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FROM THE CHALLENGE TO AMERICAN HEGEMONY TO THE RECONFIGURATION OF THE POST-1945 INTERNATIONAL ORDER?

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I. INTRODUCTION-. II. THE ORIGIN OF THE CRISIS OF THE POST-1945 INTERNATIONAL. - III. MANIFESTATION OF THE CRISIS-. IV. CONCLUSION

ABSTRACT: The aim of this article is to analyse the origin and manifestations of the crisis of the liberal international order. The method used consists in showing, with the help of resolutions and other complementary documents, that international law has sometimes been nothing more than an instrument for the quest, the maintenance or the struggle for hegemony. In order to do so, this study uses a comparative approach between the practice developed by both Western and emerging powers. Thus, the results obtained are diverse. Indeed, it would seem that the crisis of the liberal international order is materialised by a succession of crises that affect both the functioning of the institutions of international cooperation and its rules. One of the high points of this crisis seems to be the war in Ukraine, the outcome of which could lead to a profound change, or even a reconfiguration of the world international order.

KEYWORDS: United States, Hegemony, reconfiguration, international norms, emerging powers, multilateralism, multi-polarisation, international order.

DELAREMISE EN CAUSE DEL’HEGEMONIE AMERICAINE ALARECONFIGURATION DE L’ORDRE INTERNATIONAL POST-1945 ?

RESUME: L’objectif de cet article est d’analyser l’origine et les manifestations de la crise de l’ordre international libéral. La méthode retenue consiste, à l’aide des résolutions et autres documents complémentaires, à montrer que le droit international n’a parfois été qu’un instrument au profit de la quête, le maintien ou encore la lutte pour l’hégémonie. Pour ce faire, il a été question dans le cadre de cette étude de recourir à une approche comparative des pratiques développées par les puissances occidentales et émergentes. Ainsi, les résultats obtenus sont divers. De fait, il semblerait que la crise de l’ordre international libéral se matérialise par une succession de crises qui affecte le fonctionnement des institutions de coopération internationale et ses règles. L’un des points culminants de cette crise est semble –t-il la guerre en Ukraine dont l’issue pourrait entraîner une mutation profonde, voire une reconfiguration de l’ordre international mondial.

MOTS CLES: Etats Unis, Hégémonie, reconfiguration, normes internationales, puissances émergentes, multilatéralisme, multipolarisation, ordre international.

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¿DEL DESAFÍO A LA HEGEMONÍA ESTADOUNIDENSE A LA RECONFIGURACIÓN DEL ORDEN INTERNACIONAL POSTERIOR A 1945?

RESUMEN: El objetivo de este artículo es analizar el origen y las manifestaciones de la crisis del orden internacional liberal. El método utilizado consiste en demostrar, con la ayuda de resoluciones y otros documentos complementarios, que el derecho internacional no ha sido a veces más que un instrumento de búsqueda, mantenimiento o incluso de lucha por la hegemonía. Para ello, este estudio utiliza un enfoque comparativo entre la práctica desarrollada por las potencias occidentales y las emergentes. Así, los resultados obtenidos son diversos. En efecto, parece que la crisis del orden internacional liberal se materializa en una sucesión de crisis que afectan tanto al funcionamiento de las instituciones de la cooperación internacional como a sus reglas. Uno de los puntos álgidos de esta crisis parece ser la guerra en Ucrania, cuyo resultado podría provocar un cambio profundo, o incluso una reconfiguración del orden internacional mundial.

PALABRAS CLAVE: Estados Unidos, hegemonía, reconfiguración, normas internacionales, potencias emergentes, multilateralismo, multipolarización, orden internacional.

I. INTRODUCTION

Since the end of the Second World War, the United States and a number of Western powers have jointly participated in the establishment of the new international order. It had to be liberal, its main mission being to ensure international peace and security by pacifying inter-state relations.

This order has been built around various institutions whose function is to govern and organise international cooperation.

As the liberal international order has expanded, the United States has continued to grow in power, economically, politically and militarily. In a few decades, it has established itself as a hegemonic power on the international scene.

The United States now plays a crucial role in the functioning of the post-1945 international order. The United Nations (UN), the International Monetary Fund (IMF), the World Bank and many other organisations are to some extent linked to US domestic politics. This situation does not prevent the prosperity induced by liberalism from spreading beyond the West. China seems to be the economic winner of the international order 2.0. Similarly, Russia seems to be trying to regain its power.

However, it would seem that the rise of new powers on the international scene has led to a resurgence of tensions that now threaten the existence of the post-1945 order.

Caught in a war of influence, is the liberal international order doomed to disappear?

The aim of this article is therefore to analyse the changes and pressures that the liberal international order is now facing.

To do this, we will examine the facts behind the crisis of the post-1945 order (I), then analyse its manifestations (II). This will lead us to conclude that it is not doomed to disappear, but will undoubtedly undergo major changes in the years to come.

II. THE ORIGIN OF THE CRISIS OF THE POST-1945 INTERNATIONAL ORDER

1. The foundations of the liberal international order

The liberal international order refers to “a multifaceted and sprawling international order organised around economic openness, multilateral institutions, security cooperation and democratic solidarity”². Although it was put in place at the end of the Second World War by the United States and its allies, the notion of internationalism (the expression used to describe the junction between the international order and liberalism) predates the First World War, and has evolved over time. Indeed, from the end of the 20th century, peacekeeping and cooperation between the various European powers of the time became a necessity in order to avoid armed conflict and ensure their economic prosperity. Internationalism was intended to ensure peace and equality according to the writings of Jeremy Bentham³. However, it did not withstand the Great Depression and the rise of populism in Europe, resulting in the collapse of liberal values and principles. In economic terms, this period saw the introduction of unprecedented protectionism. Just as economic cooperation tends to evaporate, politically the situation seems to be similar between countries that have developed political and even ideological antagonisms.

This inevitably led to the First World War. Despite the creation of the League of Nations, the triumph of the Allies failed to assuage the frustrations of the defeated. US President Thomas Woodrow Wilson’s desire for a world governed by “the rule of law, based on the consent of the governed and supported by the organised opinion of mankind”⁴ would have to wait until

² IKENBERRY, J. “The end of the liberal order?” *International Affairs*, Vol 94, n°1, 2018, pp.7-23.

³ DUNCOMBE, C., DUNNE, T. “After internationalism”, *International Affairs*, vol 94, no I, 2018, p.30.

⁴ IKENBERRY, J. “The end of liberal international order?”... cit., p.14.

the end of the Second World War before it materialised in slightly more complex forms. Jhon Ikenberry refers to Wilson's vision as version 1.0⁵. It is a relatively simple vision based on: self-determination of peoples, i.e. the assertion of national sovereignty; cooperation of states to preserve collective security; freedom of trade and economic growth⁶. It was this version of internationalism that was developed after the First World War with the creation of the League of Nations. However, this order was not universal in scope as it effectively excluded nations that did not share the democratic principles advocated by Wilson⁷.

The failure of the League of Nations to ensure international peace, security and prosperity through continued cooperation between the defeated and the victors led to the implementation of a version 2.0 of internationalism⁸. This order was to be led by a set of (mainly Western) powers within the framework of various institutions⁹. In order to move towards a certain universalism, the guarantors of international peace and security had to be representative of the members of international society. The five nuclear powers of the time, namely the United States, France, Russia, the United Kingdom and China, were designated as permanent members of the Security Council. Despite criticism of the limited composition of the permanent members of the Council¹⁰, it would seem that the presence of China allowed for the representation of the countries of the South in the Council, and the presence of the USSR brought ideological diversity to the Council. As a result, the body that was supposed to ensure the maintenance of international peace and security was not embodied solely by Western countries all adhering to liberal ideology.

