseman. And they are turning this former national archive into a state-of-the-

art office building. And we are talking about dozens of millions of dollars involved.

Things in Russia do not happen by accident. Now the decision was made to transfer the court from Moscow to St. Petersburg.

The interesting thing is that whereas in Moscow you can suddenly wake up and find out that you're no longer what you thought you were because your gods have been changed overnight.

Now when you are in St. Petersburg this will not happen to you. I don't know. It's just a theory; it's a rumor. Moscow's a rumor mill second to none, I think.

But I think it's one of the most elegant solutions, and as a result, the Russian constitutional system, without a single letter in the constitution being changed, will be profoundly altered. So that's my answer. Well, one of the possible answers to the 2008 question.

But the real answer to that question will have to be given here, whether the people here, the government and the people who care, that is, will pronounce the Russian election as what? Not free, not fair. Free, not fair? The ball will be in the United States court, I'm sure, and the

future of the G8 will hinge, not on the Russian election but on the judgment passed here on the Russian election.

MS. HILL: Thank you, Dmitri. I actually wanted to bring Dan in on this one, but Anatol said that he wanted to make a quick point on this issue.

MR. LIEVEN: Just a very quick point, that this election or this transition, I think will demonstrate something extremely important about Russia and about the difference between Russia, of course the difference between Russia and the Central European countries on one hand. But also the difference between Russia and Azerbaijan, say, or the Central Asian countries, which is that Russia is not what has been called a sultanistic dictatorship.

This is not a country ruled by one man now, certainly not a country ruled by one dynasty. You know, there's no chance whatsoever of Putin passing on power to his descendants, unlike, obviously, in Azerbaijan, in many of the Central Asian countries.

What this is is rule by a collective group, with circulation of power among senior

members of the collective. Now that isn't of course democratic, and it's certainly not perfect. But I mean, if you look at the record of sultanistic rule in many parts of the world, including the former Soviet Union. It's still a very, very big improvement.

MS. HILL: Well, Dan, I want to--you were a little bit on the spot on this. I don't need you to pronounce whether this is a sultanistic dictatorship or not, so don't worry about that.

But I did want to ask you, I mean in the context of your position as assistant secretary for Europe and Eurasia, how much at this point does Russia look like an outlier, when you look at the range of other countries that you have under your auspices, and as Anatol said here, there's obviously some distinct differences between Russia and the Central European countries that, you know, we may view as negative but certainly some perhaps positive differences between some of the other former Soviet states and Russia.

But also much more broadly. I mean, I think, you know, if we were comparing, say, Russia to France or Germany, you know, we'd obviously see

some distinct differences that we may find troubling.

But is that the right framework to be looking at Russia in? I mean, what is our point of comparison? And you've had a great deal of experience in many different settings. What's our direct point of comparison here for Russia? Should we be looking at Russia on its own terms, historically, as Dmitri and Anatol suggested? Dmitri wrote a piece recently, saying Russia's becoming more czarist in many respects, in many of the features that we've talked about here, you know, for a historian, would look very familiar.

And what are the implications of that, by the way, for U.S. policy?

MR. FRIED: I think Strobe actually summed this up pretty well, when he said that a Russia ambition to becoming an outlying, small solar system of its own, having successfully intimidated Georgia or broken apart its neighbors, is not much of a future. I mean, Anatol said basically, if I read him right, that the United States ought to basically do a cynical deal with Russia. We let you treat Georgia as you will and you'll help us on issues that we care about--

MR. LIEVEN: I'm sorry, did not say that; but anyway, I can answer later.

MR. FRIED: Well, I think I read it that way. If not, I'm pleased. I think Strobe was right, that globalization means that a Russia policy of selective engagement or constructive isolationism, which are Russian terms, not Washington terms, is not, in the end, going to work. An isolated Russia has not brought many benefits, even in Russian history, and I don't think it's a very sustainable policy now.

There is a profound difference between the Russia today and the Russia of the early Putin years, when Putin was explicit about Russia's desire to become a member of a wider community, treated as an equal, deciding its own interests, but more integrated with the world, and when he simultaneously pointed out that Russia had a lot of work to do, I don't remember precisely but he talked about Russia requiring years to achieve even the per capita GDP of Portugal.

And he was realistic, addressing his people about the amount of work they had to do.

Now I think, as a function of the price of oil and gas, there may be a mistaken view in

Russia that this is a short cut to, if not super power, then regional power status, that will allow them to pursue a policy of constructive isolationism or selective engagement, which I think would be unfortunate.

American interests will be better served if we are able to work with Russia on a host of issues such as Iran. I don't think it is in Russia's interest, Russia, as Anatol says, correctly, will make its own determination of its interests, but I cannot imagine how it would be in Russia's interests to sacrifice the possibility of better relations with the wider world in order, for example, to annex Abkhazia, arguing that Kosovo is a precedent. What good does that bring Russia? What good does picking on its neighbors do for Russia?

I think it would be far better if Russia took its self-confidence now, and translated it into a self-confidence in its ability to compete in the world, as a nation among nations, and I'm afraid that that is not what I'm hearing out of Moscow, these days, on the unofficial side, you know, the press and pundit side, though I hope I'm wrong.

MS. HILL: Thanks, Dan.

Strobe, do you have one comment on this?

MR. TALBOTT: No.

MS. HILL: I'll take it over to the floor. Phil Gordon, and then the gentleman at the back.

MR. GORDON: Very briefly. I don't know if I'm supposed to get to ask questions at these things but I figure Anatol could bring his own questions with him, and I would at least be able to grill him on the answers to his own questions.

First, I appreciate it, it was actually a breath of fresh air. Usually at these things, on this topic, the governmental official comes and explains why we have to engage and be patient and understand, and then the think-tanker steps in and says everything's going in the wrong direction, we need to be tougher on the Russians, and we had an interesting role reversal there.

But it begs the question to you, Anatol. If you want to take that even more realist than the government official view, which is it's sort of what Dan hinted at in his comments, or at least the way he understood what you said.

What does your realist strategy actually look like? I mean, how do you implement it? Are you suggesting that what you can do is tell the Russians, all right, here's the deal, we'll keep quiet about Chechnya and Abkhazia and Georgia and Ukraine, if you put sanctions on Iraq. I mean, I'm caricaturing, but to really press you on it, it would be nice and probably Americans as well could be persuaded--

[Start tape side 2B]

MR. GORDON: [continuing] really could do the deal and you prioritize, and on the things we really care about, you get the deal. But I'm not sure it actually works that way, and it would actually be working. Will you elaborate on what you're suggesting.

MS. HILL: Thanks, Phil. Let me take the gentleman at the very back here.

MR. WALLACE: Steven Wallace from the Department of Defense. In this talk about, you know, sort of Russia isolating itself or not having any friends, somebody said their only friends were the army and the navy. That quote. Fiona Hill, your own paper, you recently wrote about Russia and Turkey finding common cause to

make in the Black Sea region, and in fact that there are a lot of countries that maybe would share Russia's interests or concerns maybe, that U.S. democracy promotion is destabilizing the area around them and that maybe they do have friends and they do have partners for those kind a policies which we don't like.

Could maybe the panel address that, please.

MS. HILL: Ambassador Collins. Then I'll take some more questions.

AMB. COLLINS: I do have one question that's not been touched on at all. That is the nuclear energy [inaudible]. Everybody talks about oil and gas but Russia's about to undertake a very major restructuring of [inaudible].

In my view, this gives us potential opportunity [inaudible] very different role in the future, and we have some real problems we better sort out together, and I'd just like people's comments, if any, on where are we on this? Are people looking at it? And what should we be doing.

MS. HILL: Thank you. Anatol, if you'd like to address Phil's question, then perhaps also

the issue that the gentleman from the Defense Department brought up about Russia having other friends and partners.

