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Sanctions from the perspective of International Law*

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In this lecture** I will deal with the legal implications of *economic sanctions*. I will not cover diplomatic sanctions, which are rather straightforward from a legal standpoint. Diplomatic sanctions entail acts of state sovereignty such as the withdrawal of diplomats, reduction of the number of accredited diplomats which one country allows another to send, and alike. This diplomatic tit-for-tat game, so-to-speak, is not the concern of my presentation today.

Regarding economic sanctions the difference between *unilateral* and *multilateral* sanctions is crucial. In order to avoid terminological misunderstandings, I refer to specific examples as an introduction: the sanctions imposed by the US on a regular basis, especially since the end of the Cold War, are unilateral. Also the economic sanctions by intergovernmental entities, such as those which the European Union imposed on Russia, fall under this category.

As far as the legal implications of sanctions are concerned, one needs to bear the following difference in mind: *Unilateral* means that *one* state or *a group of states* – acting as an organization (such as the EU) or as an *ad hoc* coalition – imposes sanctions as measures of economic "punishment." Such acts don't result from any legal, let alone internationally binding, obligation. *Multilateral* sanctions, on the other hand, are measures imposed to exert economic pressure within the United Nations system of collective security; they are binding for all UN member states. From the legal standpoint, this is completely different. "Multilateral" in this context means that sanctions are, so-to-speak, imposed by the international community and therefore are legally binding on all its members – unlike unilateral measures by one state or a group of states.

> "Sanctions are a tool of international politics which is incompatible with the ideas of diplomacy and peaceful co-existence of the nations. As the regulations of Chapter VII of the UN Charter clearly state sanctions are just one stage below armed conflict. Morally speaking this kind of coercive measures share the character of war. […] Unilateral, sanctions are merely a relic of the rule of the jungle, the 'old' international law in which the ius ad bellum, the 'right to wage war', defined the sovereign state. However, we all tend to agree that this viewpoint has been transcended since the end of the First World War."

I. Unilateral Sanctions

As far as unilateral sanctions are concerned, it goes without saying that reconciliation is the ideal way how states should settle their disagreements. They should resolve contradictory positions and conflicts of interest by means of negotiation. Diplomacy would be the conduct of choice between states in an ideal world. In the real world, however, states often tend to pursue their foreign policy, and assert their national interests, by way of pressure. This is especially so in cases when there exists an imbalance of power. Unilateral economic sanctions are nothing else but one state trying to *force* its will on another. The temptation to assert one's in-

continued on page 2

* Translated from the German by *Current Concerns*.

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Prof Dr Hans Köchler (picture ma)

Hans Köchler has served as Chairman of the Department of Philosophy at the University of Innsbruck (Austria) from 1990 until 2008. Today he is Chairman of the Austrian Arbeitsgemeinschaft für Wissenschaft und Politik, (Working Group for Siences and Politics), Co-Chairman of the International Academy for Philosophy and president of the International Progress Organization, which he co-founded in 1972. At this point we are only able to emphasize a few aspects of his very rich work. Köchler's research focuses are among others Legal Philosophy and Political Philosophy, Philosophical Anthropology, in which his research findings in many points do correspond with the views of the Polish Cardinal *Karol Wojtyla,* the late Pope *John Paul II.*

Since the early seventies Hans Köchler has been issuing numerous publications, undertaking journeys, delivering speeches and contributions to various international organisations; this way he has been committed to the dialogue of cultures, especially to a dialogue between the West and the Islamic World. In 1987 Professor Köchler along with Nobel Prize winner Seán MacBride launched the "Appeal by Lawyers against Nuclear War". As a result Köchler contributed with his advisory opinion so that the International Court of Justice later declared a potential use of nuclear weapons would be a breach of international law. Time and again Hans Köchler commented on the reform of the United Nations and called for its democratization. He especially commented on the question how international law could be implemented and he vehemently opposed the instrumentalisation of the norms of international law by playing power politics.

As special envoy appointed by the then UN-Secretary General *Kofi Annan* to the "Lockerbie Trial" he wrote a critical report which was published as a book entitled "Global Justice or Global Revenge? International Justice at the Crossroads" in 2003. His impression was, that the Lockerbie-Trial was influenced by political guidelines. Therefore he demanded a the strengthening of the seperation of powers and the complete independency of international criminal jurisdiction.

For more than 20 years Hans Köchler has been dealing with the problem of unilateral and multilateral sanctions. As early as 1994, he published a basic 50-page publication on the subject: *Ethische Aspekte der Sanktionen im Völkerrecht: Die Praxis der Sanktionspolitik und die Menschenrechte. Studies in International Relations,* Vol. XX. Vienna: International Progress Organization, 1994. English edition: *The United Nations Sanctions Policy and International Law.* Penang (Malaysia): Just World Trust (JUST), 1995.

"Sanctions from a perspective ..."
continued from page 1

terests by means of sanctions will obviously be greater if a state is much more powerful than another state, and vice versa. The Republic of San Marino, for instance, will never dream of imposing sanctions against the United States of America.

"As a matter of realpolitik, sanctions only make sense if there is an imbalance of power"

In other words, as a matter of *realpolitik*, sanctions only make sense if there is an *imbalance of power.* There is empirical evidence for this. Over the last few decades, the United States, the most powerful country on earth at this point in history, has imposed more sanctions than all other states together. Detailed statistics would go beyond the scope of this presentation. What comes to mind, in this regard, is the aspect of arbitrariness, even blackmail, as an instrument of foreign policy. Often, the attitude is one of self-righteousness, which leads the sanctioning state (or group of states) to act as if issuing sentences of *collective punishment.* This has been particularly obvious in the case of the Russian sanctions.

One should bear in mind that this kind of inter-state conduct risks further increasing political tensions instead of calming the situation. Sanctions belong to the arsenal of power politics and are generally counterproductive when it comes to the establishment of a sustainable order of peace. Furthermore, with the degree of global economic interconnectedness today, the impact and consequences of sanctions are more serious as compared to the time after World War II when the economy was less globalized.

A violation of the free trade regime

As far as the *legal evaluation* is concerned, unilateral sanctions are incompatible with the World Trade Organization's (WTO) free trade regime. Especially in the Western world, these regulations have always been considered as paradigm for the conduct of international economic relations. Precisely that country that most vigorously promoted the free trade doctrine at the time of the foundation of the World Trade Organization (as the successor to GATT, the General Agreement on Tariffs and Trade), namely the United States, is now the country most frequently violating the free trade principles codified by the WTO. The US does so in all instances where it uses the economy for political purposes. The principle of *non-discrimination* in international trade and, more generally, the maxim that the state should not interfere with the economy (whether domestic or international), stands at the core of the rules and regulations of GATT, and now of the WTO. This is also in conformity with the common sense expectation that the trading partner beyond the borders should be dependable and predictable. This obviously cannot be the case if unpredictable governmental decisions make the continuation of trade and economic relations – and the fulfilling of contracts – impossible.

Imprecisely formulated exceptions

A further problem for the legal evaluation of unilateral sanctions lies in the exceptions from the free trade rules under the WTO regime. These exceptions are phrased in such an imprecise way that states may decide more or less arbitrarily, i.e. in a self-serving manner, on whether the conditions for an exception are met or not. I can only summarily refer here to the respective regulations. Crucial in this regard is Article XXI of the General Agreement on Tariffs and Trade (GATT), now incorporated into the body of rules of the World Trade Organization. Another relevant provision, in this regard, is Article XIV bis of the General Agreement on Trade in Services (GATS), which was negotiated in the course of the establishment of the WTO. States that impose unilateral sanctions use these provisions in order to circumvent free trade regulations in specific cases. What do these exceptions mean? A WTO member state may invoke these exceptions when its "essential security interests" are at stake. This specifically relates to the following: trade with fissionable materials, "traffic in arms, ammunition and implements of war," and any action of a state taken "in time of war or other emergency in international relations."