Moreover, although most countries agreed on principles such as the right

⁵ IKENBERRY, J. "Liberal internationalism 3.0: America and dilemmas of liberal world order", *Perspectives on politics*, Vol 7, n°1, 2009, pp.73-76.

⁶ *Ibidem*.

⁷ *Ibidem*, pp.11 and following.

⁸ *Ibidem*, pp.76-78.

⁹ *Ibidem*.

¹⁰ See DAWDA, S. « To what extent does international law reflect the sovereign will of states? » *E-International Relations*, 2016.

of peoples to self-determination¹¹, the prohibition of the use of force¹², and non-interference in the internal affairs of a state¹³, they did not all share the same ideas. The liberal order was universal only in the sense that it guaranteed respect for the political and economic sovereignty of each power. Thus, the countries of the Soviet bloc could adhere to the policy of their choice within their borders, despite the ideological wars of influence. Despite this apparent desire to make the post-1945 order more inclusive, in reality it was not universal, but it was intended to become so by developing zones of influence or institutions of military (NATO), economic (the Bretton Woods institutions (World Bank and IMF)) or commercial (Gatt 1947 and then the WTO) cooperation. In practice, there were two orders within each other, the one inherited from Wilson's vision made more inclusive by the provisions of the United Nations Charter and the more complex order 2.0 whose institutions were intended to allow the United States and its allies to have ever more areas of influence. From 1945 onwards, a multitude of institutions were set up to stabilise the world economy and establish American hegemony. From then on, the international monetary system was based on the US dollar, and the United States extended its influence through a channel of economic institutions for international cooperation. To paraphrase Ikenberry, order 2.0 is not based on a balance of power, but on the dominance of a single power and its allies¹⁴: these include the USA, the EU, Japan and Canada.

Moreover, as these institutions expanded, the order gradually became universal. The fall of the Berlin Wall and the economic prosperity of the post-1945 Western world contributed to the globalisation of the post-1945 order and the gradual popularisation of its political, economic and democratic principles. However, after a golden age (1990-2004)¹⁵, the 2.0 order is experiencing an unprecedented crisis.

2. The domination of international institutions by the 'hegemon' and its allies

The end of the Cold War resulted in the supremacy of the liberal international order and its institutions. However, the shift from bipolarity to

¹¹ Article 2, UN Charter, 1945.

¹² Article 2.4, *Ibidem*.

¹³ Article 2.7, *Ibidem*.

¹⁴ IKENBERRY, I. "Liberal internationalism 3.0"... cit., p.79.

¹⁵ MEARSHEIMER, J. "Bound to Fail"... cit., pp. 7-50.

unipolarity also marks the domination of the United States and its allies over the institutions that are supposed to embody this order.

For Sneha Dawda, the dominance of the United States over international institutions is the result of its financial power¹⁶, and perhaps to complete this assertion, of the alliances it forges. In the framework of the international financial institutions (IFIs), the decision-making system is based on the economic power of each country. Decision-making is therefore based on the quota of each member, i.e. the “quota of a member country determines the maximum amount of financial resources that the country is required to provide to the institution¹⁷”. The United States’ quota in the IMF is equivalent to 17.67% of the votes, which gives it a certain decision-making power, far behind Japan (6.56%), Germany (6.11%) and France (4.51%).¹⁸ Consequently, the United States has the largest number of votes per member. Its alliances with the EU and Japan give it the equivalent of a veto in the IFI¹⁹. This privilege gives the US and its allies a certain political hegemony over other nations. In the 1990s, the Washington Consensus was led by the United States and became a condition for granting credit to the South²⁰. Some “see [this consensus] as the collective policies of the Washington-based institutions that advise developing countries: the Bretton Woods institutions (IMF and World Bank), the Inter-American Development Bank, the US Treasury and, perhaps, its Federal Reserve System²¹”.

The influence of the US and its allies is not only limited to the IFIs, it also extends to the international trading system. Under the GATT 1947, the Uruguay Round of negotiations was stalled due to disagreement between the

¹⁶ DAWDA, S. “To what extent does international law reflect the sovereign will of states?” *E-International Relations*, 2016.

¹⁷ IMF, IMF Share, Fact Sheet, 2016.

¹⁸ Ministry of Economy and Finance, “Le fonctionnement du FMI”, 10/02/2021.

¹⁹ For full discussions on United States hegemony, see TAVERNIER, Y. « Critiques les institutions financières internationales », *Economie politiques*, vol 2, n°10, 2001, pp.18-43.

²⁰ For full discussions on the Washington consensus, see GORE, C. “The Rise and fall of the Washington consensus as a paradigm for developing countries”, *World Development*, vol 28, Issue 5, 2000, pp.784-804. BIRDSALL, N; DE LA TORRE, A; VALENCIA CAICEDO, F. *The Washington consensus: assessing a damage brand*, World Bank and Center for Global Development, 2010.

²¹ WILLIAMSON, J. « Un train de réformes Consensus de Washington : un bref historique et quelques suggestions », *Finances & Développement*, 2003, pp.10-13.

US and the European Economic Community over agriculture²². It was only after a compromise was reached between the two trading powers, known as the Blair House Agreement (after the city in which it was negotiated) that the Uruguay Round was concluded²³. While the Blair House Agreement was tailor-made for these two powers, it is these rules that continue to govern agricultural trade relations at the multilateral level²⁴. In other words, it is the United Nations and the European Economic Communities that have shaped international agricultural trade rules²⁵. However, despite the fact that these rules are being challenged by the countries of the South, it would seem that it is relatively difficult to change or overturn them.

The hegemony of the United States is such that it extends beyond the organisations of which it is a member: this is the case of the International Criminal Court (ICC). While the United States has worked tirelessly to promote international criminal justice, the United States has not acceded to the Rome Statute²⁶. On the contrary, it has gradually developed a certain hostility against the ICC. The American Member's Act "prohibits US courts from cooperating with the ICC; it bans military assistance to countries that have ratified the Rome Statute, except for key allies; it imposes conditions on UN peacekeeping operations that place the soldiers involved beyond the reach of the ICC; it authorises the President to use 'all necessary and appropriate means to release an American citizen detained by the ICC'²⁷. Apart from the United States, few so-called democratic nations can adopt such hostile provisions against the ICC. Yet the US has not hesitated to use the ICC to conduct investigations in Uganda, Congo and the Central African Republic²⁸. During the Darfur crisis, while the Security Council passed Resolution 1593 under the Rome Statute

²² EBA NGUEMA I. *Sécurité alimentaire et libéralisation commerciale en Afrique*, Thèse de Doctorat, Mohammed V University, Rabat, 2018, p.170, 229, 247.

²³ *Ibidem*.

²⁴ For full discussions on Blair House accord and WTO agreement on agriculture, see MOYER, W., JOSLING, T. *Reform revived: Dunkel draft, the Blair House Accord and the WTO agreement on agriculture*, chapter 7 in *Agricultural Policy Reform*, 2002, Routledge.

²⁵ *Ibidem*.

²⁶ FERLET, P., SARTRE, P. « La cour pénale internationale à la lumière des positions américaines et françaises », Vol 2, Tome 406, Etudes, 2007, p.171.

²⁷ *Ibidem*, p.172.

²⁸ *Ibidem*, p.167.

referring the situation in Darfur to the ICC²⁹, the US abstained, but did not vote against the resolution.³⁰ By giving members of the Security Council (including those who have not acceded to the Rome Statute) the possibility to refer nationals, including those of non-members of the ICC, the Rome Treaty seems to create a *de jure* inequality between different nations. It would seem that it confirms a kind of exception in favour of members of the Security Council. The ambiguity of the US position towards the ICC can be seen in the statement of Anne Woods Patterson, the US representative to the Security Council during the vote on resolution 1593. Indeed, she stated that “the United States decided not to vote against this resolution, first because of the need for the international community to work together to end the culture of impunity in Sudan, and second because the resolution offers protection to US nationals and members of the armed forces of non-party states³¹.”