MR. LIEVEN: First of all, on the cynicism line, I mean, in the month when Ilham Aliyev is invited as a very privileged guest in Washington, I don't think it's possible to say that cynicism, or idealism, for that matter, are all on one side or the other of this debate.

America is pursuing its own interests in this region, and legitimate interests, I would say, by the way, in realist terms, in terms of access, you know, to a reasonably, as I say, free and guaranteed supplies of energy. But let us not pretend that America's relations with Azerbaijan, for example, in recent years, or some of the Central Asians, are motivated principally by the desire to spread democracy, progress, and so forth and so on.

So if America's conscience is adjustable over one issue, presumably it is adjustable on others as well.

When it comes to the specifics, I think that on a range of issues, it shouldn't be seen as permanently giving Russia anything.

For example, on Abkhazia or on NATO membership for Ukraine.

There is, however, a strong case, I think, from the point of view of our own interests, in not pushing forward too fast in parts of the world where in fact, matters are still, as we've seen from the last Ukrainian elections, so extremely undecided in terms of the actual will of the Ukrainian population, the progress of Ukraine towards stable, Western style democracy, towards economic reform, and so forth.

Therefore, as I say, there's been all this talk of Yalta, as if, you know, we give the Russians something permanently, which is then in place for 50 years. No.

I think we could well get more cooperation from Russia on critical issues, by just going a bit slower and more cautiously on things which are of critical importance to Russia. That's one thing.

The second thing is I think we can ratchet down the rhetoric a bit on a whole range of issues.

I mean, once again, if one's looking at cynicism and idealism, there is a rather striking

difference between the approaches of the American establishment and media towards the Chechen conflict, for example, and approaches, say, to the Kurdish issue in Turkey over the years, or the Kashmiri separatist question.

From a Russian point of view, this obviously looks like sheer bias, or to put it another way, a lack of concern for the territorial integrity of the Russian federation, and they're not altogether wrong there. Similarly, I mean Turkey is almost too good a target to miss from that point of view, but our attitude toward the rapid establishment of democracy in Russia, as opposed to incremental stages with considerable measures of authoritarianism mixed in, has been radically different from our approach, at least in the past, to many of our own allies.

But by the way, I don't see this in terms of cynicism and idealism, because, after all, through our approach to countries like Turkey, South Korea, Taiwan, we've ended up with rather a lot of rather happy endings, you could say, success stories, in the end, in terms of democratization.

It did admittedly take a long time. So I think we can ratchet down the language about this. This is why I was trying to suggest, you know, with my sultanism point, that also of course countries throughout the world have to be seen as part of a spectrum, and not, I have to say, the pretty--help me with a euphemism, Dmitri, for Freedom House's charts; you know. Rather simplistic approach of Freedom House, and organizations to this.

When it comes to isolation, yes, I think that was a very good point. It does remind me, I have to say, some of these comments, about the old joke about Britain when it was an imperial power. The headline in my former paper, The Times, "Fog Over The Channel," "Continent Isolated." Russia is not isolated from India today, or from China, or from the Muslim world, in general, despite Chechnya, or from the greater part of the world. Isolation in the world is not just about having difficulties with Washington or even with Western Europe.

Russia does have alternatives in this light. Now they may not be very good alternatives and I think certainly as far as China is

concerned, there is indeed deep worry in much of the Russian population about getting too close to China.

I mean, that's why, you know, we still have a lot to play for, actually, in terms of relations with Russia.

But once again, I agree, partnership, as a phrase, ought to be abandoned, but even successful engagement, as we know from our experiences with the Chinese, for example, requires the ability to set a hierarchy of priorities and make deals accordingly.

And I think that if we want to keep Russia even partially in our orbit, that is something which we need to be able to do. There also has to be a degree of self-awareness here, a much greater degree of self-awareness when it comes to critical issues.

I like to quote a statement, which I'm sure most of us would regard as absolutely out of keeping with what have been called today international norms. That some Russian energy operations are, always have been, and should be, an expression of Russian foreign policy.

The problem is, as I'm sure a lot of you know, it wasn't a Russian spokesman who said that, it was Dean Acheson, and he said it about American oil operations.

You know, the Russians have, in certain respects, gone well outside international norms, and I think that's true, above all, of the transparency, or rather, lack of it, of their energy operations. But let's face it. When it comes to keeping Russian energy production, sale of energy, basically under the not complete control but dominant influence of the Russian state, Russia is conforming absolutely to the international norm. It's Britain and America which are out of key with that.

So once again, just a bit more self-awareness and a bit less self-righteousness, I think would actually help an enormous amount. that doesn't require sacrificing anything except perhaps some of our own self-illusions.

MS. HILL: Well, first, we have a bit of a sacrifice of time because I'm aware that poor Strobe is looking a little uncomfortable. Both Strobe and Dan need to leave.

So I'd like to bring Strobe and Dan in on this points and also give you an opportunity to perhaps say something that you feel hasn't been said. But perhaps we could also address this issue of the nuclear power, I mean, in particular, that Ambassador Collins raised.

MR. TALBOTT: Yes. I'd like to pick up on Jim's question, in a way that I think whatever its defects, will not be guilty of self-satisfaction or self-congratulation as far as the United States is concerned.

There's no question, for reasons we all understand, particularly those of us who bought a tank of gas in the last 24 hours, that nuclear power is back for good or for ill.

And if it is going to be for good, Russia has a major--well, matter of fact, for good or for ill, Russia is going to play a major role in that because of its immense experience, resources, and technological capacity, not to mention its new desire to do business around the world.

If it is going to be for good, Russia and the United States are going to have to recreate the one partnership that they did have during the

Cold War, which was on arms control and nonproliferation.

The arms control and nonproliferation regimes, or regime, is in terrible shape. We are on the brink of nuclear anarchy and the breakdown of the NPT. Russia has been part of the problem in that respect. So has the United States.

The demise, and I think it is probably that, of the comprehensive test ban treaty, is something for which the United States bears a lion's share of responsibility.

Russia has behaved with systematic irresponsibility with regard to Iran up until rather recently, and it still has a lot to make up for for the way in which it supported the Iranian nuclear program and the Iranian ballistic missile program in the '90s.

So I think, Jim, if the positive implication of your question is going to be born out, this is one thing that President Bush and his successor, President Putin and his successors, and I gather the later is more predictable than the former, are going to have to come to grips with.

I will conclude this comment with a note about a personality, and thereby probably ruin

somebody's career in Moscow, and that is Sergei Kiriyenko, who is the new minister of atomic energy. We all remember him from his last star turn in Russian politics, where he was a rather hopeful figure.

I think it is hopeful to have him back in that capacity and Jim, you and I and others in the room who dealt with his predecessors, Adamov and Mikhailov, can appreciate the contrast that he represents. So he can keep that job, and if what I think would be the instincts he would bring to bear on how to answer your question from a Russian standpoint, and we have an American policy which starts strengthening rather than weakening rule of law as it regards arms control and nonproliferation, then we can have nuclear energy come back without paying a terrible cost in terms of weapons proliferation.

MS. HILL: Dan.

MR. FRIED: On the question of Russian democracy, no, it is not the Soviet Union, it is not Stalin's Russia, it is not a sultanate, it is not Uzbekistan. But that surely isn't saying quite enough. It won't do to defend Russia's record in the past five years by saying that Putin

is not Kurimov [ph]. He isn't. And Russia is a breath of fresh air after, say, Minsk, which is one of Russia's friends in the world, under Lukashenko, I'm sorry to say. That surely is not enough.

A second question which I cannot answer definitively, because there will be a debate in the United States for a long time to come, as there has been for a long time to come, is the nature of the R world which Anatol used several times. Realism.

Should we care about Russian democracy or should we simply sort out, do triage on our interests and decide that we care about Israel/Palestine, nuclear energy, nonproliferation, Iran, and we don't care about democracy in Russia, Georgia, Ukraine, or the way Russia conducts its energy strategy with respect to Central Asia and the Caspian.