Exceptions from free trade rules also apply in regard to the obligations of states under the provisions of the UN Charter for the maintenance of international peace and security. This specifically applies to binding resolutions of the Security Council under Chapter VII of the UN Charter. All member states must comply if the Council imposes economic sanctions on a country. According to the Charter, the Security Council is the supreme executive organ of the United Nations. Consequently, decisions under Chapter VII of the Charter overrule free trade regulations of other intergovernmental organizations as well as treaties between member states. Certain interested parties have claimed in the past that exceptions from free trade rules, resulting from their obligations under the UN Charter, may also be invoked independently of Chapter VII resolutions. This interpretation of obligations under the UN Charter is highly questionable. It invites arbitrary action by states that are more interested in the pursuit of power politics than in ensuring respect for international law.

Finally, regarding the exemptions from free trade rules, the codification work of the International Law Commission of the United Nations must be taken into account. In particular, I would like to refer to the Commission's Draft Articles on the Responsibility of States for Internationally Wrongful Acts, a document that was adopted by the UN General Assembly in resolution 56/83 of 12 December 2001. Though legally non-binding, it may be considered as a guideline for the interpretation of international law nonetheless. Article 49, Par. 1 of the Draft Articles provides that a state may, under certain conditions, "take countermeasures against such a State which is responsible for an internationally wrongful act in order to induce that State to comply with its obligations." Recently, this provision was invoked to justify unilateral sanctions against Russia in connection with the armed conflict in Ukraine and the question of territorial sovereignty over a part of Ukraine in particular.

Gates wide open for the abuse of power

The crucial problem with these exception rules – that are the only avenue for the legal justification of unilateral sanctions – is their imprecision. According to WTO regulations, states are not required to give any reasons or provide specific evidence for the existence of a threat to their essential security interests. How a sanctioning state makes use of an exception from free trade rules is at the sole discretion of that state. The criteria for "self-judged security exceptions" are not subject to the scrutiny of an independent body. This again illustrates the earlier mentioned problem of *self-righteousness.* Exception rules of this kind almost unavoidably invite abuses of power. Within the framework of the WTO, there are indeed mechanisms to resolve disputes between member states ("Dispute Settlement Body"). There is also an "Appellate Body" in Geneva consisting of seven persons. As far as I could verify, however, matters related to unilateral sanctions have so far not been referred to it. For a state targeted by unilateral sanctions, this leaves essentially only an option of *realpolitik*: namely to take retaliatory action, in other words: to impose "counter-sanctions" – provided that state feels strong enough to take such measures.

Serious violations of international law

Economic sanctions, quasi-legitimized by the exception rules of the WTO, may nonetheless amount to serious violations of international law. This relates to the prohibition of interference in the internal affairs of states, but also to the principle of sovereign equality (Article 2[1] of the UN Charter). Apart from these general aspects of international law, economic sanctions may also result in violations of fundamental human rights of the population in the targeted country – though this is often

continued on page 3

"Sanctions from a perspective ..."
continued from page 2

more difficult to prove than the aforementioned violations of general principles of international law. (In recent years, this was an issue with multilateral sanctions in particular.)There are no effective legal mechanisms at the international level to investigate and prosecute violations of law, in particular fundamental human rights, resulting from unilateral sanctions. The International Court of Justice in The Hague may be, so to speak, the "court of the United Nations," but it is irrelevant in this context. The Court may only deal with legal disputes and propose a settlement if states have explicitly recognized its jurisdiction or referred the respective dispute to the Court for arbitration.

US Chamber of Commerce has spoken out against sanctions

As regards the legal evaluation of unilateral sanctions, there is also an important *domestic* aspect. Once a state imposes sanctions against one or several other states, that state also interferes with the rights of companies operating from its own territory. With the sanctions, the state hampers trade activities of these companies and may in the extreme case drive them into bankruptcy. In this regard, the position of the United States Chamber of Commerce is particularly revealing. In September 2016, the Chamber issued a statement entitled "Oppose Unilateral Economic Sanctions," arguing that sanctions "have often damaged U.S. economic interests at home and overseas." Moreover, the Chamber states, the extraterritorial enforcement of sanctions could "incite economic, diplomatic and legal conflicts" with other states, including allies of the US. This statement, which was issued before the election of Donald Trump, explicitly refers to the sanctions against Cuba, in place since 1960. It is politically quite significant, though hardly noticed abroad, that the Chamber of Commerce of the United States – the country that uses the instrument of unilateral sanctions rather excessively – is an outspoken opponent of this very policy.

Unilateral sanctions – especially as regards export limitations – cause damage to the economy of the sanctioning state in general. Since sanctions reduce its own domestic income, as far as tax revenue is concerned, the sanctioning state "cuts off the nose to spite the face." If a state is as convinced of free trade as the United States claims to be, recommending that principle to the whole world, such a state should refrain from interfering with its export trade. Private entrepreneurs should not allow themselves to be held hostage to their state´s power politics. This indeed seems to be the attitude of entrepreneurs in the United States if one reads the statement by the Chamber of Commerce. For the overall cost-benefit equation, losses due to retaliatory measures of the sanctioned state need to be taken into consideration as well.

> "As far as legal implications of sanctions are concerned, one needs to bear the following difference in mind: Unilateral means, that one state or a group of states acting as a supranational entity – either as an organization (such as the EU) or as an ad hoc coalition – impose sanctions as measures of economic "punishment". Such acts don't result from any legal, let alone internationally binding, obligation."

Problem of extraterritoriality

The most serious problem of unilateral sanctions, as far as international law is concerned, is the above-mentioned *extraterritoriality*, i.e. the violation of economic rights – or sovereignty rights, respectively – of third parties. Under no circumstances is it acceptable in legal terms that *third states* – which are not involved in a dispute a state may have with another state – are subjected to unilateral sanctions of that state against the second state. Third-party states must not be drawn into a bilateral conflict by way of an extraterritorial enforcement of sanctions. No state has the right to dictate to other states, or companies in other states, how they should go about their business. Exactly this was the controversy surrounding the so-called *Helms-Burton Act* of the US Congress ("Cuban Liberty and Democratic Solidarity Act of 1996") by which the United States enforced its unilateral sanctions against Cuba also vis-à-vis companies from other countries.[1] Using laws such as the Helms-Burton Act, the US assumes the right to take action against foreign companies doing business with a sanctioned state (such as Cuba or Iran) if they have branches in the US or undertake financial transactions via US banks. An example for this kind of *political* interference with international economic relations are the difficulties which the European Airbus Consortium has faced with its business in Iran insofar as the exported planes contain elements produced in the US.

The sanctioning state usually ignores the legal problems caused by such an exaggerated assertion of national sovereignty (namely the extraterritorial enforcement of sanctions). Lip service at the United Nations notwithstanding, the overriding goal is not the promotion of the international rule of law, but simply to induce the sanctioned state to change its policy. As such demands are almost always made in situations where there exists an *imbalance* of power relations, appealing to a judicial tribunal is a waste of time for the sanctioned state. The only effective response will be retaliatory measures by the sanctioned state (on its own, if this is at all an option, or in alliance with other states).