However, it is the same Security Council which, in the framework of resolution 1487 (2003), prohibited the ICC from investigating the abuses committed by the coalition in Iraq, and in particular by the United States. In this regard, the Security Council asked the ICC not to initiate any prosecution or investigation “[...] concerning current or former officials or personnel of a contributing State not party to the Rome Statute for acts or omissions in connection with operations established or authorised by the United Nations, [...] for a period of 12 months beginning on 1 July 2003 [...]”³².

More recently, faced with the desire of the ICC prosecutor (Fatou Bensouda) to investigate crimes committed in Afghanistan, the American president Donald Trump, in order to protect his country’s military from possible prosecution, imposed sanctions on the ICC prosecutor and the Director of the Complementarity and Cooperation Division of his office³³. These sanctions include the freezing of their assets and a ban on entry into the US (including for their families).

Does this mean that US nationals are exempt from the provisions of

²⁹ UN Security Council, Resolution 1593 (2005), March 2005, S/RES/1593 (2005).

³⁰ UN Security Council, 5158^{ème} meeting, March 2005, S/PV.5158.

³¹ *Ibidem*, p. 3.

³² UN Security Council, Resolution 1487 (2003), June 2003, S/RES/1487(2003), §1.

³³ COLLIN, C. “Cour pénale internationale : les Etats Unis font pression sur le procureur”, *Dalloz Actualité*, Edition of 12 February 2021.

Article 16 of the Treaty of Rome? Are they above the rules governing the post-1945 liberal international order?

This situation can be explained by the influence of the United States on the only truly universal organisation of the post-1945 liberal order, namely the UN. Indeed, it is the main organisation that regulates, structures and organises inter-state relations on a political level. For Mingts and Karns, there is a real dependence of the UN on the United States³⁴. According to them, it is above all financial³⁵. Moreover, Mingts and Karns consider that the Organisation “needs the support of the United States if it is to remain a vital institution”³⁶. This dependence therefore seems to affect the functioning of the Security Council.

Is the Security Council a body under influence? In other words, is international law “an instrument in the hands of the powerful”³⁷ “?

3. The Security Council: a body under influence?

The post-1945 liberal order was built around sovereign equality between nations. This is a “structural principle of international society”³⁸. It implies that despite the size of a nation’s population, territory, military or economic power, all states are equal. Yet at the San Francisco conference, some argued that sovereign equality was a ‘fictitious principle’³⁹. For the Netherlands, “the ‘privileges’ and ‘inequalities’ accorded to the great powers in the Security Council were in opposition to the principle of sovereign equality”⁴⁰. For Ecuador, “the lack of balance between the powers of the General Assembly and the Security Council ‘constituted a serious violation of the principle of sovereign equality’”⁴¹.

It is because of the exorbitant powers of the permanent members of the

³⁴ DAWDA, S. “To what extent?”... cit.

³⁵ *Ibidem*.

³⁶ *Ibidem*.

³⁷ Inspired by MENDES FRANCE, M., RUIZ DIAZ BALBUENA, H. “La dégradation généralisée du respect au droit international”, *Revue internationale et stratégique*, Vol 4, N°60, 2005, pp.47-48.

³⁸ Cot, J-P., PELLET, A., FORTEAU, M. *Charter of the United Nations*, 3^{ème} Economica edition, 2005, p. 401.

³⁹ *Ibidem*, p.402.

⁴⁰ *Ibidem*, p.403.

⁴¹ *Ibidem*.

Security Council that sovereign equality has been questioned, long before it was introduced in Article 2.1 of the UN Charter. While in principle there is a balance of power between the permanent members of the Council, in reality the hegemony of the US and its allies influences the work of the Security Council to some extent. In the words of Karen Mingts and Margaret Karn, US domestic politics greatly influence “how resolutions are voted on”⁴². In other words, some of the Security Council’s resolutions may be dictated by the interests of the US and its allies.

While the US intervention in Iraq was carried out without the approval of the Security Council, Resolution 1483 (2003) puts Iraq under the tutelage of the United States, which is described as the “Authority” in the resolution⁴³. From now on, it is the responsibility of the United States to participate in the reconstruction of Iraq. However, the argument of self-defence invoked by the latter under Chapter VII of the UN Charter to justify their military intervention in Iraq has never been proven by the presence of weapons of mass destruction⁴⁴.

Similarly, while until the early 1990s, respect for sovereignty was part of the peremptory norms of international law, it would seem that this principle has⁴⁵ undergone some transformation since NATO’s intervention in Kosovo⁴⁶. Since 2005, the intervention of the international community is now a “responsibility for UN member states”⁴⁷. Consequently, the responsibility to protect (better known as R2P) constitutes a legal limit to Article 2.1 of the UN Charter. It is exercised “through” the Security Council in accordance with Chapter VII of

⁴² DAWDA, S. “To what extent”... cit..

⁴³ UN Security council, Resolution 1483 (2003), May 2003, S/RES/1483 (2003).

⁴⁴ ISAKHAN, B. *Introduction The Iraq Legacies Intervention, Occupation, Withdrawal and Beyond*, In B. Isakhan (Ed.), *The Legacy of Iraq: From the 2003 War to the Islamic State*, Edinburgh University Press, 2015, pp.1-18.

⁴⁵ For full discussions on Kosovo war and NATO intervention, see: PAPASOTIRIOU, H: “The Kosova war: Kosovar insurrection, Serbian retribution and NATO intervention”, *Journal of Strategic Studies*, vol 25, Issue 1, 2002, pp.39-62.

⁴⁶ About responsibility to protect and sovereignty Kofi Annan stated that: saying that: “if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica, to gross and systematic violation of human rights that offend every precept of our common humanity?”

⁴⁷ UN office on genocide prevention and the responsibility to protect.

the UN Charter, in cases of genocide, war crimes, ethnic cleansing or crimes against humanity⁴⁸.

Despite the merits of R2P, by creating a derogation from Article 2.1 of the UN Charter and by submitting this responsibility to the Security Council, this new norm seems to have increased *de jure* inequalities between members of the international community. Indeed, in practice, the submission of R2P to the Security Council's endorsement amounts to excluding its members or their allies from its application, because of the veto right they have.

Similarly, the strengthening of the powers of the Security Council has the consequence of contributing to the erosion of the norms that governed the post-1945 order⁴⁹. Indeed, the responsibility to protect exacerbates the power relations between the different members and makes certain norms of international law less and less binding for the powerful. This is the case with the prohibition on the use of force enshrined in Article 4.2 of the UN Charter.

Furthermore, the presumption that the Security Council is merely an "instrument in the hands of the powerful"⁵⁰ has been reinforced by the targeted nature of these interventions. In the Libyan crisis (2011), by authorising the peacekeeping forces "to take all necessary measures to protect civilians"⁵¹, the operation, which was initially intended to be limited to the protection of the civilian population, led to regime change. This outcome is no longer a precedent in international relations. The same was true in Côte d'Ivoire, during the 2011 post-election crisis⁵² (see resolution 1975). Yet, while the UN considers the crisis in Yemen to be the worst in the world, no resolution has resulted in external intervention to force the parties to the conflict to respect the rules of humanitarian law⁵³. In the 2014 resolution, the Security Council limited itself to "strongly condemning the continuing human rights violations

⁴⁸ Resolution adopted by the General Assembly on 16 September 2005, 2005 World Summit Outcomes, October 2005, A/RES/60/1. For full discussions on responsibility to protect see: UN General Assembly, Note by secretary General, December 2004, A/RES/60/1.