In the United States--and this is not a statement of policy as it is a kind of historical observation--we don't do realism very well. Now maybe we should, but, in fact, we don't.

Our values and our interests tend to get mixed up, and in my personal view, this is a good

thing. It is going to simply be harder for us to deal with a Russia where democratic institutions are in the process of weakening rather than strengthening.

But having said that, we do look, wherever we can, to common interests as areas of cooperation.

I agree with Jim Collins, that nuclear cooperation is both possible and desirable and in fact, yes, we are looking at this. It's a good thing in general, and as Strobe said, it is urgent.

And Russia can play, you know, a role, good, bad or both. But it is not prissy and simplistic to believe that democratic trends in Russia are of interest.

It is true that democracy in the 1990's was mixed up in many Russian minds with the chaos and corruption of the period.

We will see how the present era looks in another ten years. I couldn't predict. But these things do matter to us, and I think they should.

American administrations do two things rather well. We either are enthusiastic about

Russia, and we've had bouts of that, or we are very angry at Russia.

What we need is a policy which recognizes the complexity of Russia and recent Russia history, the breadth of our interests, and therefore will support us in a policy which will, for some time to come, I think, be one of a mixture of cooperation wherever possible, and, of necessity, from time to time, difficulties and push-back. That does not have the satisfaction of a kind of intellectual purity but at least in the administration, that is the world I deal with.

MS. HILL: Thanks, Dan.

First of all, I'd like to apologize to anybody else who wanted to ask a question but given the fact that two of our speakers have to leave. I need to ask Dmitri if he can get a chance to actually say something.

MR. : [inaudible].

MS. HILL: A Black Sea question? I don't believe there was a Black Sea question specifically. He asked a question about whether Russia had partners, or future partners and all; not a specific Black Sea question.

I'll maybe ask Dmitri, in his summing up if he could touch upon that.

MR. TRENIN: Well, if I may say so, isolationism is not the way that the Russia leadership basically looks at the world. The other thing, next to money, that exists in Russia, that does not exist in the Soviet Union, is physical openness of the country.

What has changed is the idea that somehow you can integrate either into the Western world or with the Western world, and I think that they are now settling on a policy of integrating with the world, and in that broader world, a wider world, they are looking for collaboration, whatever, with countries that, well, a lot of people everywhere are putting at the top of the merging markets chart--China, India, Brazil, South Africa, and many of the others. It's not isolationism of two [inaudible]. That's not what's happening, at all.

And in the Black Sea world, the Russians have found Turkey a very interesting partner, an increasingly interesting partner, Turkey, and in many ways, not just economic ways but political and--it's, in many ways, a different world.

MS. HILL: Well, I think that's a good place to start. We're in a different world. I think that's what we have to take away.

Anyway, thank you very much to everyone. I think is it now lunch? Lunch is next door. Thank you.

[Luncheon recess]

**"Is America Above the Law? A U.S.-Europe Dialogue
About the War on Terror"**

MR. SHAPIRO: We used that title for a couple of reasons. First, because we wanted to provoke you in hopes you would show up, and second, because it is something that we have a question that we've actually been asked in Europe. There does seem to be a growing perception that especially in issues related to the war on terror, that the U.S. views itself as a special nation, and that means, in some ways, that it's not bound by the rule of law, especially international law.

The idea that this view exists, that people believe that the United States sees itself as above the law, although certainly not the truth of the view, is, has to some degree been acknowledged by a U.S. government diplomatic offensive, to go out, particularly to Europe, and to explain the U.S. understanding of the rule of law with regard to the war on terror and the U.S. understanding of international law to its European allies, and that's a process that's currently going on.

What we're hoping to do today is have a fairly, a dialogue, let's say, maybe an argument about that topic, and to have fairly short presentations.

We have a large panel here. In part, that's because there are a lot of different views on this issue, both here and abroad, and obviously we have big debates within the United States on things like torture, extraordinary rendition, methods of interrogation and detention.

One of the problems that we've noticed is that these debates, within the U.S. context, don't sound precisely the same in Europe as they sound here. Certainly, what is legal and what is wise on these questions is not settled in the U.S. But the very debate sounds somewhat differently in Europe.

So I think I want to start by getting a sense of how Europeans see this issue, and I'm going to, in the interest of time, I think, skip over the biographies, which you should have in front of you.

But I'd like to start with Dame Pauline Neville-Jones, and just ask her how these debates

about legal issues in the war on terror are seen and understood in Europe.

What do you view as the U.S. approach to the issue of law and to the conduct of the war on terror, and do you see it as, either legal-wise, or perhaps most pertinently, productive?

MS. NEVILLE-JONES: I think I want to start by your second question, which is the conduct of the war on terror. I think in the interests of clearing away a bit of the underbrush, perhaps, in our debate, I think it's worth saying that the approaches on the two sides of the Atlantic to the challenge we face to the open society--and I want to put it that way--is significantly different.

If I put it in European terms, the Americans are perceived in Europe as following what is described in Europe as a war model, and you use the term war on terror. Come to Europe. You won't find it being used. It's in currency because it's used by the United States.

We tend to avoid, I have to say, trying to typify it. You know, we get round it and we talk about struggle and all sorts of things. But we do shy away from that terminology, the reason

being that on the whole, the fundamental approach in Europe, and in this I put the U.K. alongside her continental European partners, is that we are following something which we would typify as being a criminal law model.

And the consequences of these two approaches, in both political and legal terms, are I think significantly different.

Why are we doing this? I'm not going to try and claim that it is the inherent superiority of the Europeans, or even that it's Mars and Venus, though I do think Mars and Venus is an element in all of this. You know, if you have the power, the military power, you're inclined to use it. If you don't possess that degree of military power, and some of the forms of military power which are relevant to asymmetric warfare, then you're not so likely to rely on it.

But I think it has equally much to do with the nature of the perception of the threat. In the United States, I think the approach is, the threat's "out there," out there, and we want to keep it out there, and we want to keep it as far away from our shores and our borders as possible. So don't fight it out there.

That's not a possible approach in continental Europe. As we know from the London bombings, it's here. As the head of MI5 was saying before, finally, an attempt got through. This threat is amongst us, it is real, and one day something will happen. And indeed it did.

Now you can't declare war on part of your own citizenry. A lot of you want to keep any kind of civilized society. Therefore you do have to adopt, in some fundamental ways, a different approach to the whole thing, and I think that is something that actually the two sides of the Atlantic do need to understand about each other.

Now asymmetric warfare obviously is something which, you know, which we have not been fighting, we, collectively, Western, open societies. We haven't been fighting for, you know, a significant period of time. We're accustomed to, and the international law has been built up on the basis of much more, what you describe as regular warfare, and regulated by, obviously, the United States of international law as seen through the United Nations, and also all the conventions governing how you behave during the course of the war, which include, obviously,

protection of the rights of prisoners taken during war.

There's also a whole set of doctrines, which, by and law, I think Western societies accept, on proportionality, which go under the heading of, you know, the "just war," a sense of proportionality in things.

Obviously all that becomes quite difficult when you start applying it to the conditions of asymmetric warfare, and here I think the difficulties begin to arise between us, because there is undoubtedly, and seen in Europe, the temptation in the conditions of asymmetric warfare, to start bending the law of self-defense as understood in international law, in order to use it in the context of things like preemption.

Now I'm not one of those who say that preemption's never justified. It's very clear that we are, with suicide bombing, in a situation where prevention is vital. You cannot wait for deterrence to work.

Therefore, I think it's understandable, you need to be able to, you know, to have the right to preempt.