II. Multilateral Sanctions

In their very nature, sanctions are hostile measures on a scale of escalation which culminates in *armed conflict.* This is especially true of multilateral sanctions imposed by the United Nations. Pursuant to Chapter VII of the UN Charter the world organization is authorized to maintain or restore international peace and security. Article 39 of the Charter assigns this task to the Security Council, which acts in the name of *all* member states. Sanctions are one of the tools, which the Council may employ within the UN system of collective security.

Accordingly, multilateral economic sanctions have a totally different legal status as compared to the above-mentioned unilateral measures taken by single states or groups of states. Sanctions imposed by the UN are *per definition* always measures to secure the international rule of law, insofar as the prohibition of aggression (Article 2[4] of the UN Charter) needs to be enforced. In this regard, the Security Council, as the sole competent body under the Charter, is vested with vast coercive powers. Economic sanctions are one of the tools, which the Council is authorized to employ. According to Articles 41 and 42, the measures range from complete or partial interruption of economic relations and of means of transportation and communication to the use of armed force. The underlying rationale of the system of collective security is that of *gradual escalation*. Initially, the aim is the pacific settlement of disputes for which the Security Council may make recommendations under Chapter VI of the Charter. Should the Council, however, come to the conclusion that negotiations have failed, and determine the existence of a threat to the peace or breach of the peace, it may make use of its coercive powers under Chapter VII – in order to maintain or restore international peace and security. Which measures to apply is at the discretion of the Security Council alone.

The Security Council's monopoly on violence and the corrective of power politics

The political reality or, in fact, human nature is such that domestic peace or the rule of law will only be guaranteed as long as the *monopoly on violence* ("Gewaltmonopol") rests with the state, as Max Weber

continued on page 4

"Sanctions from a perspective ..."
continued from page 3

classically phrased it. Internationally, the Security Council possesses this monopoly. Unlike in the case of unilateral sanctions, there exists at least some sort of a corrective to arbitrary decisions in this statutory framework – a "corrective of power politics," so to speak. First of all, it is not just one state, however powerful it may be, but a group of 15 states[2] that decides on the imposition of coercive measures. Any decision of the Council requires a majority of 9 (out of 15) votes. Moreover, at least on the level of non-permanent membership, all regions of the world are represented in the Council. Secondly, for a decision on sanctions to be binding, there must be no veto by one of the five permanent members. Under the current circumstances, this is the special corrective of power politics. Sanctions need to be decided by way of consensus among the five permanent members (the great powers of the post-war era). This explains why – compared to the practice of unilateral sanctions – the number of multilateral sanctions has been relatively small since the foundation of the UN.

Legal problems with Security Council decisions

However, in this framework, even greater legal problems may arise as compared to unilateral sanctions. This is due to the interrelatedness of the decision-making rules of the Charter (Article 27) with norms (Articles 24-25) establishing the legal primacy of the Security Council, a body, which John Foster Dulles once referred to as a "law unto itself."[3] The statutory position of the Security Council is indeed the most striking example of the lack of a separation of powers within the UN. As mentioned above, decisions on (multilateral) sanctions can only be made if no permanent member casts a veto. At the same time, *all states are bound by these decisions*, because they are based on Chapter VII of the Charter. They also prevail over domestic law. There is no way to appeal. The International Court of Justice has recognized the primacy of the Security Council in this regard. When Libya appealed to the International Court of Justice to request provisional measures in connection with a dispute about the interpretation of the Montreal Convention of 1971[4] concerning the 1988 terror attack over Lockerbie (Scotland), the Court confirmed that it was competent to judge resolutions of the Security Council only if they are not based on Chapter VII of the Charter, which includes coercive measures to maintain or restore peace (ruling of 27 February 1998). In other words, in the United Nations system there exists no option for legal revision as soon as the Security Council exercises its coercive powers. This applies to the imposition of economic sanctions as well as to the use or authorization of military force.

> "As far as the legal evaluation is concerned, such sanctions, more or less covered by WTO exception rules, may in fact amount to severe violations of international law, specifically the general prohibition to interfere with internal matters of another state but also the principle of sovereign equality of states (Article 2[3] of the UN Charter)."

Human Rights violations through sanctions

A *twofold* legal problem arises from this. First: How should a situation be judged in which the Security Council itself, by means of its sanctions regime, violates *human rights*? The International Progress Organization was the first non-governmental organization to raise the question before the UN Human Rights Commission in Geneva in the summer of 1991.[5] In 1990, the Security Council had imposed a comprehensive sanctions regime on Iraq. The Council maintained these punitive measures, with increasing severity, over a period of more than 10 years. According to a 1996 survey of the "Harvard Study Team," the sanctions caused the death of hundreds of thousands of people.[6] The facts are shocking and disillusioning: The Security Council passes a resolution that results in a grave violation of the basic human rights of an entire nation – the right to life, the right to health, etc. There is no way whatsoever to challenge this resolution by legal means. Political options are very limited due to the weakness – often also cowardice and opportunism – of other member states. Power politics knows no conscience – also, and even more so, when it hides behind the cloak of "collective security". The only figure of global significance who dared to speak out at the time was Pope John Paul II.

Almost impossible to revise decisions of the Security Council

The second serious legal problem arises from the *decision-making rules* in the Security Council. All decisions – except those about questions of procedure – require the consent of the five permanent members. This means that, once passed, a resolution can only be amended or rescinded if the permanent members agree. This also applies to decisions on the suspension or lifting of sanctions. In all non-procedural matters, the Security Council is, so-to-speak, the hostage of its own initial resolution. Accordingly, it is at the mercy of the veto-wielding powers that have initiated the imposition of sanctions. This was exactly the dilemma in the case of the Iraq sanctions. Albeit their effect (intended by the Council) and humanitarian impact were periodically reviewed in conformity with the Council's resolutions, because of the veto the Council was unable to draw the necessary consequences. There had been demands in the Council – especially by Russia – to discontinue the sanctions, considering their adverse humanitarian impact, but this proved to be impossible due to the above mentioned statutory reasons. The sanctions would have remained in effect forever had the United States not decided at some point that it was "satisfied" with their results. This was the case when the US had occupied the country in 2003. Without further ado, the sanctions were lifted – after the government of Iraq had been removed by force. Thus, "régime change" must have been the real motive for the sanctions to be kept in place for more than a decade.[7]

This paradigmatic case of power politics under UN auspices has demonstrated that it is impossible to take any measures of redress once a resolution on coercive measures has been passed. The international community is utterly powerless in a situation where at least one permanent member objects to the revision of a previous resolution (in the particular case, the lifting of comprehensive economic sanctions). The voting strategy is entirely at the discretion of the respective permanent member. It is not under any legal obligation to give reasons for its decision. In that sense, the rules and regulations of the UN Charter reveal a kind of circular reasoning, or systemic contradiction.[8]

Furthermore, in the UN system of collective security, the rationale of sanctions is to induce the sanctioned state to change its behavior. This requires that the conditions for the lifting of sanctions are precisely defined. This is essential for the international community to accept coercive measures as an instrument of collective security. States under sanctions – and the people affected by sanctions – must be able to see light at the end of the tunnel, and not only for humanitarian reasons. Once the circumstances in a country have changed, it must be possible to end a comprehensive sanctions regime (which is, strictly speaking, tantamount to collective punishment). This must be done according to clearly defined criteria, independently of considerations of power politics. Just to give one example: when a state – such as Iraq – has ceased to be a threat to international peace, when this state has with-

continued on page 5

"Sanctions from a perspective ..."
continued from page 4

drawn its troops from occupied territory long ago (in the case of Iraq: in 1991), and has abandoned all weapons of mass destruction, it is intrinsically immoral and in violation of international humanitarian law to continue to subject the population of this state to collective punishment.

