

Trump's World: The Trump Administration and International Law

This summary captures the 5-hour conference on the repercussions of a Trump Administration on the world of international law, which took place at the T.M.C Asser Instituut in The Hague on 27 January 2017. The event brought together some 130 people, including academics, government officials and ambassadors from more than fifteen different countries to review and discuss the future of international law and international relations in light of the recent election of Donald Trump as President of the United States.

The Conference began with opening remarks by Prof. Ernst Hirsch Ballin, President of the T.C.M. Asser Instituut, and continued with an opening keynote by H.E. Mr Henne Schuwer, Ambassador of the Netherlands to the US. Three interactive panel discussions followed on war and peace, climate change and trade under the Trump Administration. It concluded with a closing keynote by Prof. Jaap de Hoop Scheffer, Former Secretary-General of NATO, Chairman of the Advisory Council on International Affairs (AIV) and Professor of International Relations and Diplomatic Affairs at Leiden University.

Welcome and opening statements

Prof. Ernst Hirsch Ballin, President of the T.C.M. Asser Instituut, opened the conference highlighting the reasons why the Institute is an appropriate venue to discuss the implications of the Trump Administration in the world of international law. Prof. Hirsch Ballin recalled that the Asser Institute focuses on trust in international relations, where bilateral and multilateral treaties, international agreements with respect to human rights, climate change and the like play a central role. All these areas are potentially under political pressure by the Trump Administration. There is, consequently, a lot to discuss in order to raise awareness with respect to the need for trust in international relations.

Opening Keynote by H.E. Mr Henne Schuwer, Ambassador of the Netherlands to the US

Mr Schuwer opened his speech underscoring the importance of common values of freedom, democracy and the rule of law that Europe and the US have shared since the aftermath of World War II. These goals are embodied in the Marshall Plan. Mr Schuwer added that the relationship between the Netherlands and the US even goes further, dating back to 1609, when the Dutch started moving to Manhattan, the new Amsterdam, helping build the New World as a society where the value of tolerance is central. He noted that the focus of the conference was to discuss whether we are going to sustain this relationship with the same strength under the new political circumstances.

Although these new circumstances (such as the harsh words of Donald Trump about NATO and the fact that Mr Nigel Farage was the first European to be received in the Trump Tower) oblige us to take a second look at the relationship with the US, we cannot ignore them.

Mr Schuwer then turned his attention to the elections of November 2016, stressing some of their alarming features: the emerging of a new idea of personality in politics, the unprecedented foreign influence on the campaign and the relentless attack on the media. With regards to the latter, he also highlighted the different use of social media instruments with respect to Obama. While the former President used social media such as Twitter to spread his message and multiply it millions of times. However, during Trump's campaign the aim seemed to have been mainly to divide and to send out messages based on false facts, thus creating a parallel world of information that some people followed blindly.

Finally, Mr Schuwer indicated what he believes Donald Trump will do in the first 3-6 months of his office. In Mr Schuwer's view Donald Trump will be an inward looking President, who will do all in his power to deliver what he promised during the campaign. He will concentrate on the needs of the people who constitute his electoral base, the appointment of the Supreme Court's judge, immigration and taxation. Mr Schuwer added that it is probably too early to predict the foreign policy of the current administration, also considering the fact that there are different forces at play in this context. He reminded the audience that Mr Tillerson's positions do not seem to be particularly distant from what one can expect from an ordinary Republican Congressman. Mr Schuwer closed his speech exhorting Europeans to look at the transatlantic relationship with confidence, as the values built over more than 400 years of cooperation can survive a presidential election.

Panel 1: War and Peace under a Trump Administration

The featured speakers of the first panel, Mr Hubert Smeets (NRC), Prof. André Gerrits (Leiden University), and Ms Liesbeth Lijnzaad (Legal Adviser of the Netherlands Ministry of Foreign Affairs and professor at Maastricht University) engaged in a dynamic discussion with the moderator, Ms Tracy Metz, and the public, starting with a focus on the future of the relationship between Russia and the US. In André Gerrits' view, although Trump's speech represented the most radical departure from American foreign policy ever, his attitude towards Russia might be one of the few positive aspects of his presidency, as the 'Russophobia' that characterised the Obama Administrations was unhelpful, not only for the US but also for Europe. Mr Smeets believes instead that optimism could only be felt from the perspective of a Russian observer, as the real interest for Russia is to divide and rule in Europe, and for this purpose President Trump's policies can prove very helpful.