But the crucial question for Europeans is is that going to be abused? And I do think that-- here I come to Iraq--that a great deal of, how shall I put it? credibility and good faith, and faith in the way in which these powers might be used, you know, has been prejudiced by what has happened over Iraq. And I'll just say two or three things there. One is I think what is widely regarded as the, in Europe--I don't comment on the merits of the view--but nevertheless the forced bill of sale as to why it was that intervention is engaged in.

Secondly, in the process of that, the damage that was done to the professional integrity of the intelligence agencies, which has greatly reduced both their credibility with the public. Oh, don't you pull my leg, I just don't begin to believe what you say is now, you know, a dangerous reaction to the whole business of public perceptions of the reality of the threat.

And thirdly, the link with terror. Never accepted in Europe, apparently still accepted here, and the inability, as seen through European eyes, the distinction between al Qaeda and

insurgency. You know, the "hammer blow" rather than the use of the scalpel.

I think you want to go into the treatment of prisoners later, so I'm not going to go on about that here now.

All I would say is that in the course of the war, what has happened to prisoners in Guantanamo, frankly, has been even more damaging. If I had to distinguish the things that I regard as most damaging, that undoubtedly is one of the most damaging, and it's the denial of reasonable due process, and I know you can argue about what reasonable is.

But it is that, I think, more than anything else, has given non Americans, or people outside the United States, the notion that only Americans regard themselves as belonging to the human race and that other people are not entitled to those due processes.

In other words, the U.S. has a law which it applies to itself but isn't willing to apply to others. This is the perception, this is the perception, and if that perception now gains hold, the loss of moral authority that rides with it is

very considerable indeed, and I say that with--I don't delight in this; say it with real regret.

Finally, one other thing I would say which sort of adds to the impression of difference between our approaches, and goes to the area of counterproductivity, is, I think, seen through European eyes, the challenge we face as met in American policy, lays more emphasis, I think, than Europeans would think sensible on the military side, and insufficient emphasis on all the other things that you might put under the heading of "soft power."

The whole business of how you get at the roots of alienation. I don't myself believe that that's the way you can deal with it and you should have no defenses or no rights to challenge it militarily. I certainly believe the military weapon is important, but it does seem to me that we have to have a very long term, and thorough-going policy, which has to be an allied strategy, it seems to me, to get at the roots of terrorism, both externally and internally.

And for societies like mine, that do have an internal threat, that part of the strategy is crucially important, actually, to persuading our

own populations that we take their rights, their cultures, their patterns of behavior, and their status in society seriously.

So there is a link, ultimately, certainly for Europeans, between what we do in our foreign policy and the cohesion and the peace of our societies at home.

MR. SHAPIRO: Thank you.

I think we'll move on to Professor Wedgwood. Dame Neville-Jones just said that the perception is that there is one law of due process for Americans and a different law for others.

Is she right about that, and if she's not, how has that view spread and what can we do to change it?

MS. WEDGWOOD: Can I give you a somewhat complicated answer cause I want to express my opening statement as well as my--

MR. SHAPIRO: Sure.

MS. NEVILLE-JONES: Yeah; absolutely.

MS. WEDGWOOD: I'm going to Germany for a month, by the way, to the American Academy, so I expect to get a--

MR. SHAPIRO: Okay. So be careful of what you say here then.

MS. WEDGWOOD: --great deal of this conversation when I'm there, although I'm going for quite other reasons.

If you take us back to September 11th, stateside, when I was ironically coming to Washington for my first day of teaching, ever, at Johns Hopkins, and was diverted from my New Haven puddle-jumper airplane to Baltimore that morning, the debate you're getting to now, dear moderator, in its most difficult aspects of rendition and coercive interrogation, begins much farther back.

There are many other issues where the American conversation began. And you can cut off any number of series of way stations and have that be the last station you take. But pre 9/11, the supposition was that terrorism was to be dealt with purely through criminal process. Common law criminal process poses some unusual difficulties that are not common to the European civil law system.

In Europe, [en Francais], can, along with the [en Francais], in France, hold somebody, believe it or not, in custody for three years in a terrorism case, while he or she investigates, I gather. If Noelle Lenoir is still here, I stand

to be corrected. But Madam Chanay [ph] has told me this.

In Spain, Baltazar Garzon can hold somebody for four years, and there's a certain confidence in it because it's a judge, subject to appellate review with lawyers, but because perhaps, as my old colleague at Yale, Demashka [ph] would have said, the different relationship between citizens and state, even [en Francais] can overcome the presence of a lawyer to be quite searching and compelling in the questions that are asked.

But pre 9/11, stateside, here, the only way to grab a punitive terrorist, a person suspected of a terrorist act, was to arrest him and be prepared to immediately try him. Arrest him and indict him within 30 days, try him within 60 to 90 days, with evidence that's admissible by common law rules, which excludes hearsay, excludes un-Mirandized statements, excludes physical evidence where there's no chain of custody.

Until you've been a trial lawyer in an American courtroom, you don't realize what a "deaf and dumb" show it is. That most of what is, in

fact, epistemologically telling, is not admissible at trial.

The common law system is much more difficult than the civil law system in proving something. And that's where we were.

We also had the wall up, where the intelligence side of the house couldn't talk to the criminal side of the house, and the criminal side of the house really only saw things stateside. Anything abroad came to the intelligence side of the house. We could not follow al Qaeda onshore and offshore. And finally, al Qaeda had the refuge of Afghanistan, as it formerly had had Sudan, and Louis Freeh, head of the FBI, never had it within his skill set to displace al Qaeda from Afghanistan.

So I think the first debate was can you think about terrorism as an instance of armed conflict, if the damage to human beings is so grave, as it was with the death of three thousand, and in the intended death, may I say as a New Yorker, of thirty thousand, the normal working population at the Trade Center.

And this is not harem-scarem, it's just true. And therefore, the willingness to

contemplate making war on Afghanistan for being the host of al Qaeda was something that was innovative, shall we say,; daring, yes, and even ratified by the U.N. Security Council in resolution 1373, where they said we had suffered an armed attack, we did have a right to displace al Qaeda.

When people were caught in Afghanistan or elsewhere, the question was should you simply render them, produce them to federal district court with the same problems of rules of hearsay and inadmissibility? Or could you characterize them as being combatants in the war that they thought they were fighting, that they've said they are fighting?

And the applicability of the law of armed conflict was one important choice. There's been irregular warfare before. There's been asymmetric warfare before. There's never been quite this circumstance of the complete failure of deterrence and what has made this a different situation than ever before is that it's not a nation-state and it's not an irregular group that expects to become a nation-state, and it's not the kind of deterrence you expect with a criminal actor.

And therefore one was asking government to intercept, midflight, before they landed, to invade people's thought processes and private conversations, to catch something before it happens. Rape and robbery, one could posit doing the same thing, but the difference in destructive capability is so very immense.

And then, when you had somebody, the question was could you detain them as a combatant, putting to one side what kind of combatant they are, for some reasonable duration.

One of the challenges, I think, is to have a convincing process to show that you're doing your best to figure out who people are. I consider that to be a dynamic process. I consider it to have a kind of a mounting burden of persuasion. We should not say we have a pool of evidence, an 51/49, this guy seems to be X. It should be a continuing duty of investigation. But ultimately, you may not have what amounts to criminal proof, and the question is are you bound to release the person, to go back and fiddle around in Afghanistan some more, or can you detain them for a reasonable period?

The second worry we all had is an uneasiness that, if al Qaeda is forever, then this detention is forever, and I think it's very important to give weight to and to implement effectively, a kind of parole, release, decision making, if I may put it that way.

The person hasn't been convicted, but if you have a young man and he's crying in his cell, and you really are persuaded that he needs to give up the fight, and not to return to the Taliban or to al Qaeda, or al Qaeda's affiliates, then release him.

But the question is how you make that judgment. And it's not easy. And third, I should say, just one of the ironies now--I don't approve of torture, I don't approve of cruel and human and degrading treatment. I'm a human rights lawyer as well as a law of armed conflict lawyer.