⁴⁹ MENDES FRANCE, M., RUIZ DIAZ BALBUENA, H. « La dégradation généralisée du respect»... cit., pp.43-58.

⁵⁰ *Ibidem*.

⁵¹ UN security council, Resolution 1973 (2011), 17 March 2011, S/RES/1973 (2011)*.

⁵² UN Security Council, Resolution 1975 (2011), 30 March 2011, S/RES/1975 (2011).

⁵³ See Human Right Watch, "Yemen: Aid obstruction puts millions at risk", 14/09/2020.

committed by the Yemeni authorities [...]”⁵⁴. Is it the involvement of Saudi Arabia, the main ally of the United States in the Arab world, that is weighing on the implementation of a possible military intervention by the international community?

The international community’s impotence in the face of the crisis in Syria is another example of the selective nature of the implementation of the responsibility to protect. It also illustrates the “thinly veiled” interests that dictate the intervention of the great powers. US President Donald Trump said on this subject: “Today Iran is pulling people out of Syria, but frankly they can do whatever they want there. Syria has been lost for a long time. And besides, we are talking about sand and death. That’s what we’re talking about. We are not talking about vast wealth[...]”⁵⁵.

This statement by the US president is sufficient evidence that the hegemon dictates (alone or with its allies) the rules of the liberal international order. In this regard, John Mearsheimer argues that “[i]t is not surprising that the great powers write these rules according to their own interests. But when the rules do not conform to the vital interests of the dominant states, those same states ignore or rewrite them”⁵⁶. However, this hegemonic domination eventually renders the rules that are supposed to govern this order meaningless, leading to the emergence of a crisis situation with multiple manifestations.

III. MANIFESTATION OF THE CRISIS

1. From the emergence of new powers on the international scene to the challenge of American hegemony

The fall of the Berlin Wall marked the transition from bipolarity to unipolarity. From now on, the United States is undoubtedly the master of the post-Cold War international order. However, from George Bush to Barack Obama, all have sought to further promote liberal ideals throughout the world in the interests of the United States⁵⁷. Countries previously hostile to liberal

⁵⁴ UN Resolution council, Resolution 2014 (2011), October 2011, S/RES/2014 (2011), §2.

⁵⁵ “Trump : ‘Franchement, les Iraniens peuvent faire ce qu’ils veulent en Syrie’ ”, *L’Orient le Jour*, 02/01/2019.

⁵⁶ MEARSHEIMER, J. “The rise and the fall”.. cit., p.9.

⁵⁷ *Ibidem*, p.22.

values such as Russia and China were to be inserted or even incorporated into the post-1945 order. The ultimate goal is officially to preserve international peace and security. However, in universalizing the liberal order, new opportunities were supposed to present themselves to the United States and its allies. As Jhon Mearsheimer attests, the prospect of integrating new powers was not intended to dissolve American hegemony, but to consolidate it economically, politically and militarily⁵⁸. Indeed, in 1990, US President George Bush declared: “There is no substitute for American leadership”⁵⁹.

In any case, the American strategy was initially successful. Indeed, within a decade China and Russia have gradually joined international economic institutions. The economic prosperity of the Western world contributed greatly to this. “Russia joined the IMF and the World Bank in 1992, although it did not join the World Trade Organization (WTO) until 2012. China had been a member of the IMF and the World Bank since 1980 and joined the WTO in 2001”⁶⁰.

However, contrary to American expectations, for these countries the post-1945 international order was not an indivisible whole. While it was in their interest to adhere to liberal economic values, it was not in their interest to adhere to political ones. In fact, these countries have consistently resisted the geostrategic pretensions of the United States. According to Lukin, Russia sees “[the core of political values promoted by the West] as an ideological smokescreen for the West’s attempt to impose its hegemony”⁶¹. It is precisely the expansion of Western powers eastwards that has led Russia to challenge the hegemony of the traditional powers on the international stage⁶². Russia’s rise has been accompanied by its ability to assert its geostrategic interests at the expense of the rules of international law. While Russia has consistently asserted its commitment to the respect of national sovereignty, and consequently criticised the emergence of new rules such as the responsibility to protect⁶³.

⁵⁸ *Ibidem*, p.34.

⁵⁹ *Ibidem*, p.22.

⁶⁰ *Ibidem*, p.26.

⁶¹ GÖTZ, E., MERLEN, C-R. “Russia and the question of world order”, *European Politics and Society*, vol 20, n°2, 2020, pp.133-153, doi: 10.1080/23745118.2018.1545181 (28.02.2021).

⁶² *Ibidem*, p.138.

⁶³ DAGI, D. “The Russian stand on the responsibility to protect: does Strategic culture matter?”, *Journal of Asian Security and International Affairs*, vol 7, Issue 3, 2020, pp. 370-386.

It would seem that it has used arguments similar to those used by the United States and its allies to justify its military interventions abroad. In Georgia, Russia argued that it intervened because of the genocide perpetrated against the Ossetians and Lavrov.⁶⁴ Similarly, according to Russia, it was on the basis of the principle of the right of peoples to self-determination and Ukraine's desire to exterminate the Russian and Jewish populations of Crimea that it justified its military intervention there.⁶⁵ Just as the United States intervened in Iraq without the approval of the Security Council, Russia has done so in these countries in a similar way. Russia's military intervention in Crimea has exacerbated tensions between Russia and the Western powers. In 2014, President Barack Obama passed the International Emergency Economic Power Act against those involved in the Crimean crisis⁶⁶. This decree aims to freeze their financial assets and ban them from entering the US. In the same year, the US took similar measures against some Russian financial institutions (VTB, Bank of Moscow, Rosselkhozbank, etc.).⁶⁷ Despite the increase in US and EU sanctions, Russia remains in Crimea. Moreover, through its military presence in Libya and Syria, Russia is tending to impose itself on the international scene as a counter-power to the American hyperpower, alongside China.

China's breakthrough on the international scene is more than Russia the result of its insertion into the international economic system. However, like all powers that claim hegemony, China uses its influence to "make and break" the rules of international law to its liking. The most appropriate example seems to be the way it has imposed its own capitalist model on the World Trade Organisation.⁶⁸ This is based on state control of the economy⁶⁹. This model is, according to the US, incompatible with the WTO agreement on subsidies and countervailing measures⁷⁰. In reality, China, like the US and

⁶⁴ *Ibidem*, p.381.

⁶⁵ *Ibidem*.

⁶⁶ Office of foreign asset control, Ukraine/Russia-Related sanctions program, Office of foreign asset control, June 2016.

⁶⁷ *Ibidem*.

⁶⁸ WU, M. *China's rise and the growing doubts over trade multilateralism*, *Trade War The Clash of Economic Systems Endangering Global Prosperity* (ed. Meredith A. Crowley), CEPR Press, 2019, pp.84-92.

⁶⁹ RUBINI, L. *The never-ending story: The puzzle of subsidies*, in *Trade War The Clash of Economic Systems Endangering Global Prosperity* (ed. Meredith A. Crowley), CEPR Press, 2019, pp. 103-109.

⁷⁰ CHOUKROUNE, L. "China and the WTO settlement system: the global trade lawyer and the

other trading powers, is taking advantage of loopholes in international law to better circumvent its rules and impose the Chinese exception at the WTO⁷¹. This situation has been at the root of an unprecedented trade war between the US and China since 2016.

