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Remembering the 4th Anniversary of 9-11: Economic and Legal Impacts of the Terrorist Attacks

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The essay is based on a speech, the author held at the American-German-Business-Club in Duesseldorf on September 13, 2005 – the 4th anniversary of the terrorist attacks on the World Trade Center.

Two days ago, we remembered the fourth anniversary of the terrorist attacks on the World Trade Center in New York City and the Pentagon near Washington. These horrific events have been the work of the terrorist network of Al-Qaida. Although this was the most severe attack on American soil since the attack on Pearl harbour on December 7th of 1941, it was not the first time, that the bombings sponsored by Al-Qaida hit the United States. In this context it has to be remembered that already in 1993 the World Trade Center was a target of terrorist bombings. However, the attacks of September 11 have had a greater impact on public and economic life than any other terrorist attack before. Not only for the United States but also for global security, 9/11 was a defining moment for a number of reasons. First, the sheer magnitude of the attack. To demonstrate the unprecedented damage of the attacks one can compare the losses of the 2001 bombing with the damage cause by the first bombing of the World Trade Center in 1993. At that time the losses were estimated to amount up to \$ 725 million. By contrast, the attack of 2001 cost more than 3000 people their life and the losses estimated up to \$ 40 billion. I will later come back to the details of the economic costs of the terrorist attacks of September 11. There is a second point, which is important for the discussion of international terrorism. The new generation of terrorists occurs anywhere. The terrorist bombings in Madrid on March 11, 2004 and in London from July this year show that international terrorism does not know national borders and that also Europe is a target of terrorist activities. For this reason it is crucial to analyse the impact of terrorist attacks for the western society. This evening I will point out two aspect of the terrorist threat that changed the approach of the international community. First, I am going to analyse the impact on international business, second I am going to speak about the impact of the terrorist attacks on the relations between Germany and the United States. Finally I am going to say analyse the impact of the terrorist attacks on the development of international public law. In detail I will speak about the Convention for the Suppression of the Financing of Terrorism, which is one of the most effective legal instrument in the non-military fight against global terrorism and has wider effects on international business. I will finally show that a successful counter terrorism approach must take into account economic as well as legal aspects.

1. Definition of international Terrorism

Before we can examine the impact of terrorist attacks on the development of international business relations and public international law, it is necessary to answer the question how to define international terrorism. Under a legal point of view a definition of terrorism is a precondition for any useful discussion about the issue as well as about counter-terrorism strategy. We need to know what it is that we are fighting against and what it is that international instruments need to address. There exists no generally accepted, comprehensive definition at the international level. The expressions ‘terrorism’ and ‘terrorist’ have always had different meanings in different connotations. The well known saying “one man’s terrorist is another man’s freedom fighter” shows that its definition also depends on the political point of view of the relevant party to the conflict. During the wars of liberation, for instance, brutal acts of the so called freedom fighters were justified with the right of self-determination of the suppressed

people. Since most of the liberation wars ceased in the 1990 – with the sad exception of the struggle of the Palestinian people for an independent state – and the end of the Cold War, the approach has changed: There is no justification of brutal acts against human dignity or the rule of law. At the international level we can see a tendency which goes into the direction of a general definition of terrorism. The latest development indicates that certain brutal acts against the human dignity are categorically forbidden – regardless of their motivation. For that reason the latest attempt to define terrorism on international level has led to following definition: According to Report of the United Nations High-Level Panel on Threats, Challenges and Change from December 2004 terrorism can be defined as

“any action (...), that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organisation to do or to abstain from doing any act.”

The definition of terrorism contains an objective and a subjective element. It is further necessary that the terrorist activity has an transboundary effect in order to become an issue of international relevance. This makes it clear that I will not speak tonight about terrorism limited purely to a national manifestation – although the classification might be difficult in the particular case. International law is concerned only with cross-border terrorism. To summarise, the proposal of the UN Panel can be seen as an important step towards a general definition of international terrorism at the international level, which in the near future might lead to a General Convention on Terrorism.

2. Economic costs of terrorist attacks

The terrorist attacks – like all major disaster manmade or natural – resulted in a tragic loss of life and destruction of property. Until last weeks devastating effects of hurricane Katrina the financial effects of the terrorist bombings on September 11 have outweighed most of the natural disasters in US history. If we evaluate the impact for the economy in general we have to distinguish between direct and indirect impact on the one hand and short term and long term impact on the other hand. Concerning the direct impact I primarily focus on the attacks of September 11. The attacks led to casualties and material damages on a far greater scale than any other terrorist act before. Just to demonstrate the devastating effects I will briefly present you with some figures of the attacks. The most difficult economic cost is the one for losses of life, since the loss of life is basically incalculable. If we consider the costs of human loss based on foregone lifetime income we can estimate the damage on around \$ 10 billion (according to the study of the New York City Partnership.) The destruction of physical assets was estimated in the national accounts to amount to 16 billion \$ (assessment by the Paris-based Organisation for Economic Cooperation and Development). In addition Rescue, clean-up and related costs have been estimated to amount to at least 11 billion \$. Lower Manhattan lost approximately 25% of its office space, a number of smaller businesses ceased to exist. Close to 200.000 jobs were destroyed or – at least temporarily – relocated outside New York City. These examples already show that the terrorist attack had a substantial direct and short term economic impact on the economy of the United States.