But one of the problems in returning people is that you can't return them to a circumstance where they will be tortured or are likelier than not to be tortured, and I think in good conscience, though I may disagree with them, some human rights groups take the view that no form of diplomatic assurance is sufficient. So

you have, as currently is the case, I believe, in Guantanamo, a bevy of about a 100, 120 people who can be released to the custody of their governments. But their governments have not yet been willing to give sufficient assurances that they'll be appropriately treated.

So this is not an easy circumstance. I don't see human rights language as comfortably falling down on only one side of the equation, passivity versus activity, torture. 9/11 involved many acts of torture. Being burned in a building is torture. And the distinction between a private actor and a public actor, of course we feel most responsible for public acts. But we also have an affirmative duty, it's called, in other locutions, a responsibility to protect against crimes against humanity and genocide.

And therefore, the police power of the government is at times, I think, human rights duty as much as avoiding excesses on its own side. So this is a problem that I think perhaps Europe didn't face immediately cause they didn't invade Afghanistan. The teaching example I always use to provoke is if you had had a chance to capture--

MR. : They have 3000 soldiers
there.

MS. WEDGWOOD: --bin Laden in--I'll end
here.

MS. NEVILLE-JONES: It was an allied
operation.

MS. WEDGWOOD: If you'd had a chance to
capture bin Laden in 1996, when he was flown out
of Sudan, even though you didn't yet have criminal
proof, criminally sufficient proof on him, should
you have done it? My clear answer is yes. It
would have avoided a host of human sorrows. But
because we weren't willing to think of applying
the law of armed conflict, we didn't do it.

MR. SHAPIRO: Okay. So what we've seen
so far is some agreement that the U.S. has a
warfighting paradigm, and that they've applied an
entire legal regime, coming from the law of armed
conflict, and that Europe has a criminal paradigm,
and this, I think both speakers have emphasized,
comes from, to some degree, limits on capabilities
and to some degree the threats that they face from
the European perspective. You can't declare war
on your population.

From the American perspective, the threat that they faced was too much, and the criminal system that we have, according to Professor Wedgwood, is simply not up to the task of dealing with the threat of terrorism.

So with that essential disjunction in mind, I'd like to turn to Minister Fischer. You are a recently liberated European official. You, I would assume, in your job had to deal with these two conflicting interpretations as you tried to work in coalition with the United States on precisely these issues.

How did you see the problem, and how did it affect the way you were able to do your job?

MR. FISCHER: Well, I mean, let me start with some remarks about my biography. I was born in '48 in post-war West Germany, and I was growing up with a certain view, a very positive one on the United States foreign policy and security policy.

That it was not only power-based but it was also value-based. And I think the contribution of the United States foreign policy, which was never only a reference to Hobbes. It was always value-based, both together, power and value-based, based on interests and values.

Was a very important experience for my generation. That at the end, you are not only defending your security but also the way you want to live, the values of your society. And these values are based on individual freedom, the rule of law, a civil society, liberty.

And this was very impressive, and I remember very well, an ongoing debate in West Germany under the surface of the official debate, about the Nuremberg trials.

And at that time--and I will never forget that--there was one position who said this is winner's justice, and on the other hand, I shared that view and it has deeply impressed me. There was the position, no. These leading Nazi figures were responsible for genocide for the Shoaa, for aggression against our neighbors in Poland, in then Soviet Union, and they are responsible. They were brought to justice. There was a transparent, public procedure.

They were not treated softly. And at the end, I'm against capital punishment, but as a matter of fact, the majority of them was convicted and hanged.

This is, from my experience, a very important element which continues to the Balkans. Once again, it was the initiative of the United States to grade the special court, and based on my experience as a foreign minister, it's crucial that the major war criminals will be brought to justice. It's very important for the people in the Balkans.

And therefore, I never understood why the United States Congress was so strongly opposing the implementation of the international criminal court, and then we had the problem about the international criminal court but, at the end, we see now that it's very important that this tradition of America foreign policy which broadened individual responsibility of leaders, and broadened the element of jurisdiction in international relations, a very individual one, this is now in a contradiction to the perception, as we as Europeans, see the behavior of the United States.

If they are competent you have [audio volume drops momentarily] according to the Geneva rules and give them the rights according to the Geneva rules, or treat them, if you have an

insufficient law system, that you cannot really, I mean, deal with these new challenges and those who are responsible for these terrible crimes, 9/11, and maybe planning others. Then you have to reform the system, to adjust it, but from our view, there is a situation where you cannot exclude certain persons, even the worst criminals, from the rule of law.

And this is crucial. So from the very beginning, our position was either put them, indict them according to your national law, or if they are competent, treat them according to the rules of the Geneva convention, secondly. Some short remarks about the enemy we are fighting against.

Terrorism is a tool. The idea behind is the serious source of the challenge. And this is a totalitarian movement, and it's using asymmetric tools, terrorist tools, destruction based on self-destruction of human beings. Mass murder based on self-destruction

And I mean, all the guerilla movements tried to demask the enemy. When they attacked the government and the people of the United States on 9/11, what was the strategic calculation? The

strategic calculation was not to reduce the strategic strength of the United States. The strategic calculation was to create fear and anger by mass murder, and move the United States into steps which will, at the end, promote their political goal.

And one of the strategic elements is to demask the enemy, so at the end, that the enemy will show his true face, and I think it's very important that when we want to succeed in the war against terror, it's not to catch them, it's not to cut off the heads of the terrorists, because you've caught one, you get two, you caught two, you get four. Like these ancient animal--I don't know the English name for that. The Greeks called it "hydra." I mean, you have to go into the heart, and this is, for me, as a politician and experienced in foreign policy, the real challenge.

That we must avoid everything, to move into a double standard, and to betray our own values. If we are caught in such a wrong policy, I think the other side will have the benefit of that, and therefore this is very serious. Abu Ghraib. I mean, in Abu Ghraib, I experienced it as a foreign minister. This was really, I mean,

propaganda for the other side. They never could produce such a positive impression for them. Guantanamo. It's an ongoing, I think, problem, and it's being used in the Arab--it will be used there, and it's a challenge for the credibility of the United States. But not only of the United States. Of the West.

We all together fought, led by the United States, in the U.N. system, over years, over decades, against those regimes which are using torture, and then the practice of rendition, that people disappear. This was a debate in the United States and in Europe, and in Latin America, that dictatorships suddenly--I mean, people disappeared; nobody knows where they are. They were without any rights.

I mean, these are elements which will be used from the other side, and these are, I think, this is a situation where we must really reconsider whether this is strengthening a good cause, our cause, in the fight against terrorism, or whether this is weakening us, and I think this weakens us.

And last point. The United States always, going back to my biographical experience,

was strong not because of the overwhelming might of the U.S. forces but also because the United States represented the moral high ground, and it was a lighthouse for freedom, and the moral high ground for all those who are suppressed in dictatorships around the world.

In Europe. But not only in Europe. And these elements, to represent the moral high ground, I think is crucial to get into the heart of the "hydra." Not to cut off the heads but to get into the heart and eliminate this terrible threat. And everything which is challenging this moral high ground is counterproductive and should be changed.

MR. SHAPIRO: Thank you.

Ms. Toensing, I think we've just heard from the second European in a row, that there is a perception that the U.S. is not following the law, and in this case really it's own history and principles, and moreover, that that is essentially falling into the hands of the enemy in this struggle.

Is the U.S., in fact, following its principles and the law in these cases?