The audience was then called to participate. To a question raised on whether crimes against humanity will be prosecuted with the same strength, Liesbeth Lijnzaad replied that she is confident that such crimes would be prosecuted in the domestic US system. Indeed, such a reaction is embedded in the American legal system and there are not any indications that this is going to change, although Donald Trump's comments on torture were particularly worrying. To a question on what Mr Trump's election can mean for the peace process in Syria, Prof. Gerrits replied that America is not immediately involved. Therefore, it is hard to predict what President Trump will do, but we do know that he has a completely different view from Obama, as everything – even foreign policy – in his view is a zero sum game, either one wins or one loses.

In response to a question on the reduction of funding to the UN from the US Administration, Ms Lijnzaad remarked that it had already happened in the past and that the focus should shift on whether the US considers it important to be part of the UN. On the relationship between US and Europe, the speakers noted that Donald Trump focuses more on interests than values. Therefore, it was suggested that if Europe wants to have a voice it has to approach a Trump presidency this way, through interests rather than values. Lastly, Ambassador Schuwer posed a question on whether Europe wants to engage or confront with Donald Trump and, in the latter case, if it is prepared to face its costs.

Mr Smeets replied that the question is not on the table yet and it will not be at least for one year, as at the moment Europe is facing crucial elections everywhere, while Ms Lijnzaad suggested that an adequate balance between the two might be the key and that it could be important to engage even behind closed doors. Prof. Gerrits excluded confrontation as a feasible option, but noted that it is too early to answer such a question and that in any case actions would depend on the issues on the table.

Column by the moderator

The moderator, Ms Tracy Metz, Director of the John Adams Institute, read a statement in which she highlighted the importance of urban policies in modern US administrations. In doing so, she compared the valuable job carried out by President Obama, who was the first President since the Seventies to develop urban policies (starting an office on Urban Affairs for this purpose) and the potential policies of President Trump, who instead has a conflicting relationship with cities. This is also linked to the fact that cities did not vote for him (he received only 4% of the vote in Washington D.C.). Donald Trump, Ms Metz added, is the President of the countryside. She underscored the need to evaluate how the Trump Administration will have an impact on the 'metropolitan revolution' undertaken during the previous administration.

Panel 2: The Paris Agreement under a Trump Administration

The panel discussion that followed, featuring Mr Damien Meadows (Advisor to the Director of the European & International Carbon Markets Directorate), Mr Marcel Beukeboom (Climate Envoy of the Kingdom of the Netherlands), Prof. Jonathan Verschuuren (Tilburg University) and Prof. Ruth Oldenziel (Eindhoven University of Technology), was focused on a Trump's Administration potential policies with regard to climate change and, in particular, the enforcement of the Paris Agreement.

There was much agreement between the panellists that, although legally feasible, it will be politically almost impossible for the US to withdraw from the Paris Agreement, as it has already been signed and the process to get out of it takes up to 4 years. In any case, the panel members also pointed out that the Paris Agreement does not contain very strict provisions. Turning to the implementation of the Agreement and whether the new administration might have an impact on it, the speakers emphasised that implementing the terms of the Agreement was very much in the economic interest to the signatories. Notwithstanding the fact that fighting climate change seems not to be a high priority for Donald Trump, if one considers that at the global level the US might lose a lot economically in not taking part in the changes triggered by the Agreement it might nudge his administration towards a more accommodating stand. To a question coming from the audience on whether there are chances that the Trump Administration might try to renegotiate the Paris Agreement, the panel replied that the Agreement is not likely going to change formally but there is a risk of a spreading scepticism among other countries. Given that language does matter at the negotiation table, it is undeniable that there is someone speaking a completely different language now and this might affect the whole narrative of upcoming climate change negotiations. Turning a final look to China, it was stressed that the country is facing the effects of climate change every day and that there is a real awareness of the challenges ahead. China is in the position to step up and carry sustainability policies forward.