In the early 1990s I drew attention to this problem in a paper about the ethical aspects of the Security Council's sanctions policy.[9] Following a statement by the International Progress Organization on the question of the compatibility of the Iraq sanctions with human rights before the UN Commission on Human Rights (1991),[10] and after further initiatives by international NGOs, that body commissioned a report on this matter, which reached similar conclusions.[11]

III. Conclusion

Sanctions are a tool of international politics, which must be seen as incompatible with the ideas of diplomacy and peaceful co-existence among nations. As is obvious from the provisions of Chapter VII of the UN Charter, sanctions are coercive measures just one stage below the use of armed force. In moral terms, measures of this type indeed share the characteristics of war.

Unilateral sanctions belong to the law of the jungle

If *unilaterally* imposed, sanctions belong to the law of the jungle. In that regard, they fit better into the "old" system of international law where the *jus ad bellum*, the "right to wage war," was the prerogative of the sovereign state. However, there appears to be a consensus among scholars that, since the end of the First World War, the international community has gone beyond this "absolute" understanding of sovereignty.

Multilateral sanctions, in theory at least, are an instrument to secure the *international rule of law*, and in particular to strengthen the ban on the use of force and, subsequently, to maintain peace among nations. Multilateral sanctions are portrayed in this positive light notwithstanding the fact that, as far as the Council's permanent members are concerned, the very states that are responsible for their imposition – and, by virtue of the veto, their indefinite prolongation – enjoy, due to that same privilege, de facto legal immunity as regards the political and humanitarian consequences. Strictly speaking, this kind of arbitrary rule borders on despotism. Furthermore, because of the permanent members' very right to veto, these statutory provisions are not likely to change in the foreseeable future.[12] As long as there exists no better alternative to the existing organization, we must reluctantly live with the fact that multilateral sanctions regimes entail the risks we have described above.

> "Being as convinced of free-trade as the US apparently are – who keep recommending this principle to the whole world – a state should refrain from political interference with their export trade and private entrepreneurs should not allow themselves to be hold hostage to their state's power politics. […] For the over-all cost-benefit-equation the losses due to retaliation measures of the sanctioned state need to be taken into consideration as well. "

Balance of power in the Security Council the only hope

One can only hope that a global power constellation such as that in the early 1990s – after the end of the Cold War – will not repeat itself. What matters here is a *balance of power* in the Security Council itself. As for the UN Charter, the veto right of the permanent members embodies the rationale of such a balance (among those five states). But this is not the point. What is needed is a balance of power in real, not merely procedural (statutory), terms. This actually did not exist in 1990 and the following years – when the Soviet Union was in the final stages of disintegration and, subsequently, Russia had a president whose policies thrusted the country towards the edge of the abyss. In a situation where no country is strong and bold enough to stand up against a dominant state – in this instance, the US, there is, almost inevitably, the risk that all participants at the negotiating table will duck and not dare to say "no." In the years after 1990, this became apparent, in particular, in the voting behavior of small and medium states (as non-permanent members in the Security Council). Just to give one example in connection with the Iraq crisis: In back door meetings at UN headquarters, representatives of the most powerful member state confronted envoys of some developing countries with the prospect that military or economic aid would no longer be forthcoming should the country vote against a certain Security Council resolution.[13]

The use of *multilateral* sanctions as a tool of foreign policy by the only remaining superpower had only been possible because this country was able to exploit the absence of a global balance of power. In more than one case, this resulted in a massive violation of human rights of the population in the targeted countries. Against this background, it is absolutely essential that permanent members of the Security Council, being vested (under current regulations) with the power to prevent the imposition of coercive measures, actually are strong enough, in economic as well as military terms, to withstand any potential pressure from their more powerful peers – or from the most powerful member state (depending on the constellation). In the harsh environment of global power politics, this *corrective of realpolitik* will be indispensable as long as legal provisions are not ultimately effective. In this regard, the only reason for hope lies in the gradual emergence of a new multipolar balance of power at the global level. •

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1 For details see, *inter alia*, Alfredo Puig, "Economic Sanctions and their Impact on Development: The Case of Cuba," in: Hans Köchler (ed.), *Economic Sanctions and Development*. Studies in International Relations, Vol. XXIII. Vienna: International Progress Organization, 1997, pp. 65-69.

2 The number of Security Council members was increased from 11 to 15 when the UN Charter was amended in 1963.

3 *War or Peace*. New York: Macmillan, 1950, p. 194.

4 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

5 Statement of the delegate of the I.P.O. before the Human Rights Commission, Geneva, 13 August 1991: *The Iraq Crisis and the United Nations: Power Politics vs. The International Rule of Law*. Ed. Hans Köchler. Vienna: International Progress Organization, 2004, pp. 23-26.

6 Report of the "Harvard Study Team": *Unsanctioned Suffering: A Human Rights Assessment of United Nations Sanctions on Iraq*. Center for Economic and Social Rights, May 1996.

7 For a documentation of the legal and political problems of the Iraq sanctions and the paralysis of the UN due to the Security Council veto see Hans Köchler (ed.), *The Iraq Crisis and the United Nations: Power Politics vs. the International Rule of Law. Memoranda and declarations of the International Progress Organization (1990 – 2003)*. Studies in International Relations, Vol. XXVIII. Vienna: International Progress Organization, 2004.

8 For legal details see the papers of the author: *The Voting Procedure in the United Nations Security Council: Examining a Normative Contradiction and its Consequences on International Relations*. Studies in International Relations, Vol. XVII. Vienna: International Progress Organization, 1991; and: "Normative Inconsistencies in the State System with Special Emphasis on International Law," in: The Global Community - Yearbook of International Law and Jurisprudence 2016. Ed. Giuliana Ziccardi Capaldo. Oxford: Oxford University Press, 2017, pp. 175-190.

9 *Ethische Aspekte der Sanktionen im Völkerrecht: Die Praxis der Sanktionspolitik und die Menschenrechte*. Studies in International Relations, Vol. XX. Vienna: International Progress Organization, 1994. English edition: *The United Nations Sanctions Policy and International Law*. Penang (Malaysia): Just World Trust (JUST), 1995.

10 Statement of 13 August 1991 (see footnote 5 above).

11 Marc Bossuyt, *The Adverse Consequences of Economic Sanctions on the Enjoyment of Human Rights*. United Nations, Commission on Human Rights, Doc. E/CN.4/Sub.2/2000/33.

12 According to Article 108 of the UN Charter any amendment of the Charter requires the consent of the permanent members of the Security Council.

13 Regarding the Gulf War resolution of 29 November 1990 see the comment of Erskine Childers "Empowering 'We the Peoples' in the United Nations," in: Hans Köchler (ed.), *The United Nations and the New World Order: Keynote addresses from the Second International Conference On A More Democratic United Nations*. Studies in International Relations, Vol. XVIII. Vienna: International Progress Organization, 1992, pp. 27f.