MS. TOENSING: Well, let me get into my biographical sketch. I was at the Justice Department in the mid 1980's and started the terrorism section. We first started prosecuting extraterritorial acts of terrorism at that time. Why was that? Well, because we couldn't get any other countries to do it. They didn't want to follow through. Our diplomats are murdered in the Mideast and you can't get the countries to do any kind of prosecution. And so finally, countries did come together and form the Montreal accords, where each then came back and said we're either going to extradite or prosecute, and that's when I established our terrorism section, because I was in the Justice Department at the time, and we didn't even have a way to do it, as most terrorism acts at that time took place outside of the United States.

We were so proud that we could then apply the rule of law. Ruth and I both. I was an assistant U.S. attorney prior to that, and then worked on the Hill for the Senate Intelligence Committee, for Chairman Barry Goldwater. So I came at this, you know, in a situation where we were so proud that that's how we were going to

apply it, and I can just tell you that 9/11 changed all of that approach.

And with all due respect, Mr. Minister, and I have great respect for your background, but you're really speaking as somebody whose country has not yet been attacked and 3000 people killed in the way that ours was.

But also somebody who doesn't appreciate, and I hope we can get into it a little bit, what our basic legal system is, and it is just the protection of that legal system, because I'm now a criminal defense lawyer, that I don't want to see people come in to and change, because I want it protected, it's a long, great history of protecting individual rights in criminal cases, and when criminal investigations are proceeding. It's a very strong system. It's not the same as the German system. It's not better; it's not worse.

It's just a different system with different pieces of the puzzle. I know. I came over and had to go through a lineup when Mohammed Hamadi was being asked for the extradition and the German government refused to do so, even though we

had waived the death penalty, and he was identified by everybody.

So I mean, the systems are different, but I want to preserve the American system of law, which brings me to--when Jeremy called me and told me what the title was, I said, whoops, there's a little prejudice in that title, Is the United States above the rule of law? It, you know, brings the old legal adage of he who frames the issue prevails.

But I say the real issue is, Is the United States above our own law? and of course not, and whatever it is, that there are the nuances of complaining about, here and there, I would hope, as I say to people, our courts are open, and let us go through the process, because if you'll pardon us, we have to go through now a process where we are changing our paradigm.

Ruth and I were assistant U.S. attorneys. We waited for the crime to take place and then we investigated it with all of our protections that we have developed for lo these many years.

Today, we say to the FBI and the CIA, and others, well, we don't want another attack. You've got to figure out how to prevent it.

Now what kind of new legal tools do we have to develop, and at the same time balance a person's constitutional rights. And so we've got to look at it differently, we've got to come at it differently, but we can't ignore due process, the constitutional rights, the protections. We just have to develop some new case law because, yes, some of the things we are doing now doesn't fit into the structure that I had when I was a line prosecutor and when we were developing the terrorism section at the Justice Department.

And then I have a question about, well, what is it that is international law? I mean, where do we go--you go to law school, and, you know, you go to the law library and you know where the law books are. Well, what do we use as a basis for international law? The only place that I can think of is the U.N. But then, if we use that institution, since it's the only thing that isn't 500 different voices--well, yes, it is--but I mean it's the structure, and we go there, and I say that international law is very difficult to obey, since it's quite difficult to figure out what's prohibited and what is required.

Let me just say, look how the U.N. has turned a blind eye to all kinds of unspeakable acts. Where was international law when women were kept from getting an education, where women were beaten, where they couldn't go to work, go to anything, without the complete covering?

Where was international law in Afghanistan then, when all that was going on? I didn't hear anybody complaining about that. Where is international law today in--well, women are important to me. Where is international law today in Darfur? I mean, in Iraq? You know, what is going on? And in my view, when we're dealing with tyrannical regimes--

MR. : Saudi Arabia.

MS. TOENSING: I agree. You know, who is in fact violating the law? And I look at enforcement by the U.N. It's consisting of merely, you know, shaking a limp finger; or silly sanctions. Why? Because they're violated by most of the countries in this world. In other words, there is just no uniform or meaningful enforcement of regimes that are truly violating human rights.

And that brings me to my other point, which is about the United States and international

law, and that is when the U.S. is no longer being asked to be put in the position of being the world's policeman, then maybe we can talk serious about what rules everybody should follow, and I say Pauline, I don't agree with you that because we use it. I think it's because we have the military, we're asked to use it, more than just about any other country, and that's not to denigrate,-- mean, certainly the U.K. and the Australians, and the Japanese have been very supporting in trying to rein in some of the terrorism. But it's us, it's the U.S. that has the problem when there's a problem in the Mideast.

Why is it that fighting between the Palestinians and Israelis, people are saying, Why isn't the United States there fixing it?

Why not the Saudis? Why not the Swiss? Why were people demonstrating in this country over the weekend, front page of every paper around here, saying we want the United States to do more in Darfur? Well, why weren't they asking the U.N. to do something there? Why is it just the United States?

So why, when Europe was having trouble in its own backyard in Bosnia, were our military sent there?

And then the problem arises. We make a mistake in the fog of war, the bomb the Chinese embassy, it was a terrible situation. But what happens? This is why we don't want an international criminal court, cause that area was under me when I was at the Justice Department. It was our pilot of our plane then, that they demanded that he be sent to jail under an international court process. So that was the main concern for our military, when we have to go out there and be in many different world conflicts, that we decided, at least during the Reagan administration, why we did not want to be a member of the international criminal court.

The U.S. is not above the law but the law that it must comply with is U.S. law, and that would be my command.

MR. SHAPIRO: Thank you.

Tom, your country was also attacked on September 11. You've also been a government official, I assume, dealing with issues like this,

but I take it that you see the U.S. obligation to some of these issues somewhat differently.

MR. MALINOWSKI: I see the obligation and self-interest, I think even more important, somewhat differently. Let me step back, I think, to sort of the beginning of this debate. I think it began after 9/11 with a cliché that we have heard many times, and that's been alluded to, even here, today. People start the debate often by saying it's a new war against a new kind of enemy and therefore we need new rules.

Now I used to be a speech writer for the White House, State Department. I get a little suspicious when I hear really good rhetoric, and that little word, "new, new, new," you know, it's a clever thing. Of course if we said it's a new kind of enemy, therefore I need a new kind of salad dressing, we would recognize immediately that it doesn't make sense. It's got an element of what the American comedian, who some of you will know, if you're Americans, Steve Colbert refers to as "truthiness."

It feels true. It feels like it must be right. There's a certain logic to the worlds. But when you really think about it, it begins to

fall apart a little bit, and I think it's a good starting point for looking at this debate.

Obviously, terrorism is not new, it's one of the oldest threats civilization faces. Of course we faced nonstate actors before. al Qaeda is an evil, despicable enemy, that I totally agree with you, Ruth, is a profound threat to human rights, not just our national security. But it isn't actually a greater threat to our national security than anything we faced in World War II or in the Cold War.

It is certainly not a more evil enemy in terms of its own refusal to abide by the rules.

This argument I think appeals a little to our vanity. You know, we like to think that what we face today is something that none of our forefathers or mothers faced in the past, and it's all different. But it's not. We have never argued as a country, and, in particular, our military, as an institution, has never argued that because we face an enemy that doesn't abide by the rules, we therefore don't have to abide by the rules ourselves.

We didn't make that argument when we faced the Nazis, or the North Koreans in the

Korean War, or the Viet Cong in Vietnam. Or Saddam Hussein in the first Gulf War, or, interestingly, Saddam Hussein in the second Gulf War.

This administration didn't make that argument when it caught Saddam the second time around. Only in Afghanistan, an anomalous case, was that argument made.

Second, if we do need new rules, the administration hasn't actually said that we need new rules or proposed any new ones, and I think that's kind of understandable, because, after all, it is profoundly not in America's national interest to establish a global rule that would permit American prisoners to be subjected to waterboarding, for example, or some of the interrogation techniques that we've permitted our enemies to be subjected to.

It's not in our interest to have a global rule that would allow Americans to be detained indefinitely by a foreign government and sent to a secret prison for years on end, where we don't know where they even are.