In addition to the WTO, the Security Council has also become a place of confrontation for hegemony between traditional and emerging powers. Indeed, since the beginning of the crisis in Syria, China and Russia have opposed a possible military intervention by NATO by blocking all resolutions that could lead to a regime change in Syria. One of the few resolutions that has been adopted by the Security Council is Resolution 2249 which authorises members to take all necessary measures to end the existence of the “Islamic State” in Iraq and Syria⁷². Despite the convergence of the members of the Security Council against terrorism, Syria has become yet another site of indirect confrontation between the emerging powers and the Western coalition. Indeed, Syria now pits the Western powers against the emerging ones. This situation not only creates a possible military escalation, but also contributes to rendering meaningless the rules that are supposed to apply to all members of the international community. Despite the support of Russian, Iranian and Turkish troops, loyalist forces loyal to President Bashar al-Assad continue to violate the rules of humanitarian law with impunity.⁷³ Although Syria is a party to the Chemical Weapons Convention, the conclusions of the report of the International Commission of Inquiry on the Syrian Republic are unequivocal: government forces have repeatedly used sarin gas⁷⁴. This affected both rebel groups and the civilian population. In 2017, despite the prohibition of chemical weapons in armed conflict, the United States, France, Great Britain and Northern Ireland carried out targeted strikes on Syrian government facilities.⁷⁵ This intervention could be seen as yet another show of strength by the Western powers against the new emerging powers. However, the coalition’s bombing has also caused

state capitalist”, *China perspectives*, n°1, 2012, pp.49-57.

⁷¹ *Ibidem*.

⁷² Resolution 2249 (2015), UN Security council, 2015.

⁷³ Report of the independent international commission of inquiry on the Syrian Arab Republic, January 2021, A/HRC/46/54.

⁷⁴ *Ibidem*, pp.4-6.

⁷⁵ *Ibidem*, p.5.

many casualties among the civilian population. According to the report of the International Commission of Inquiry on the Syrian Republic: “The United States-led coalition also conducted airstrikes documented to have caused civilian casualties, failing to take all feasible precautions to avoid and minimize incidental loss of civilian life, injury to civilians and damage to civilian objects, in violation of international humanitarian law.”⁷⁶

Thus, it would seem that the struggle for hegemony has led to a weakening of the rules governing the liberal international order. Indeed, the inability of international law norms to regulate international relations seems to be attributable to the transition from a unipolar to a multipolar era. Indeed, in 2017 Russian Foreign Minister Sergei Lavrov told the UN General Assembly that: ‘the process of creating a polycentric world order is an objective trend’.⁷⁷

2. The US isolationist response in international organisations

It would seem that, faced with the challenge to American hegemony and the questioning of American exceptionalism within certain international organisations⁷⁸, the United States has adopted an isolationist position in

⁷⁶ *Ibidem*, p.7.

⁷⁷ GÖTZ, E., MERLEN, C-R. “Russia and the question of world order”... cit., p.134.

⁷⁸ Despite pressure from the US administration, on 5 March 2020, the ICC authorised the prosecutor to open an investigation into alleged war crimes and crimes against humanity committed in Afghanistan. Similarly, following the withdrawal of the United States from the Iran nuclear deal and the sanctions imposed by the US on Iran. On 17 July 2018, Iran filed a case with the ICJ for the annulment of the measures taken by the United States, due to the existence of a treaty of friendship that links the two protagonists since 1955. The ICJ decision was a setback for the US. Indeed, the court asked the US to stop “the free export to Iran of goods necessary for humanitarian purposes [(medicines, food, etc.)...] necessary for civilian aircraft”. In response to the ICJ order, the US announced its withdrawal from the Protocol to the Vienna Convention on the Settlement of Disputes. Some observers believe that by withdrawing from part of the Vienna Conventions, the US has avoided possible ICJ condemnation of its unilateral decision to move the US embassy to Jerusalem. For full discussions see followig references. Statement of ICC Prosecutor, Fatou Bensouda, following the Appeals Chamber’s decision authorising an investigation into the Situation in Afghanistan, Press release, 05 march 2020. Reports of judgments, advisory opinions and orders alleged violations of the 1955 treaty of amity, economic relations, and consular rights (Islamic Republic of Iran v. United States of America) request for the indication of provisional measures order of 3 October 2018, International court of justice, 2018. United States leaves part of the Vienna Convention, TV5monde, 04 October 2018. “Les États-Unis quittent une partie de la convention de Vienne », *TV5 Monde*, 04/10/2018

response, which goes against the liberal order of which it is the main builder. Indeed, the United States does not hesitate to withdraw from the various agreements to which it is party if its interests are called into question. On the political level, there are numerous examples, such as the withdrawal of the United States from certain UN organisations such as UNESCO⁷⁹ and the WHO⁸⁰. On the economic level, and in particular on the commercial level, the United States also seems to deploy a relatively similar strategy.

Since the election of Donald Trump to the White House, the United States seems to have chosen the path of unilateralism to promote its economic interests. Indeed, the Trump administration has put trade policy instruments such as Section 301 back on the agenda at the expense of multilateral trade rules. Section 301 of the Trade Act of 1974 authorises the United States to take protective measures against countries that “maintain any law, policy, or practice that violates or impairs the rights or benefits conferred upon the United States by trade agreements, or that is unjustifiable, unreasonable, or discriminatory and impairs or restricts U.S. trade”.⁸¹ Yet Article 23.1⁸² of the

⁷⁹ The United States Withdraws From UNESCO - US Department of State Press Release, United Nations, The question of Palestine, Press statement, 2017.

⁸⁰ Congressional research service, US withdrawal from the World Health Organization: process and implications, October 2020.

⁸¹ WTO, Trade Policy Review, Report of the WTO Secretariat, United States, p.92.

⁸² “Where Members seek to obtain redress for breach of obligations or nullification or impairment of benefits under the covered agreements, or interference with the achievement of an objective of the covered agreements, they shall have recourse to and comply with the rules and procedures of this Understanding.

2. In such cases, Members:

- (a) shall not make a determination of violation, nullification or impairment of benefits, or impairment of the attainment of an objective of the covered agreements except through dispute settlement in accordance with the rules and procedures of this Understanding, and shall make any such determination in accordance with the findings contained in the panel or Appellate Body report adopted by the DSB or an arbitral award made under this Understanding;
- (b) follow the procedures set out in Article 21 to determine the reasonable period of time within which the Member concerned should implement the recommendations and decisions; and
- (c) follow the procedures set out in Article 22 to determine the level of suspension of concessions or other obligations and obtain the authorization of the DSB, in accordance with these procedures, before suspending concessions or other obligations under the

WTO Dispute Settlement Understanding explicitly prohibits Members from making their own determination that “a violation has occurred, that benefits have been nullified or impaired, or that the attainment of an objective of the covered agreements has been impeded”.⁸³

Despite this provision, on 18 August 2017, the USTR opened an investigation into China’s “acts, policies and practices”⁸⁴ “relating to “technology transfer, intellectual property and innovation”⁸⁵ . On 22 March 2018, the USTR estimated that “China has caused at least US\$50 billion in annual damage to the US economy”⁸⁶ “. Following the USTR’s findings, a Presidential Memorandum⁸⁷ was issued to authorise the USTR to take “all appropriate actions to respond to China’s acts, policies, and practices”⁸⁸ in accordance with the provisions of Section 301.

As a result, by favouring unilateralism over multilateralism, the US has unleashed an unprecedented trade war with China. In a context marked by a burst of power, China has in turn ignored multilateral provisions. It was on the basis of Article 47 of the Foreign Trade Act of 2004 that China took countermeasures against the United States.

Despite the fact that these two powers have been making numerous complaints to the Dispute Settlement Body (DSB), since 2016 the US has been opposing the renewal of the WTO’s Appellate Body membership. Currently, of the seven members supposed to make up the body, none are left. Yet the Appellate Body is one of the pillars of the DSB, with the task of “confirming, modifying or reversing the legal findings and conclusions of a panel”. Therefore, by blocking the Appellate Body (given that most panel

covered agreements on the grounds that the Member concerned has not implemented the recommendations and rulings within that reasonable period of time. Art 23, Understanding on Rules and Procedures Governing the Settlement of Disputes.”