Why should Germany lead in a confrontation with Russia?

by Karl Müller

The US demand that Germany should also take over military leadership is not meaning well for the Germans. This demand is a step towards the abyss.

In 2017 the NATO states have spent $975 billion for military expenditures.[1] Of this nearly $1 trillion, $707.2 billion were spent by the North American NATO states (US and Canada), $610 billion by the US alone. $249.8 billion were spent by the European NATO states. For 2018 substantial increases are announced. In 2017 Russia has spent $66.7 billion for its military, 2.2% less than in the previous year. In 2018 Russia's military spending will decrease further.[2] This means that Russia's military only received 7% (!) of the joint military spending of all NATO states, only 30% of the military spending of the European NATO states.

No reason for NATO military build-up

This renders incomprehensible the pressure on all NATO states to increase their military spending to at least 2%, a pressure that has been applied for years and has always been justified with the alleged Russian threat. Russia's arms efforts are not directed towards coming equal with NATO – the Russian President has repeatedly emphasised that he would not repeat the Soviet Union's deadly mistake – but to be armed sufficiently to make a NATO attack on Russia a deadly risk.

The permanently repeated assertion that Russia has aggressive intentions as had been demonstrated in Georgia, the Ukraine and Syria does not stand up to scrutiny. Constant repetition does not make this allegation more correct.

Aggressive NATO intentions

Hence we have to assume that the motivation for demanding higher armament spending are either aggressive intentions, that more influence and income are to be provided for the military-industrial complex or that the citizens of the NATO states are meant to be disciplined by the militarisation of their countries in face of growing internal problems. It may well be a combination of all three points.

It is a fact that the "elites" of the NATO states still deem their model of politics, economy and society as the best in the world and that they have the wish to impose this model, at least in the long run, on the world. This kind of ambitions is alien to the Russian leadership. The country would be sufficiently busy with its internal issues and most likely its biggest wish is to be able to turn towards these tasks with all its energy.

Russia shall not come to rest

But for a while the governments of the NATO states have decided that Russia should not come to rest – at least not before it has yielded to the NATO states. This is proven by the past 27 years since the dissolution of the Soviet Union. People in Russia see it the same way.

It is a particularly sad perversion of political morals that it is Germany which is supposed to lead the European front against Russia, the country which, due to its politics in World War II, has incurred the largest guilt towards the Russian people and which yet has received the largest concessions from Russia since the late 1980s.

Many Germans oppose anti-Russian politics

Many people in Germany are opposing this politics. Thus the "*Deutsche WirtschaftsNachrichten"* of 8 June 2018 report that the massive US American military transports – these days more than 2000 additional military vehicles are deployed towards Poland during the course of *Operation Atlantic Resolve* across the roads of Brandenburg –[3] are met with opposition from the East German population and also Brandenburg's state government. Brandenburg's Minister-President *Dietmar Woidke* (SPD) was cited with the statement: "I think that, in the long run, it will not help to run tanks up and down the border on both sides." The article is also citing the economist *Waltraud Plarre,* well-known in East Germany: "The emotion which many West Germans do not understand is that the East Germans say: The Russians never have done us any harm. […] We have never experienced the Russians having evil intentions. And now trying to give rise to new divisions everywhere is not in the interest of the German people – neither in the West nor in the East.

US NATO ambassador: Germany shall lead against Russia

Nevertheless (or just for this reason) nothing is left undone to urge Germany in a leading role in a confrontation against Russia. The most recent example are the statements of US NATO Ambassador *Kay Hutchinson* in an interview with *Deutschlandfunk* from 8 June 2018. The ambassador goes far beyond the demand of the US government (she calls it "request") having been repeated several times by herself, Germany should expend 2% of its gross domestic product for its military – which would be € 70 billion by todays rate, this alone being more than Russia's expenditure. The American NATO ambassador concentrates on the Russia enemy stereotype ("[…] we are going to deter Russia", "There have been malign activities [by Russia] that are trying to disable our NATO Alliance") and demands exactly in this context: "So I think Germany is ready to take the lead, and we are urging them to do that." Of course the US NATO ambassador knows about German history and the fundamental attitude of the most Germans saying "never again to war?" being formed after 1945 and continuing to have an effect until today. She jumps at the opportunity when the interviewer explained this fundamental attitude

continued on page 7

Economic forum in St Petersburg indicates alternatives

km. That confrontation against Russia is not without alternative was demonstrated at the end of May 2018 by the *International Economic Forum* in St Petersburg on which the "Neue Zürcher Zeitung" reported on 26 May.

French President *Macron,* Japanese Prime Minister *Abe,* Chinese Vice President *Qishan* and IMF Managing Director *Lagarde* had travelled from abroad. According to the "Neue Zürcher Zeitung", Macron "called for a new beginning in relations [with Russia] – Russia is part of Europe, and one must overcome differences and place common interests on the continent in the foreground".

The newspaper went on to report: "In the numerous rounds of talks it was repeatedly stressed how strong the mutual trust between German and American and Russian business people was." However, relations suffered greatly from the sanctions. The report states: "In a politically bleak bilateral environment, American business representatives are hoping almost with desperate confidence for common sense and political dialogue at the highest level as soon as possible."

German entrepreneurs see "the economic sanctions […] which are bothersome and useless for them as an unnecessary political obstacle to the further flourishing of economic contacts". Tui's chairman of the supervisory board and former long-time chairman of the Committee on Eastern European Economic Relations, *Klaus Mangold*, suggested that "German and French business representatives should jointly convince European politicians to develop an exit strategy for the sanctions regime".

(Translation *Current Concerns*)

USA – North Korea

Joint Statement at the Singapore Summit on 12 June 2018

Everybody wants to set the course towards understanding and peace

cc. President Donald J. Trump of the United States of America and Chairman Kim Jong Un of the State Affairs Commission of the Democratic People's Republic of Korea (DPRK) signed a final declaration during their meeting in Singapore on 12 June. The following text is the original of the Joint Declaration. Current Concerns has reported on Korea in the last two issues. We are therefore also documenting this declaration. It is only to be wished that this meeting of the two leading politicians from the USA and North Korea has set the course for understanding and peace. The wording of the joint statement gives reason for hope – as did the agreement between South and North Korea of 27 April 2018. The usual accusations against both politicians and the agreement they signed do not help and are not always objectively motivated. Instead, it would now be a question of continuing to set the course for peace and understanding. Humanity can't wish for anything that much. And what applies to Korea applies no less to the other trouble spots in our world. Courageous steps towards peace must have priority in all crisis and conflict regions of the world.

Sentosa Island, Singapore 12 June 2018

President *Donald J. Trump* of the United States of America and Chairman *Kim Jong Un* of the State Affairs Commission of the Democratic People's Republic of Korea (DPRK) held a first, historic summit in Singapore on June 12, 2018.

President Trump and Chairman Kim Jong Un conducted a comprehensive, in-depth, and sincere exchange of opinions on the issues related to the establishment of new U.S.–DPRK relations and the building of a lasting and robust peace regime on the Korean Peninsula. President Trump committed to provide security guarantees to the DPRK, and Chairman Kim Jong Un reaffirmed his firm and unwavering commitment to complete denuclearization of the Korean Peninsula.