It wouldn't be in our interest to establish a rule that would allow the Russia or

Chinese governments to kidnap people off the streets of the United States or Europe because they are Chechen separatists or Weeger [?] separatists or suspected terrorists in those countries.

So instead, we really have tried to evade the discussion of rules at all, or argued, as the administration has, that there is a new rule that says that the president of our country, distinct, I assume, from the presidents of all other countries, is not required, cannot be bound by our laws even, not just international law, when it comes to his commander in chief authority.

And it is our laws that are at question here. It's not just some amorphous international law that the U.N. applies. Just a real world example right now, for example. The military has, it he last week, charged that the most senior ranking officer at Abu Ghraib, a lieutenant colonel named Jordan, with cruelty and maltreatment, which are crimes under the Uniform Code of Military Justice, American military law, for subjecting prisoners to forced nudity and the use of dogs to threat them in interrogations. These are crimes under the UCMJ.

They also happen to be interrogation techniques that Secretary of Defense Rumsfeld authorized military personnel to engage in at Guantanamo.

So in a sense, our own military has acknowledged that the Secretary of Defense authorized troops, in that circumstance, to commit a act that was a crime under military law.

Now I obviously think this has some moral implications. I think it's got profound legal implications. But let's forget about that for a second and ask the simple question of whether it has even helped us, in a pure national security sense.

Has it helped us that we've got hundreds of people in Guantanamo, who it turns out a vast majority of whom are, at best, low level militants, random Arabs, essentially, who went to Afghanistan to help the Taliban, not necessarily al Qaeda, and who happen to be the people who didn't have the money or the connections to pay themselves out of the bounty hunters, or the Pakistani intelligence services who turned them over to us, again for a bounty, even as far more

important prisoners were protected and allowed to leave.

If we'd followed the traditional rules, we would have seen the truth at that time. But these were not the kinds of people who, from a pure war on terror perspective, we should have been detaining for four years in Guantanamo, something most people I talk to in the intelligence community and the military will readily acknowledge right now, and it's why we're trying to get rid of these people, because they are a burden to us, they don't have intelligence value.

Did it really help us to use interrogation techniques like waterboarding and forced standing and sleep deprivation, that our own State Department continues to condemn as torture when they occur in other countries around the world? I would say absolutely not. I think it's undermined our ability to get good intelligence.

The most famous example of this is the senior al Qaeda leader named al-Libi who was sent to Egypt in one of these renditions, where he was tortured and finally confessed to his

interrogators what his interrogators wanted him to confess to, namely that Saddam Hussein was training al Qaeda in the use of chemical weapons, which end up being the closer, in Colin Powell's speech to the U.N., explaining why we needed to go to war with Iraq, and turned out to be a classic example of a lie that a prisoner tells under torture in order to stop the torture. The "mother of intelligence failures" resulted from the use of these unreliable techniques.

The use of these techniques clearly hurt our counterinsurgency effort in Iraq. Our military has recognized that now. The best units at counterinsurgency in Iraq, today, according to the Pentagon, are those who have made the greatest progress in treating prisoners well.

It's hurt our moral authority and it's badly undermined President Bush 's signature effort in the war on terror, the promotion of liberty in the Muslim world, and our ability to win hearts and minds there, which is far more important to winning the war in a purely practice sense than holding a few hundred people in Guantanamo out of the hundreds of thousands in the Muslim world who hate us.

Now that is a critical and fairly bleak picture, but I will close with a positive note.

I know a lot of our friends in Europe think that we've lost our minds over here, and the truth is we haven't. We've gone through something that this country has gone through many times before. Whenever we are threatened, whenever we are attacked, we have a debate in America between people who think that democracy and openness and the rule of law make us weaker, and those who think that those qualities make us stronger.

And every single time in our history we've had that debate, the latter half, the people who think democracy, the rule of law make us stronger, have won, invariably, and they're absolutely winning today.

It's a very interesting fact that in five years, the biggest defeat the Bush administration has had in our Congress, in our Republican, highly partisan Congress, overwhelmingly, without question, has come on the question of torture for the passage of the McCain amendment in the Senate by a 90 to 10 vote, and in the House, which is completely divided, as you all know, on partisan lines, by a three to one margin.

If you talk to administration officials, most of them, with some notable exceptions, privately today, most will acknowledge that we went wrong on at least one or two or three or more of these questions.

I've no doubt that if they had to do it all over again, in hindsight, they would not have done exactly the same things. They've got to defend it now, it's still the same administration, but there's very little conviction in the Pentagon, the State Department, certainly in the CIA, that these were the right policies.

And in the next presidential elections, the Republican front-runner probably is closer to Joschka Fischer and his view of this issue than the Democratic front-runner, although they both would certainly push forward a fundamental change in our policies.

So I think, you know, this will be seen, in history, as an anomaly, perhaps understandable, given how badly we were hit on 9/11, but clearly a historical anomaly in America's commitment to the rule of law, and I think we will have our moral authority back. Thanks.

MR. SHAPIRO: Okay. I want to open it up to questions but I just wanted to push a little bit on this, before I do that, just push a little bit on this issue of whether or not it's counterproductive. The answer here has been the U.S. is committed to the rule of law but, you know, maybe not for a little while, and there's been a lot of push-back from our European colleagues, asserting that this is very damaging to the United States.

The problem that I often see when trying to explain this policy to people is that these debates, they sound very theoretical or legalistic, and on one side they say we must obey the rule of law, on the other side they say we can't, and we can't on this issue because of the particular problems.

Have these issues, has this erosion of moral authority that both Pauline and Joschka had referred to, has that materially affected us already? Does it matter for the war on terror that these issues are bandied about, or is this just European whining?

I see German intelligence cooperating very well. When I talk to European officials,

they say the war on terror is fought in coalition. These are interesting issues, they're probably even important issues in the long term, but how does it matter? Does it affect us on the ground already? [inaudible].

MR. FISCHER: Well, once again, I'm not here to lecture our American friends. At the end, it's up to you to make your decisions. I just tried to explain the European perspective. I mean I fully share this view that after 9/11 there is a new situation and the challenge of al Qaeda, but not only of al Qaeda, I mean the challenge of these new threats is a very serious one and has to be addressed in a very practical way.

But the question is how constructive, based on the interests of security these developments are definite, aware, and my impression is that it's completely counterproductive because it gives an impression of the United States, and we all depend from the United States. The world needs U.S. leadership. This is one of my experience as a foreign minister. You are the leading power, you are the only power which is definitely indispensable. I experienced that many times. And you are in a

very special role. But this means also based on the great tradition of American foreign policy, you know, of American Constitution, that you are seen also in a very specific way, not only be implementing the might of your nation, and of your military and intelligence, but also defending the values. It means the credibility of the American Constitution and of the American tradition.

And there are the questions. It's not a difference that there is the whining of the Europeans or anything like that. We experienced Madrid, we experienced London. We know terrorism in all of our countries, especially, I mean--there is a new situation. But ma'am, with all due respect, we went together to Bosnia. I will never forget, when there was this bombing of the Chinese embassy. But no one, no one ever, for a second, had the idea that American servicemen should be brought to the International Court of Justice based on that experience. Nobody.

I mean, I would have intervened immediately against that because it was--we went together to Bosnia. We have almost 3000 military men in Afghanistan. We went together in this, quote, unquote, war on terror after 9/11. So we

put our government at risk. Many other European nations. We had one of the biggest manifestations in solidarity with the American people, two days, or three days after 9/11, together with the American ambassador in front of the Brandenburg Gate.