Concerning the indirect effects is interesting to notice, that the economic impact was far less than initially feared. This is partly due to a good economic crisis management of financial as well as governmental organisations, which acted quickly to restore confidence or provided resources to deal with the consequences of the attack. The Gross National Product, for instance, raised again in the 4th quarter of 2001 (grew 2.7% at an annual rate). Similarities become apparent if we analyse the economic effects of the terrorist attacks on Madrid and London. The immediate impact of the attacks were relatively small and fleeting – provided that the bomb-

ings turn out to be an isolated incident rather than the beginning of a new wave of terrorist attacks across Europe.

To evaluate the impact of terrorism it is however necessary to look beyond the short term and turn to the medium as well as long term impact. In respect to the long term impact, even 4 years after the attacks many of the relevant material is still based on assumptions. The long term impact is far more difficult to estimate. It is important to keep in mind that the terrorist attacks hit the U.S. and world economy in a time of recession. By now, 4 years after the attacks most sectors have recovered so that the economy is again growing. Most industries are now running normal again and have reached the economic strength like before the attacks. However, there are negative effects: the raising transaction costs or higher operating costs, businesses might spend on security or higher insurance premiums. It should also not be forgotten, that the threat of future terrorist attacks creates an uncertainty which can lead to a reduction of investments and thus a reduction of economic growth.

Overall we find a mixed image. On the one hand there are sectors which were badly affected by the terrorist attacks. First, the airline industry which lost a substantial amount of its relative value since September 11. Secondly, the assurance companies which lost between 30 and 50 billion \$ due to the terrorist attacks on the World Trade Center. Thirdly, other industries – such as hotels, tourism or travel agencies – have at least in the medium term also been badly affected. Tourists and hotels have become a frequent target of terrorist activities in recent years. Examples are the bombings of Djerba in April 2002 where 21 Germans died or recently the attacks in Sharm-el-Scheich in Egypt on a holiday resort. However, 4 years after the attacks, most of the industries are now running normal and have reached the economic strength before the attacks. On the other hand there can be noticed some sectors or firms which actually benefited from the terrorist attacks. I speak for instance from companies in the area of security and information technology. Not only the United States but also other countries have increases in security and military spending. The U.S. President requested an additional spending of \$ 48 billion for national defence (increase of 14% compared with the previous year) and \$ 38 billion for the homeland security (compared to \$ 20 billion in 2001).

To sum up, terrorism has a significant impact on the economy. The example of the short term and long term impact of the terrorist attacks on the World Trade Center for the US economy shows that terrorism effects the economic growth in a significant way, Overall the US economy as well as the economy of the developed countries proved to be strong enough to avoid a serious long term damage and to tackle the terrorist threat. Nevertheless terrorism has had a far more significant impact on the economy of developing countries, since they depend on the trade flows which might be restricted or increased in response to the terrorist threat. This may raise the entry barriers for the poorer countries, which seek greater integration with the global economy. Terrorist acts can severely disrupt international trade and the continuing threat of terrorism imposes costs on international trade.

3. Effects on German-American relations

Speaking about this issue, one cannot only define oneself to the impact on the economic level. Such an approach would be too short sided. As we have seen at the look at the definition of international terrorism, it rather effects the way of life of civil societies and is an attack against our common values. Terrorist acts are directed against people in a way that undermines security, violates human rights and disrupts economic procedures. Until today no terrorist attacks by an international terrorist organisation have taken place in Germany. Nevertheless Germany – like the United States or other European States – faces the terrorist challenge. The attacks of September 11 were planned in Germany and the intelligence services constantly report about terrorist activities. Nevertheless the terrorist attacks have not had a substantial impact

on the transatlantic economic relationship. Despite the terrorist threats the economic and commercial links continue to strengthen and companies go on with investing in the other economy. Both countries improved their security measures, so that there is no higher imminent threat on certain businesses. Contrary to developing countries, the German as well as the American economy proved strong enough to resist the terrorist attacks. With respect to an effective international counter terrorism, partnership between both countries gains crucial importance. The United States and Germany are two of the world's leading economies. Both countries have a responsibility in promoting global growth and worldwide trade. These are critical elements for the development of human potential around the world. Enhancing economic standards and taking the world's poor in the expanding circle of development is an essential element for a successful long-term Anti-terrorism policy. Hence, the World Trade organization has made it one of its key economic priorities during the new global trade rounds. The United States as well as Germany – as the largest economy in Europe – will play a crucial role in developing positions for the agenda.