Panel 3: The Trump Round: The Future of American Trade Policy

The featured speakers of the third and last panel, Dr Marija Bartl (University of Amsterdam), Prof. Frank Hoffmeister (Head of Unit at the European Commission) and Dr James Mathis (University of Amsterdam) engaged in a lively discussion focused on the question of whether Mr Trump's election constitutes a backlash against international trade.

The first point raised by the panel regarded the way one can look at an international trade deal: on the one hand there are parties that feel that they are losing out as a consequence of the deal, for instance because of an increased competition from foreign products. On the other hand, it is submitted that trade deals help create jobs. There was a consensus among the panellists that both perspectives need to be taken fully into account. On this point, James Mathis stressed that the quality of the debate in

the US is incredibly low and this has led to a complete disconnection in the discussion. People do not grasp the important economic and social consequences of a trade deal but rather tend to focus on what the media tell them. They do not realise that President Trump's announced measures are not adequate trade defences, but simply economic protectionism and nationalism.

Another important guiding question was whether the international trade system is 'Trump-proof'. In this regard, Frank Hoffmeister emphasised the fact that, although the system of check and balances in the US is weak as far as trade is concerned and the President can, for instance, raise taxes for imports of one country, on the international level there are obligations that have to be respected. To this end, the WTO has an appellate body whose jurisdiction is compulsory and thus it will be possible to bring a case against the policies of a Trump Administration before the WTO. The panellists did not agree on the question of the legitimacy of trade agreements such as the TTIP. Marija Bartl raised the point of a growing need for a deeper involvement of European citizens in the process of trade deals' negotiations, whereas the rest of the panel agreed that the veto right of the European Parliament in trade deals would be sufficient to warrant their legitimacy. A final remark was made on the future of NAFTA. Frank Hoffmeister and James Mathis noted that President Trump can unilaterally withdraw from the Agreement with six months' notice, without the need of any approval by the Congress. There is therefore a very real possibility that NAFTA might come to an end during this Administration.

Session Seven: Closing Keynote by Prof. Jaap de Hoop Scheffer, Former Secretary-General of NATO, Chairman of the Advisory Council on International Affairs (AIV), Leiden University

Jaap de Hoop Scheffer closed the conference noting, in his opening line, that this is a time of big egos in international relations. In these trouble times, the main risk is that reason might fall prey to egotism. Turkey is an example of this, having passed from having no troubles with its neighbours to having troubles with almost all of them. Donald Trump is another example. Under his Administration, deals might be more important than principles and America might follow a more unilateral approach to international relations. The US can afford to be more self-centred, but cannot cease to be an indispensable nation in the world order. Unfortunately, it just did so by abandoning the TPP, thus creating a political vacuum in East Asia.

Jaap de Hoop Scheffer also highlighted the centrality of NATO to discourage Putin from any attempt to intervene militarily in Russia's neighbouring countries. Lastly, he also gave a few policy options and addressed some of the salient issues that emerged throughout the conference. He urged us to stop moaning over Donald Trump's election, as nothing can change the fact that he is now the commander in chief and it is time to start considering how to cope with his policies. He suggested that this presidency might actually be an opportunity to finally take the need for a strong European Union seriously, both economically and militarily. It might give Europe the chance to defend the values of the European Union, the first steps being, in his view, restoring the French/German engine of the EU and achieving the softest possible Brexit. Jaap de Hoop Scheffer then stressed the important role of the EU and NATO in relation to Trump's seeming embrace of torture, stressing that under no condition the EU or NATO Members should tolerate secret detention and torture in their territory. Eventually, he exhorted Europeans: let us not be the witnesses to the funeral of the responsibility to protect and let us not do away with the rules on multilateral institutions, unless we want to leave China the role to set them.