It was such a shocking experience for all of us. Why? Because we shared the specific American situation--

MS. TOENSING: Well, let me give you a situation, then, under U.S. law, because Ruth talked about it, how our system so protects everyone. I don't know if you have as Miranda right kind of situation but we have. When I would send somebody out to go capture a terrorist, which I did a couple of times, we would have to sit down and say we want to prosecute him, so we never can ask him one question, because we have to say you have a right to a lawyer. In fact I sent a group out to get an Arab terrorist in the 1980's. We sent a lawyer and we sent three FBI agents who could speak three different Arabic dialects, so that they'd be sure to be told in the right dialect what the Miranda rights were and how the person didn't have to talk.

Today, when we have to say, oh, my gosh, what if there's an attack? We've got this information. We have to decide, then, between prosecution and intelligence gathering, and now that you've gathered intelligence, I mean somebody who should have been prosecuted, but you can't do it because you didn't do all the rights--I mean, there's where you are, in a very practical dilemma.

What do you do with the people in Guantanamo? Do you want him sent to--you're going to take them in Germany? You're going to take all of them in Germany? Would you open your doors to them all?

MR. FISCHER: Why should we take all?

MS. TOENSING: Well, you want to take ten? You get ten other countries to take--I mean, where do you send them?

MR. FISCHER: Madam, allow me--

MS. TOENSING: A very practical question.

MR. FISCHER: Allow me, in response, one question. I don't want to go, now, into a discussion about rendition, about torture. I think we all committed ourselves to--

MS. TOENSING: Oh, I gave a practical question.

MR. FISCHER: --to the international conventions which were signed and approved--

MS. TOENSING: Where do the Guantanamo people go?

MR. FISCHER: --approved also by the U.S. Congress and it's part of, I think, the binding commitment the U.S. made for herself. I mean, I will never forget how important it is, and this was an invention of the United States. Why did we create the special court for the former Yugoslavia? To indict them.

MS. TOENSING: [inaudible].

MR. FISCHER: I like it but now fair, fair--

MS. TOENSING: You aren't telling me where we send the 120 people you're complaining about in Guantanamo. I want to know.

MR. FISCHER: Wait, wait.

MS. TOENSING: Germany's going to take ten?

MR. FISCHER: Why should we? I mean, if you have Germans there--

MS. TOENSING: We've got to send them some place.

MR. FISCHER: We are interested in one person, which has not German citizenship but is born and grown up in Bremen. But why the hell should we take over--I don't know exactly which--

MS. TOENSING: Send them to Syria?

MS. WEDGWOOD: Let me give you an example. Say this was part of a--I have been urging, for some time, folks at DOD, to make available some of the [inaudible] of people who may not be quite so [inaudible]. And one guy that was described by Secretary Rumsfeld, I guess too late before the Supreme Court argument, but in February of 04, was a guy who had proposed to fill a dhow, buy a dhow in the Persian Gulf, fill it with explosives, kind of a la USS Cole, and run it in the Straits of Hormuz against oil tankers, to blow them up.

Now the price of energy, which we're not fighting wars for, but still, if you're talking about serious acts of violence, blowing up an oil tanker, say, it's not very happy for shipping, for Iran or Iraq, or Saudis, for that matter. So that

is a significant act. That's not somebody, a bettor who's making his bet every [inaudible].

MR. : Let's just--

MS. WEDGWOOD: My point only is avoid the Manicheism. Many of us in--I don't mean to go back to ancient history--but many of us in December '91 were critical of Germany for recognizing Croatia, prematurely. Some of us think it contributed to the Bosnian war. But there's no point in hurling brickbats back and forth.

We should be looking for a regime of--I curse the person, whoever uttered the phrase, "legal black hole." It's destructive to both sides. International lawyers swear by the Martens clause. Most folks in the audience have never heard of it. It's Feodor Martens, the czar's legal adviser, who said the fact that something hasn't yet been codified doesn't mean there's no law--

[Start side 3B]

MS. WEDGWOOD: Otherwise, the Declaration of Independence, the [inaudible]. But nonetheless, it can be the case that a particular

rule may not fit. I'll just give you one more [inaudible].

Nuremberg. If you assume that the 1929 Geneva convention on prisoners of war applied to all post-war war crimes trials, Nuremberg was illegal.

They had to wiggle their way around '29, Nuremberg, to allow the introduction of documentary evidence from U.N. reports. So I salute you for your regard for Nuremberg, and I do too, but one can't assume that an existing treaty always fits the practical dilemmas of a new situation.

MR. FISCHER: Well, I would agree but give me two sentences. First of all, I mean, that I'm not a legal expert because I mean, you might be right, formally, but I think Nuremberg was crucial on constituting, for constituting a complete new reality of--

MS. WEDGWOOD: New. Crucial and illegal.

MS. TOENSING: New. The word new. The word new. Tom doesn't like it.

MR. SHAPIRO: All right. All right. We need to settle down a little bit.

MR. FISCHER: A complete new reality.

MR. SHAPIRO: This is really more
dialogue than I had hoped for.

MR. FISCHER: And secondly--let me, let
me--

MR. SHAPIRO: I think we can agree,
really, that terrorism presents new problems that--
-

MR. FISCHER: This form of terrorism;
yes.

MR. SHAPIRO: This form of terrorism.

MR. FISCHER: But I would have one
question. I mean, where is the al Qaeda trial,
the big al Qaeda trial? You have a lot of them in
custody, and as far as I understand, intelligence,
there is now a certain period--

MS. WEDGWOOD: Give them their rights.
That's the problem I'm trying to present to you.
You have--

MR. : [inaudible].

[Microphone problem. Brief audio drop
due to inaudibility]

MR. SHAPIRO: Okay. I think I'm going to
have to assert the right of the moderator to
actually take control. I think one question that
I was really trying to get at--I think we can

safely assume that this terrorism problem poses challenges to the law and that the Americans have taken one approach, the Europeans have taken a different approach.

We can assume that those things have been done--well, let's hope we can assume that--in good faith. But that there probably have also been errors. What I'm interested right now in is from a European perspective, how has the approach the Americans have taken, for better or for worse, hurt the U.S. relationship with Europe, hurt U.S. goals on the war on terror, and hurt the coalition on the U.S., in the war on terror?

And I think Dame Neville-Jones, you referred to the problems that the U.S. regime has and referred to the distinctions that the U.S. and Europe have in this effort.

What are the practical consequences or are we just having an academic discussion?

[Audio volume has decreased significantly]

MS. NEVILLE-JONES: No, we're not having an academic discussion. I don't think there's any doubt that Joschka's right, and I hope you're listening to a friend, cause you've got friends

here. But the effect of things like Guantanamo and Abu Ghraib has undoubtedly been to hit at the moral authority of the United States. And that's very serious. It's very serious for this country as the leader of the free world, and it's very, very serious for our friends and allies.

That's why you're getting all this push-back from us, because we feel not only the society that we look to to be the upholder of values of the world, and he's absolutely right to lay the emphasis on that. But they touch our values too. We're all in this together.

And law and legitimacy, political legitimacy, are very, very closely allied. They're slightly different, but what the U.S., at the end, loses in all this is political legitimacy.

And if you lose political legitimacy, you lose your--you're several steps back from where you could have been and where you ought to be, and it also very greatly undermines the other part of the task [inaudible] been correctly identified, which is to win the hearts and minds of the people who, other than those who are committed to terrorism, and we are not going to win their

hearts and minds, and I think we should take as effective and [inaudible] measures as we need against the terrorists themselves. But we have to do it in a way that appears to uphold the values that we stand for, that maintain our society's freedom, and I don't think that means that you make no modifications of any kind, any protections that you give yourself, I don't [inaudible].

But you do have to appear to be behaving reasonably. And I don't really mind, frankly, whether it's American law you feel you're upholding or it's international law you feel you're upholding, because this is a country I think that does not recognize the arbitration of the Hague tribunal, the Hague court, and you've always taken a slightly different view, and therefore I suppose you don't recognize the hierarchy that others do, the relationship between national and international law.

[The remainder of the tape is blank.]