Convinced that the establishment of new U.S.–DPRK relations will contribute to the peace and prosperity of the Korean Peninsula and of the world, and recognizing that mutual confidence building can promote the denuclearization of the Korean Peninsula, President Trump and Chairman Kim Jong Un state the following:

1. The United States and the DPRK commit to establish new U.S.–DPRK relations in accordance with the desire of the peoples of the two countries for peace and prosperity.
2. The United States and the DPRK will join their efforts to build a lasting and stable peace regime on the Korean Peninsula.
3. Reaffirming the April 27, 2018 Panmunjom Declaration, the DPRK commits to work toward complete denuclearization of the Korean Peninsula.
4. The United States and the DPRK commit to recovering POW/MIA remains, including the immediate repatriation of those already identified.

Having acknowledged that the U.S.–DPRK summit—the first in history—was an epochal event of great significance in overcoming decades of tensions and hostilities between the two countries and for the opening up of a new future, President Trump and Chairman Kim Jong Un commit to implement the stipulations in this joint statement fully and expeditiously. The United States and the DPRK commit to hold follow-on negotiations, led by the U.S. Secretary of State, *Mike Pompeo,* and a relevant high-level DPRK official, at the earliest possible date, to implement the outcomes of the U.S.–DPRK summit.

President Donald J. Trump of the United States of America and Chairman Kim Jong Un of the State Affairs Commission of the Democratic People's Republic of Korea have committed to cooperate for the development of new U.S.–DPRK relations and for the promotion of peace, prosperity, and security of the Korean Peninsula and of the world.

"Why should Germany lead …"
continued from page 6

as a German characteristic feature having to do something with German feelings of guilt.

The Germans are "exculpated" …

The US ambassador exculpates the Germans. Germany unfortunately does not understand yet, "that it has risen above its past". Germany today is "democratic" and has "guardians of democracy" – an interesting phrasing. Who might be meant by this? She adds, coming back to the German role of leadership, she believes that "Europe wishes that. Because Germany has successfully overcome its dark history, because it succeeded in the reunification [also thanks to massive US-American support and surely not without US-American interests]." And again: "There is no reason why Germany should not take the leadership in Europe, but this means also that one should be able to defend oneself." …

But nobody threatens Germany. Is "defense" only a propaganda phrase for a planned aggression against Russia? And will the Germans fall for these paralysing lullabies?

… not out of love for the Germans

Every German does well to consider the following:

- The fundamental attitude "never again war?" has nothing to do with feelings of guilt, even if there were justified feelings of guilt and most bitter experiences which coined this fundamental attitude. The desire for peace and the rejection of violence and war belong to the nature of man, and every human being, completely independent from his history, should have this fundamental attitude.
- The US ambassador and the other war mongers who want to ascribe a role of leadership to Germany do not do this out of love to Germany and the Germans. Especially concerning the war mongers more likely one could expect the contrary. A war against Russia under German lead would mean the extinction of Germany. The war mongers are definitely aware of this.
- "German leadership" means in plain terms: Germany has to carry the main burden of a confrontation and a possible NATO aggression. What amount of responsibility the Germans ever had on the campaigns of destruction of World War I and II – it was very high – there were also non-German, mainly Anglo-Saxon interests that Germany and the Germans would bleed dry as well in the fight against Russia and the Soviet Union – not only in World War II but already in World War I. Is this really different today?

Calculation and deception

How should it be judged in this context that members of the German government like Minister *von der Leyen* clearly show that they willingly satisfy the requirements of "leadership", that German politicians with their double-talk of "taking more responsibility in the world" want to "lead", the German military expenditures in fact shall be raised to the 2% limit – as said by the German chancellor – and that a continuous military build-up shall take place. For example with a new NATO command centre for quick troop transports to the Russian border near Ulm in Baden-Wuerttemberg. Is this just ice-cold calculation? Or do these politicians after losing two World Wars finally want to stand on the "right side", the side of the "winners"? How much calcula-

continued on page 8

Italy wants to see the sanctions against Russia ending

by Daniele Pozzati

The next EU summit will take place on 23 June. It will be decided whether the sanctions against Russia, initially imposed in 2014, will be extended for another six months. However, the lifting of these sanctions is part of the Italian government coalition's programme. In his first speech to the Parliament on 5 June, Prime Minister *Giuseppe Conte* stated already that the new Italian government was planning to request a revision of the sanctions against Russia. The very next day, 6 June, NATO Secretary General *Stoltenberg* dictated to the new Italian government: "We must maintain a political dialogue with Russia," Stoltenberg said, "but the sanctions are necessary."

Salvini: NATO should help in the Mediterranean instead of facing the non-existent threat in the East

On 7 June, a large reception was held at Villa Abamelek, the Roman residence of the Russian ambassador to Italy. Some 1000 VIPs attended, including the new Italian Foreign Minister, *Enzo Moavero Milanesi*, and the Deputy Prime Minister, Minister of the Interior and *Lega Nord* party leader *Matteo Salvini*. According to the Italian newspaper "Il Giornale", Salvini and the Russian ambassador had a 15-minute talk behind closed doors. Afterwards spoke Salvini with journalist *Alessandra Benignetti* and said: "We have a clear opinion on sanctions. We do not rule out an Italian veto."

Salvini, however, also expects NATO to protect and help concerning problems coming from the South: Mass immigration, the instability of North Africa, the security of the Mediterranean. NATO should take care of all this, and not of a non-existent threat from the East, i.e. Russia.

On 8 June, the other Deputy Prime Minister and Minister of Labour and Economic Development, *Luigi Di Maio* gave a statement. Asked by the Italian radio station *Anch'io*, Di Maio began diplomatically: "The Premier Conte will decide on a veto." For the first time he sounds willing to compromise: "I have always said that our country must stay in NATO."

But Di Maio added: "The sanctions against Russia are harming our farmers. Agriculture has suffered billions of losses. The design and craft sectors are also affected. We had exported a lot to this [Russian] market, and now this export is blocked due to Russian counter-sanctions."

Finding the courage to say no

"We are pro-Italy, not pro-Russia," Di Maio stressed. "Our government will participate in the international forums to discuss with its own allies some issues with which our government disagrees." Di Maio makes it clear: "The Italian'Yes Sir' era must end and begin a new era in which we are starting to say a few 'no'."

In the end, Salvini and Di Maio seem to agree on this important issue. Will it be enough to stand up against an opposition within the NATO?

"Italy's sole veto is unlikely," says geopolitics expert Dr *Daniele Scalea,* "because our country is already under pressure in connection with other issues, such as immigration."

However, the Italian government has a clear position against Russia's sanctions, Dr Scalea notes, a position inherited from the previous government, with the difference that it maintained its anti-Putinist

continued on page 9

Italy's new government against free trade agreement CETA with Canada

cc. Italy's new government opposes the EU-Canada free trade agreement, CETA. Agriculture Minister *Gian Marco Centinaio* told the newspaper "La Stampa" of 14 June 2018 that farmers in Italy were not sufficiently protected. According to the Minister, only "a small part" of the products is protected by the labels "protected geographical indication" and "protected designation of origin". Therefore, the government would call on the parliament not to ratify CETA.

If Italy did not ratify the treaty, CETA could not enter into force. To do this, the parliaments of all EU countries would have to ratify the treaty with Canada.

CETA has been under criticism from the outset and has led to protests in many EU countries. Nevertheless, the relevant EU bodies signed the treaty in 2017. In principle, the EU institutions alone are responsible for the EU's trade policy. However, since the treaty also impacts into national sovereignty, the consent of all member states is also required to bring it into force.