⁸³ *Ibidem*.

⁸⁴ United States-Tariff Measures on Certain Products from China II, Request for Consultation from China, 27 August 2018, WT/DS565/1 G/L/1260, at 2.

⁸⁵ *Ibidem*.

⁸⁶ WTO, Trade Policy Review, Secretariat Report, United States... cit. p.94.

⁸⁷ Presidential Memorandum on the actions by the united states related to the section 301 investigation, Foreign policy, 22 March 2018.

⁸⁸ United States-Tariff Measures on Certain Goods from China, China’s Request for Establishment of a Panel, 7 December 2018, WT/DS543/7, pp.1-2.

decisions are appealed) the US has effectively paralysed the entire WTO dispute settlement mechanism. Yet its *raison d'être* is to pacify trade relations and avoid trade wars such as the one currently being waged between China and the United States.

Despite the hopes that were raised by the election of Joe Biden on the international scene, it would seem that the position of the United States has changed on the diplomatic front with a rapprochement between the United States and its historical allies, but that within many international organisations “American first” continues to be applied in practice. Indeed, although Joe Biden has kept his promise to reintegrate the WHO, as far as UNESCO is concerned, the United States still remains outside. As for the WTO, there has been little progress. Indeed, the US continues to block the renewal of the judges of the Appellate Body, despite the repercussions that such a blockage continues to have on the peaceful settlement of trade disputes⁸⁹. At a WTO working meeting on the reform of the Appellate Body, when Mexico presented new candidates for the vacant positions on the Appellate Body, the US again opposed the activation of the Appellate Body until the reforms it wanted were introduced. In response to the US position, the Mexican representative stated that “the fact that a Member may have concerns about certain aspects of the functioning of the Appellate Body cannot be used as a pretext to impede and disrupt the work of the Dispute Settlement Body (DSB) and dispute settlement in general, and that there is no legal justification for the current blockage of the selection processes, which in practice leads to the annulment and curtailment of the rights of many Members”⁹⁰. In addition to the issue of the blocking of the dispute settlement mechanism, the US continues to push for plurilateralism in the WTO, which contradicts the multilateral vocation of the organisation. It is therefore not surprising that the US-China trade war is being settled in Washington, outside the WTO’s dispute settlement bodies⁹¹.

In short, it would seem that in a bid to regain economic hegemony, the United States has voluntarily chosen to ignore the rules that dictate the post-Cold War order of which it was the pioneer. The current position of the

⁸⁹ Members commit to work on dispute settlement reform, WTO, 27 April 2022.

⁹⁰ Members commit to work on dispute settlement reform, WTO, 27 April 2022.

⁹¹ See United States Trade Representative, “Economic and Trade agreement between the government of the United States of the America and the government of the people’s republic of China”.

United States within international organisations seems to be an attempt to reassert its hegemony, and perhaps to prepare for its great comeback.

3. The War in Ukraine: From the Struggle for Hegemony to the Reconfiguration of the Post-1945 Order?

In its latest report entitled: “Threats to our world as seen by the CIA”, it announces at the outset that the world is now multi-polar, due to the emergence of new powers on the international scene⁹². The CIA report identifies China and Russia as the main threats to US interests⁹³. Most worrying for the US is the alliance between these two countries⁹⁴. Xi Jinping’s China recently declared that it has “unlimited friendship for Russia”⁹⁵. Such a situation strongly opposes the political, military, technological, geostrategic and economic interests of the United States and to some extent of other Western countries⁹⁶. Taken unilaterally, the CIA considers that “China is an increasingly serious competitor, challenging the United States in multiple areas - particularly the economy, military, and technology, which is pushing to change global norms [...]”⁹⁷. As for Russia, it is explicitly stated: “That it is pushing back against Washington where it can - locally and globally - employing techniques up to and including the use of force”⁹⁸.

On the latter point, the CIA predicted Russia’s invasion of Ukraine. Indeed, from a Russian point of view, NATO’s extension towards Ukraine would be perceived as a threat to its internal security⁹⁹. This is probably the reason why, in accordance with these predictions, on 24 February 2022, Russia decided to carry out a military campaign in Ukraine. According to the United Nations General Assembly (GA), this is nothing less than aggression as recognised

⁹² CIA, *Les nouvelles menaces qui pèsent sur notre monde vu par la CIA : Analyses, faits et chiffres*, éditions Equateurs, 2022, p.21.

⁹³ *Ibidem*.

⁹⁴ *Ibidem*, p.16.

⁹⁵ *Ibidem*.

⁹⁶ *Ibidem*, p.22.

⁹⁷ *Ibidem*.

⁹⁸ *Ibidem*.

⁹⁹ BILEFSKY, D., PÉREZ-PEÑA, R., NAGOURNEY, E. “The Roots of the Ukraine War: How the Crisis Developed”, *The new york times*, 2022.

by resolution 3314 (XXIX) of 14 December 1974¹⁰⁰. It is defined as: “the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter¹⁰¹ “. This is undoubtedly why the UN General Assembly in its resolution A/ES-11/L.1 condemned on 1^{er} March 2022, the aggression committed by Russia and demanded “that the Russian Federation immediately cease the use of force against Ukraine and refrain from any further unlawful threat or use of force against any Member State”¹⁰². Despite the adoption of this text by a majority of countries, why has Russia not stopped its invasion?

Prima facie, a UN GA resolution is not legally binding, even if it was adopted by a large majority of 141 votes in favour, 35 abstentions and 5 against¹⁰³. In this respect, only Security Council resolutions are binding. If it appears that aggression is condemned by Article I^{er} and Chapter VII of the UN Charter, in principle the Security Council should deal with this issue, because of the risks it poses to international peace and security¹⁰⁴. However, international law is limited by its own rules because of Russia’s veto power. Yet the veto rights enjoyed by the five permanent members of the Security Council have been repeatedly criticised for the supremacy and even impunity it grants to its holders¹⁰⁵. In fact, this limitation of international law could be explained by the fact that, as part of the post-Cold War international order, it was not designed to resist power, let alone hegemony. Western powers have often exploited its shortcomings and even weaknesses to serve their economic, political or geostrategic interests¹⁰⁶, etc. According to the Congressional Research Service, since the end of the first two world wars, the United States

¹⁰⁰ Résolution 3314 (XXIX). Définition de l’agression, 2319^e séance plénière, 14 décembre 1974.

¹⁰¹ Assemblée Générale, Vingt neuvième session, Annexe, Article premier, 1974.

¹⁰² Agression contre l’Ukraine, Assemblée Générale des N.U, 1^{er} mars 2022, A/ES-11/L.1, §3.

¹⁰³ *Nations Unie*, L’ONU et la guerre en Ukraine : les principales informations, Centre régional d’information pour l’Europe occidentale, Centre régional d’information pour l’Europe occidentale, Nations Unis, 6 mai 2022.

¹⁰⁴ Article I^{er} and Chapter VII, Charter of the United Nations, UN, New York, 1945.

¹⁰⁵ “Guerre Ukraine - Russie : les Etats-Unis critiquent la neutralité des pays africains”, *BBC News*, 18 mars 2022.

¹⁰⁶ *Supra*, §C.

has deployed its military forces abroad no less than 70 times¹⁰⁷. While Iraq and Afghanistan remain among the best-known US foreign interventions, others are also worth mentioning, such as the 1953 CIA coup in Iran, the 1954 overthrow of the Guatemalan government, the 1961-1972 Vietnam War and the 1961 Bay of Pigs landing in Cuba¹⁰⁸. In general, all these interventions were officially carried out in the name of the liberation of oppressed peoples and the advent of democracy. On the European side, France, being a hegemonic power in a certain part of the African continent, has recently used similar arguments to justify its intervention in Côte d'Ivoire or Libya¹⁰⁹. Nevertheless, these interventions have never been officially condemned by the international community, they have even been validated by the United Nations Security Council, such as in the case of Iraq and Afghanistan for the United States or Libya and Côte d'Ivoire for France¹¹⁰.