If we look at the impact of terrorist attacks on the German-American relations from a wider point of view, we can even assess an increased cooperation between both states. Germany joined the U.S-led Alliance in the war on terrorism and plays a significant role in fighting against Taliban and Al-Qaida warriors in Afghanistan. Against the background of the recent disagreements over the war in Iraq, the cooperation in combating terrorism is a positive example of the German-American cooperation. Both countries, for instance, play a significant role in implementing international conventions. Furthermore they agreed to bilateral agreements to improve security. For example they signed a declaration to improve shipping container security. This campaign has been designed to prevent terrorists from smuggling weapons in sea cargo. Further more there is a close cooperation between government officials, for example between the German Ministry of the Interior and the U.S. Department for Homeland Security. They reached different agreements to protect infrastructure. However, it has to be criticised that the cooperation in particular between judicial institutions does not always operates satisfactorily. The legal proceedings against one of the suspected terrorists of the September 11 attacks, Mottassadeq, before the Oberlandesgericht in Hamburg, were at least delayed because the United States did not referred necessary material to the court with the justification of national security interests.

4. Terrorism as a challenge for the international legal order

Before September 11 the international community regarded terrorists as ordinary criminals and terrorist attacks as mere criminal acts. It was primarily seen as the responsibility of the national states to prosecute and punish terrorist offenders. September 11 led to a changed approach: The international community recognised that the new generation of international terrorism developed from a regional towards an international level. Terrorism is more than a serious criminal act, but also has an international political dimension. The attacks have shown that terrorist organisations are able to operate like a non-state military actor and can carry out their attacks like a conventional military confrontation. This has to be taken into account if one evaluates the resolutions of the Security Council in response to terrorist attacks. For the first time the Security Council condemned with its Resolution 1368 from September 12, 2001 terrorist attacks as a threat to international peace and security. Before 2001 the Security Council was more reluctant to condemn attacks in this unambiguous way. Since the attacks it has become a constant practise to adopt resolutions condemning major terrorist attacks (e.g. Bali, Madrid, London). Another aspect of the new anti-terrorism strategy at the international level is, that the Security Council first imposed a series of counter-terrorism obligations on all states and second established the Counter-Terrorism Committee to monitor states' efforts to implement the sanction. The Security Council for instance obliged in Resolution 1373 all

States to “freeze the assets, prevent the entry into or the transit through their territories, and prevent the direct or indirect supply, sale and transfer of arms and military equipment” with regard to the individuals or entities connected with the Al Qaida Network. In this context the Convention for the Suppression of International Terrorism becomes important, since it contains detailed measures of the preventive action against terrorism. The convention obliges the states to take all necessary measures in order to freeze, seize, and detect the origins of funds which could assist terrorism (Art. 18). According to the conventions the states have to ensure that no private organisation or company can hide behind the rule of bank secrecy (Art. 12 - 2). The Convention offers a framework for an effective anti-terrorism strategy since it allows preventive action against terrorist groups and its financial supporters. While criminalizing the financing of terrorism it assures that the phenomenon of terrorism is tackled on its roots. In this respect the Convention against the financing of terrorism differs from other international conventions. Most of them are only repressive, e.g. they only take action if the terrorist act is already done and primarily ensure that the offender are prosecuted and punished. In contrast the Anti-Financing Convention commits the states to take preventive action against the financing of terrorism. The Convention also demonstrates the changed approach to international terrorism since the attacks on the World Trade Center. It was originally signed in 1999. However, under international law States are not already bound by the mere signature. It is furthermore necessary that the State formally expresses its will to be legally bound by the treaty. This process is known as “ratification”. Generally an international treaty only comes into effect if a minimum number of ratifications is made. If we now look at the Convention for the Suppression of Terrorist Financing it is interesting to notice that 113 of 117 ratifications were made after September 11. We see that the willingness of the states to cooperate against the threat of international terrorism enhanced since the attacks. The Convention provides a good example how legal instruments can enhance the effectiveness of the fight against terrorism. It stands for the changed approach on international level since September 11. In this respect we can notice increased international efforts which enhances multilateral cooperation and strengthens the role of the security council. To make sure that the sanctions against international terrorist networks and their associates are obeyed, the Security Council established a Committee which observes the implementation of the sanctions. For this purpose a so-called “black list” was established which contains individuals or organisations which have close links to the terrorist networks of Al-Qaida. Currently more than 300 individuals and entities are listed on that list. So it is ensured that the suspected supporters of terrorists are known and states can take the appropriate measures against them. Under the legal point of view a side note may be allowed. The Legality of such lists is highly controversial since it is not regulated what happened if an organisation stands on the list which in fact does not have any links to terrorist activities. It is necessary that a procedure of legal protection is established. The example shows that there exists a tense relationship between an efficient and successful fight against terrorism on the one hand and the safeguarding of individual rights and liberties on the other hand. In my view the fight against terrorism can only be successful if we balance both sides in an appropriate manner. In this context I would like to conclude with a comment by Kofi Annan where he states to the point under which conditions the fight against terrorism can only be successful:

“The UN must continue to insist that, in the fight against terrorism, we cannot compromise our core values. In particular, human rights and the rule of law must always be respected. If we sacrifice them in our response, we will be handing victory to the terrorists.” (Kofi Annan, A Global Strategy for Fighting Terrorism, March 10 2005)

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