Source: afp of 14 June 2018

(Translation *Current Concerns)*

Protest against CETA ratification in Austria

cc. On 13 June 2018, the Austrian National Assembly voted in favour of ratification of the CETA trade pact between the EU and Canada. The non-party Vienna lawyer Dr *Eva Maria Barki* sent an open letter to all 183 members of the Austrian National Assembly on 23 May 2018 and once again referred to important arguments against the ratification of the CETA trade agreement between the EU and Canada: "Under the guise of 'investment protection', CETA is a political instrument for the implementation of transatlantic protectionism. The citizens affected throughout the EU will lose all legal protection." Ms Barki added: "In addition to over 100 law professors from the EU area, the Deutsche Richterbund (German Association of Judges) and the Europäische Richtervereinigung (European Association of Judges) have therefore called for the investment protection provisions in the CETA pact to be deleted. This should give groups special rights without imposing obligations on them. […] The state can therefore be held liable for lost profits of the corporations, even if the measures taken by the state are legal and have been taken to protect the population. The disadvantage must be borne by citizens who have no legal remedy against decisions of the Group Special Court [...] Such an enforcement of group rights instead of civil rights would completely undermine the existing Austrian legal system. Parliament is thus giving up its own competence!" The *Initiative Heimat&Umwelt (IHU, Home & Environment Initiative)* is now calling for a referendum on CETA.

Source: *Initiative Heimat&Umwelt (IHU); www.heimat-und-umwelt.at*

(Translation *Current Concerns)*

""Why should Germany lead …"
continued from page 8

tion, but although how much deception are at the basis of such politics? •

[1] Indications according to the official statistics in: *https://de.statista.com/statistik/daten/studie/5993/umfrage/militaerausgaben-der-wichtigsten-natostaaten/*

[2] See: *https://www.nzz.ch/international/russland-militaerausgaben-sinken-um-20-prozentld.1382315* from 2.5.2018.

[3] The Operation Atlantic Resolve (OAR) is an operation started in 2014 performed by the USA of continuous transport of US-troops to the former Warsaw Pact states which today are NATO states. It is claimed this would be a reaction to the Ukraine conflict and Russian politics. It is no NATO operation but it is organised by the USA bilaterally. Since 2014 manoeuvres and schoolings are performed under US leadership in Estonia, Latvia, Lithuania, Poland, Romania and Bulgaria.

Institutional Framework Agreement Switzerland-EU – strategy or confusion?

by Dr iur. Marianne Wüthrich

Although not a single citizen has ever seen the content of the agreement as planned by the Federal Council, the core of the agreement has long been certain:

The automatic adoption of existing and future EU legislation and case law of the European Court of Justice.

This means that the people would no longer be Switzerland's law-making body. Many citizens probably cannot imagine how deep the breach of our direct-democratic and federalist state structure by an institutional agreement that is legally above Swiss law would be, especially since the Federal Council has carefully avoided making the contents of the negotiations publicly accessible for years.

Key agreements Switzerland–EU

Free trade agreement of 1972
Basis for the economic exchange Switzerland–EU, adopted by the people with 72,5 % and by the Concil of States

Bilateral agreements I (7 agreements)
adopted by the people as a "package" on 21 May 2000 and in force since 1 June 2002
- Free movement of persons
- Technical barriers to trade TBT
- Public procurement markets
- Agriculture
- Research
- Civil aviation
- Overland transport

Bilateral agreements II (9 agreements)
Referendum only against Schengen/Dublin, adopted by the people with 54,4 % on 5 June 2005
- Schengen/Dublin
- Taxation of savings/AIOE
- Fight against fraud
- Processed agricultural products
- Environment
- Statistics
- MEDIA (Creative Europe)
- Pensions
- Education

Informations on the individual agreements:
https://www.eda.admin.ch/dea/en/home/bilaterale-abkommen/ueberblick.html/

Basic problem: The EU system is not compatible with the Swiss state structure. Example EU Weapons Directive

We are currently seeing this with the EU Weapons Directive. Switzerland has signed the Schengen Agreement (Bilateral II) to adopt future EU law. The amendment of the EU arms law line is now a further development of EU law on Schengen, which no Swiss who voted in favour of Schengen in 2004 was expecting.

It is well known that bans and restrictions on weapons are no means against terrorism. (To end the NATO and EU wars would bring more benefits.) Nevertheless, the EU wants to impose restrictions on the possession of weapons on the Schengen member states and thus also on Switzerland. A blatant intervention in the tradition of the free Swiss, who has always defended his country with a weapon in his hand. On 13 February 2011, the people reaffirmed this view and rejected the federal popular initiative "For protection against armed violence" with 56.3% votes against.

Interestingly, in this point the Federal Council succeeded in enforcing the will of the people in Brussels and insisted that Swiss soldiers are allowed to retain their weapons even after they have finished their service. (Apparently this is possible if the Federal Council remembers which side of the table it is sitting on during the negotiations).

Recently, however, it became known that the Czech Republic felt discriminated by this exemption for Switzerland and therefore brought an action before the ECJ ["St. Galler Tagblatt" of 14 May 2018]. And now?

In any case, we can see from this example that the imposition of EU directives is incompatible with direct democracy: we Swiss are used to being able to vote on legal changes, and we want to continue to make use of this fundamental right.

More legal certainty with a framework agreement? For whom?

It is astonishing that there are Swiss who claim that a framework agreement brings "more legal certainty". More legal certainty for whom? For us citizens in any case not – on the contrary we would have no more anything to say. But also not for the Swiss companies. Legal certainty arises only through a contract from equal to equal. One would think that by now we have enough experience with the EU: if something does not suit the masteries in Brussels, they will crack down arbitrarily and in violation of the contract.

For example:

continued on page 10

"Italy wants to see the ..."
continued from page 8

rhetoric. A rhetoric that Salvini rejects and against which Di Maio is apparently immune. It is therefore to be expected that this position will be implemented with more vigour and determination.

Austrian Council Presidency as an opportunity

Meanwhile Stoltenberg came to Rome on Monday, 11 June, for a first meeting with the new Italian Premier Conte. It was about the preparation of the next NATO summit, which will take place from 11 to 12 July in Brussels. And, of course, the Italian opposition against the Russian sanctions.

In the evening during the subsequent press conference, Conte did not even mention the word "sanctions" in relation to Russia. He spoke of "restrictive measures that have arisen, but which must not become an end, but a means; and also as a means, these measures must by no means humiliate Russian civil society and prevent exchanges between our civil societies".

Irrespective of NATO's pressure to adhere to the sanctions, the forthcoming Austrian EU Council Presidency, which will last from 1 July to 31 December 2018, could be the ideal background for a revision or lifting of sanctions against Russia. The government in Austria has already initiated its own policy of détente towards the Russian Federation. It was no coincidence that Russian President Vladimir Putin chose Vienna for his first trip abroad after his re-election. Putin now sees Austria and its new government as bridge-builders.

Even if Italy does not immediately veto the extension of sanctions against Russia at the forthcoming EU summit, Dr Scalea believes that "this government, which is taking its first steps, will certainly seek allies in the coming months to build a blockade that could support the end of sanctions". •

Source: *RT Deutsch* of 15 June 2018
(Translation *Current Concerns*

What does "the adoption of EU legislation"mean? Concrete examples

mw. With an institutional framework agreement, we would have to automatically adopt existing and future EU law and comply with the case law of the European Court of Justice (ECJ).

Here are two brand new examples.

The land transport agreement: EU wants to crack the ban on cabotage

According to the German dictionary "Duden", "cabotage" means the transport of goods and persons within a state, for example from Aarau to Neuchâtel.