However, despite the paralysis of the Security Council, the “liberator rhetoric” used by Russia has been widely disapproved of and even sanctioned by the Western powers and some international institutions. Indeed, Russia claims to want to liberate the Ukrainian people from a Nazi government¹¹¹ on the one hand, and to want to ensure its defence against the secret activities (financing of biological laboratories) carried out by Western powers on Ukrainian soil¹¹². The argument of self-defence used by Russia is reminiscent of the one deployed during the invasion of Iraq by the United States. Except that Ukraine is not Iraq and the United States is not Russia. This is why, in order to put an end to Russia’s aggression against Ukraine, an unprecedented chain of solidarity among the Western powers was set up, with the corollary of heavy economic sanctions against Russia and an unprecedented military supply to Ukraine. For example, the European Commission has proposed a

¹⁰⁷ Instances of Use of United States Armed Forces Abroad, 1798-2022, Congressional Research Service, 8th March 2022, pp.10-49.

¹⁰⁸ *Ibidem*.

¹⁰⁹ *Ibidem*.

¹¹⁰ *Ibidem*.

¹¹¹ “Poutine dit vouloir ‘dénazifier’ l’Ukraine mais bombarde à côté d’un mémorial juif”, *France inter*, 02/02/2022.

¹¹² “Laboratoires américains en Ukraine : aux origines d’une théorie du complot”, *Le Monde*, 19/03/ 2022, “Comprendre la guerre en Ukraine, édition spéciale pour les jeunes, leurs parents et le corps enseignant”, *Le temps*, 08/05/2022.

progressive embargo on Russian oil (despite the heavy dependence of some of its members), adopted sanctions against Russian banks, ordered the seizure of the property or assets of people close to the Russian president, etc. These sanctions are also accompanied by a series of sanctions against Russia. These sanctions are also accompanied by substantial military aid¹¹³.

The United States, for whom the aggression of Ukraine marks the great return to the international scene, has also taken economic sanctions against Russia, which affect both the banks and those close to the Russian president and even extend to his daughters¹¹⁴. They are also accompanied by a colossal amount of military aid¹¹⁵. However, these sanctions do not seem to slow down Russia's action in Ukraine. While the West is asking the whole international community to condemn Russia's action, far from the declarations of the UN General Assembly, the rest of the world seems to observe this battle for hegemony with inertia. In fact, while the United States threatened to boycott certain sessions of the G20 if Russia took part, the Indonesian president insisted on inviting his Russian and Ukrainian counterparts¹¹⁶. Similarly, Western sanctions do not prevent other countries from continuing to trade or cooperate with Russia. Does this mean that the world is no longer limited to the West?

In fact, since 1970, the countries of the South, formerly known as the "Third World", have often considered themselves excluded from the liberal international order. This is probably why few non-Western countries defend its rules. Today, international law seems to be abandoned by all, perhaps because it has often been considered an "instrument in the hands of the powerful". As President Ramaphosa of South Africa said: "The most powerful countries tend to use their position as permanent members of the UN Security Council to serve their national interests rather than the interests of global peace and stability"¹¹⁷.

¹¹³ Commission Européenne, "La Commission européenne décide seule des sanctions ! Vraiment ?" 08/04/2022.

¹¹⁴ *White House*, "Fact Sheet: United States, G7 and EU Impose Severe and Immediate Costs on Russia", 06/04/2022.

¹¹⁵ *Ibidem*.

¹¹⁶ Dans les pays du Sud, une autre vision de la guerre en Ukraine, *PTB*, 03/05/2022.

¹¹⁷ "Guerre Ukraine - Russie : les Etats-Unis critiquent la neutralité des pays africains", *BBC News*, 18/03/2022.

More recently, the Director-General of the WHO has stated that “only a fraction of the aid to Ukraine is spent on other humanitarian crises. Aid to Ukraine is “very important” because it “has an impact on the whole world [...]. I don’t know if the world really pays the same attention to black and white lives [...]. I have to be frank and honest: the world does not treat the human race the same. Some are more equal than others. And when I say that, it hurts me. Because I see it. It’s very hard to accept, but that’s what happens¹¹⁸.”

This statement by the Director General of a specialised UN organisation has echoes in certain little-publicised conflicts such as the war in Yemen. While candidate Joe Biden had promised to end it, it seems that the presence of the United Arab Emirates and Saudi Arabia was enough to dissuade him as President of the United States¹¹⁹.

In short, the “rest of the world” seems for the moment to be on the sidelines and a spectator in a war for hegemony whose outcome is unknown, but what does Europe really gain in this war? Is it following its own logic or that of the United States?

Since the end of the Second World War, the countries of Western Europe have become steadfast allies of the United States. Not only did the US help rebuild Europe, but it also helped end the Second World War. While they are trade rivals, they are above all security allies, sharing the same liberal values and defending them in NATO and other cooperative organisations. However, the latest CIA report tells us that the United States does not have quite the same interests as Europe with regard to Russia¹²⁰. Indeed, Joe Biden has repeatedly stated that his ambition is to weaken Russia as much as possible in the long term¹²¹.

Although some EU members, such as France, have conflicting relations with Russia, due to its expanding activities in Africa, does the EU have a long-term interest in weakening Russia?

As early as 2014, the European Union tried to put an end to the Russian

¹¹⁸ “Racisme : selon le chef de l’OMS, l’attention portée à l’Ukraine témoigne d’un parti pris contre la vie des Noirs », *BBC News*, 14/04/2022.

¹¹⁹ Human Rights Watch, “Biden Doubles Down on a Failed Yemen Policy”, 15/02/2022.

¹²⁰ Les nouvelles menaces qui pèsent sur notre monde vue par la CIA : Analyses, faits et chiffres, *Equateurs*, 2022.

¹²¹ “Biden proche d’obtenir du Congrès une colossale rallonge de 40 milliards de dollars pour l’Ukraine”, *La Tribune*, 11/05/2022,

invasion of Crimea, trying to defuse any possible new Russo-Ukrainian conflict. It is probably for this reason that France and Germany encouraged Ukraine, Russia and the Organisation for Security and Cooperation in Europe (OSCE), which was to monitor the implementation of this treaty, to sign the Minsk (I) agreement¹²². This agreement included a package of measures to end the conflict in the Donbass. Despite a short-lived lull, the failure of the parties to comply with the agreement led to renewed tensions. Hence, the implementation of the Minsk (II) agreement one year later¹²³. Instead of the 10 points of the first agreement, this one contained 13, including: the release of hostages, a ceasefire, guaranteed access for humanitarian aid, the return of Ukraine's territorial integrity¹²⁴, etc. Despite the means deployed by the EU, the Ukrainians and Russians did not respect the measures laid down. For the Russians, the intervention of the United States was a major factor. According to the Russian press agency, the Americans wanted the peace agreement to be revised, although this process could jeopardise the peace efforts between the two countries¹²⁵. According to the US mission to the OSCE, the Russians have repeatedly violated the provisions of the 2015 agreement¹²⁶. While it is difficult to make up one's mind about everyone's account, it seems that the US has played a major role in monitoring the agreement. Yet the US was not one of the countries that initiated Minsk I and II. Does this mean that the US has gradually taken the place of the EU in the Russian-Ukrainian peace process?

While it seems difficult to provide an answer, it is only fair that the failure of these agreements led to Russia's aggression against Ukraine in February 2022. In this new conflict, do Europeans have a strategy to keep the spectre of war away from their borders? Do Europeans have a strategy that is different from that of the United States and that serves their own interests?

The sanctions adopted or still under negotiation within the European Commission were taken first of all to replace the inability of the Security Council to take adequate measures in the event of a finding of aggression.

¹²² Full text of the Minsk agreement, 2014.

¹²³ Full text of the Minsk agreement 2015.

¹²⁴ Package of measures for the Implementation of the Minsk agreements.

¹²⁵ US wants Minsk Agreements to be revised - Russian Foreign Ministry, Russia Agency Press, 9 February, 2022.

¹²⁶ US Mission to the OSCE, On the Russian-Separatist Forces' Offensive near Svitlodarsk, Ukraine | Statement to the PC, online.

The objective of these measures is to force Russia to stop its military action in Ukraine. However, more than the United States, whose economy is less interconnected with Russia, the EU countries could be more affected by these sanctions. Hence the dissension among some members on the proposed embargo on Russian oil exports¹²⁷. However, the decision to heavily arm Ukraine could have the effect of prolonging the war in Ukraine, with the risk of exposing Europe to a possible nuclear escalation. The strategy of massively and heavily arming the Ukrainians seems to be in line with the US strategy of arming them to the maximum to defeat the aggressor¹²⁸. In other words, there is no longer any question of peace in the immediate future, but rather of prolonging the war in the heart of Europe, despite its economic and social consequences on the continent.

Maurice Gourdault-Montagne, former diplomatic adviser to Jacques Chirac, believes that Europe has no strategy to deal with a Russia determined to regain its hegemony. According to him, the Union is no longer trying to create conditions for peace in Ukraine, but just to wage war. This goes against the grain of European interests, but is in line with American logic, for which EU countries have more to lose than to gain.¹²⁹ Doesn't the absence of a European strategy mark, to a certain extent, the growing loss of its influence, or even of its power outside?

Indeed, at the end of the Russo-Ukrainian conflict, the United States could regain its hegemony, at least for a while, on the international scene, while Europe could be weakened and Russia relegated to the rank of nth world power. The situation could be reversed with a stronger Russia than before. In another scenario, a weakened United States, Europe and Russia could give way to a hegemonic China. China could well be the winner of a war in which it has only been a spectator.

4. Towards the end of the post-1945 order?

Far from the principles of the United Nations Charter, the international order was not built on the basis of the sovereign equality of nations. In fact,

¹²⁷ "La Hongrie bloque l'embargo européen sur le pétrole russe", *France info*, 07/05/2022.

¹²⁸ "Ukraine : l'inavouable euphorie de Washington vis-à-vis de Moscou", *le Monde*, 09/05/2022, « Pentagon says Ukraine can 'absolutely' win the war », *Reuters*, 07/04/2022.

¹²⁹ "L'ex-patron du Quai d'Orsay : « Je n'exclue pas que les Russes se servent d'une arme nucléaire », *L'express*, 04/05/2022.

it was built on a pyramidal model with a hegemonic power at the top and to a lesser extent its allies. However, the desire of the United States and other Western powers to universalise this order has led to a breakdown of the notion of power, with a consequent weakening of the rules of international law. The desire of emerging powers to assert themselves against the United States and, conversely, the desire of the United States to maintain its domination of international society seems to have resulted in “international disorder”. Like the situation that prevailed on the eve of the first and second world wars, the institutions that are supposed to be the guarantors of the international liberal order are today unable to arbitrate the struggle for hegemony between the Western and emerging powers. Indeed, they were not built to free themselves from the domination of the hegemonic power(s), but to some extent to be an instrument of it. The configuration of the Security Council is a good illustration. Under these conditions, is the liberal international order doomed to disappear in favour of a new one that is more or less complex than the previous one?

The ability of the post-1945 order to make and break hegemony seems, paradoxically, its main asset for longevity. Indeed, neither China nor Russia seems to have the will to destroy the order that elevated them to hyperpower status¹³⁰. Despite its isolationist response to the challenge to its hegemony, the United States also does not seem ready to leave this order. Indeed, this is not the first time that the US has used its hyperpower to ensure the triumph of its interests and to force an organisation to reform itself according to its interests. In 1984, the US withdrew from UNESCO to force the organisation to reform. Similarly, under the GATT 1947, the disagreement between the US and the EU on agricultural issues contributed to the blockage of the Uruguay Round¹³¹. At a time when the multilateral trading system was almost no longer functioning, it was able to reinvent itself and was reborn in the form of the WTO¹³².

It is in the light of these examples that we can consider that the approach of the United States under the Trump administration, even if it presents a certain risk for the rules and institutions that govern this order, does not

¹³⁰ IKENBERRY, J. “The end of liberal order?”... cit., pp.7-23.

¹³¹ EBA NGUEMA, I. *Sécurité alimentaire...* cit., pp.120-123.

¹³² CARREAU, D. et al, *Droit international économique*, Dalloz, 6^{ème} édition, 2017, pp.62-156.

actually aim to destroy it, but to force its reform. The recent Russian invasion of Ukraine may confirm this analysis. Indeed, while the Biden administration had so far not made any significant changes to the US foreign economic policy, the withdrawal from Afghanistan had so far relatively tarnished its image on the international scene. However, the war in Ukraine has given the US the opportunity to reposition itself on the international stage as the leader of the West. This proves that the United States is not ready to undo the world order of which it is the main builder, but can probably remain the absolute master. Similarly, the European Union, despite a lack of strategy in the face of the Russian invasion of Ukraine, seems ready to do anything to defend this order. In fact, if it perceives the China-Russia pact as worrying, this does not prevent it from trying to weaken it by inviting China, on pain of economic estrangement, to “defend the multilateral system from which it has [benefited so much for its development]”¹³³.

At present, the war in Ukraine seems to be one of the main elements that could reconfigure the international world order. This reconfiguration may no longer be limited to a trend towards multipolarisation of the world, but may actually create one. This would imply a fundamental overhaul of international institutions. However, it is not certain that in its new version, this order will be built on the basis of sovereign equality. Hyperpower itself seems unequal in the sense that it cannot be subject to any limitation, except in a multipolar era, the era of cooperation.

IV. CONCLUSION

Since its inception, the post-1945, international order has been designed around the supremacy of the United States and to some extent its allies. The fall of the Berlin Wall contributed to the expansion of this order. However, this expansion has gradually led to a questioning of its rules and of the institutions that are supposed to promote them. Indeed, the post-Cold War international order seems to have fulfilled its promises by bringing peace and economic prosperity to part of the planet. This prosperity has been accompanied by the emergence of new powers on the international scene that now claim political, economic and military hegemony, notably Russia and China. This situation

¹³³ “Guerre en Ukraine : PUE dénonce un ‘pacte inquiétant’ entre la Russie et la Chine”, *La nouvelle tribune*, 12/05/2022.

seems to be at the root of the current crisis in the international order.

Paradoxically, under the Trump administration, the rules of international law have been conspicuously ignored or even violated. The assertion of power relations has replaced traditional inter-state diplomacy. The blocking of the WTO Appellate Body by the United States or the unilateral decision to move the US embassy from Tel Aviv to Jerusalem are yet another demonstration of force by the United States. Nevertheless, in a context marked by the fragmentation of power, the American position contributes to the weakening of the liberal international order and the rules that govern it. Moreover, other states, now considered as superpowers, do not hesitate to ignore the rules of international law in order to assert themselves in the face of American exceptionalism.

However, this situation does not seem to prejudge the end of the liberal international order, but its mutation. Indeed, no state seems to have an interest in destroying it, because in reality, the liberal international order, because it is a source of prosperity, is also a source of power, even of hegemony. This is undoubtedly why the invasion of Ukraine has helped to create a major shift in their foreign policy. Nevertheless, no one can claim to know in advance what form this order will take.

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