In the case of passenger transport, breaking the cabotage ban is already on the agenda: Foreign long-distance buses want to use their transit through Switzerland to pick up passengers in Zurich or Basel who will then get off in Lugano or Geneva – of course with a much cheaper ticket than that issued by the Swiss Federal Railways.

With regard to the transport of goods, cabotage is prohibited according to the land transport agreement with the EU, which makes part of the Bilateral Agreements I. This means that a Danish transport company may bring goods from Denmark to Switzerland, but the truck from Denmark is not allowed to take over transports from St. Gallen to Lausanne.

In its programme "Rendez-vous am Mittag (rendez-vous at noon)", Radio SRF aired an alarming report on 3 May. "This is the Swiss camionneurs' nightmare: Cheaper chauffeurs drive goods from A to B within Switzerland in foreign trucks. This direct competition from abroad is still forbidden. The so-called cabotage ban is anchored in the land transport agreement with the EU. But now there is increasing pressure to drop the ban. "[…] The pressure to loosen or even lift the ban on cabotage is indeed very great", explains Minister of Transport *Doris Leuthard:* "It always comes back on the agenda in discussions with our European neighbours, but above all in discussions with Eastern European countries."

If Ms Federal Councillor does not want this topic on the agenda, she can tell her foreign colleagues so. Instead, Leuthard tries to confuse the radio listeners with contradictory statements. On the one hand, she admits:

"It has been established that in the past there were chauffeurs from Roumania, Bulgaria, on dumping wages who, for example, did not respect the rest periods."

On the other hand, however, Ms Leuthard is "ready to address the topic":

She announces that cabotage […] will be discussed at the annual meeting of the International Transport Forum Leipzig at the end of May. The Swiss position is clear: Switzerland is ready to talk about the subject, but only if all transporters were to work under equal conditions.

Equal conditions? But how?

Should, by any chance, Roumanian employers pay their chauffeurs Swiss-level wages? Or will – more probably – Swiss truckers' revenues plummet?

There are two sides to the matter, asserts Leuthard: Swiss companies would also be able to carry out transports within European countries. With Swiss wages in Bulgaria or in Spain?

What the affected companies and chauffeurs had to say about the "equal conditions" in the SRF broadcast of 3 May: "*The Swiss Commercial Vehicle Association ASTAG* and the *Association of Public Transport VöV* have presented a joint study today. This speaks of fatal consequences for the environment and for the Swiss modal shift policy, should the cabotage ban fall. ASTAG Central President, SVP National Councillor *Adrian Amstutz:* 'Jobs would be lost to a considerable extent, and the transport companies would be forced to give up or to relocate abroad so as to operate in the Swiss market from there, with cheap Eastern chauffeurs.' *David Piras,* secretary-general of the chauffeurs' association "Les Routiers Suisses", even fears the end of the Swiss transport industry as soon as foreign camionneurs would be admitted to Swiss domestic transport:

continued on page 11

"Institutional Framework Agreement …"
continued from page 9

– expulsion from the student exchange program *Erasmus+* in response to the sovereign's yes to the mass immigration Initiative: without legal basis and without contentual context,
– Limitation of admission to the stock exchange for EU securities trading, provisionally until the end of 2018, in response to the fact that the Federal Council did not sign the framework agreement quickly enough: also without legal basis and without contentual context.

With a framework agreement, we would not be better protected against such big-power behavior, on the contrary. After all, the purpose of the framework contract is precisely that the EU Commission and the EU Court of Justice could decide whether and how Switzerland should be burdened with EU bureaucracy. The framework agreement would certainly bring more power to Brussels – no talk of more legal certainty for us Swiss and our companies. We claim from our politicians and authorities to represent the interests of the Swiss people instead of talking and acting on behalf of the masteries in Brussels.

For which bilateral agreements should the framework agreement apply?

This is being heavily speculated in the media – but even on this essential point there is no consensus between Berne and Brussels.

Ignazio Cassis, according to the "Neue Zürcher Zeitung" of 3 May, gave the impression of being at one: The framework agreement would concern the so-called "market access agreements" of Bilateral I, namely five agreements: free movement of persons, technical barriers to trade, air and land transport and agriculture (Bilateral I cover only a limited area of agriculture). In addition, the electricity agreement planned by the Federal Council. The agricultural agreement threatened by Federal Councillor *Schneider-Ammann* is mentioned nowhere, in order not to scare the people, but it would also belong to it.

However, according to the "Neue Zürcher Zeitung", Brussels also wants to include the Government Procurement Agreement (hence practically all Bilateral Agreements I) and even the 1972 Free Trade Agreement (FTA), which actually covers all trade.

What we can say today: The EU will want to include as many legal areas as possible. This also makes clear why the Federal Council does not want to disclose what should be in the framework agreement. If we citizens can read in black and white, where Brussels wants to reach everywhere, Federal Berne can write off the framework agreement. •

"The framework agreement would certainly bring more power to Brussels – no talk of more legal certainty for us Swiss and our companies. Legal certainty arises only through a contract from equal to equal."

"What does the 'the adoption of ..."
continued from page 10

'They would do it fast, be it because they build their base just behind the border, or directly in Switzerland. If that happens, then it will be quick. That hurts. So it scares us a lot.'"

Consequences for public transport

Also for public transport in Switzerland, the consequences would be devastating, warns the association's director *Ueli Stückelberger:* "If long-distance buses from abroad were allowed to transport also inland passengers, there would be an extreme pressure on public transport prices; part of the clientele would move from today's public transport to the foreign long-distance buses. And in freight transport there would be a certain shift back from rail to road."

But Federal Councillor Leuthard just passes over the harsh objection of reality and announces that "uniform conditions, as we have them in other occupations are needed. So it will probably be difficult to prevent this" [the lifting of the cabotage ban; *mw*].

Well, it should be common knowledge that uniform conditions are hardly realistic for Slovak, Italian and Swiss carriers.

Meanwhile, the FDFA claims that the abolition of the ban on cabotage is not an issue in the current negotiations with Brussels.

What a good joke! The land transport agreement is in any case one of the market access agreements to which the framework contract is to apply. This means that, in three or four years' time, the EU would be able to abolish the ban on cabotage within Switzerland with a new EU directive.

Neither the ECJ nor a so-called arbitral tribunal will protect us against such and other changes of law from above. We citizens must protect ourselves by saying no to the framework contract.

State aid – a rather intricate affair

Just over a year ago, the Federal Council mentioned in a press release that one of the questions raised in relation to the framework agreement was "state aid".[1] This remark led to loud rumblings in the press, as it became apparent that since the beginning of the negotiations in 2014, the EU Commission has been demanding that Switzerland must ensure "that the state does not distort competition if it wants to participate in the European internal market. That is why they should prohibit state aid", or "apply it according to EU law". This is a condition for the conclusion of an institutional framework agreement.[2]

In our country, the state aid in question would be, for example, the state guarantees for cantonal banks. Or federal subsidies for agriculture or for the energy supply. Or community contributions to a sports stadium. We citizens usually decide at the urn on these as well as on many other state contributions at the federal, cantonal and municipal level. However, under the Treaty on European Union, state aid is "incompatible with the internal market" (Article 107/108). In the EU member states, any planned state support must be reported to the EU Commission, which only grants it "if it is actually in the public interest, that is, serves society or the economy as a whole".[3] Rather an ambiguous definition …

Following the Federal Council's announcement last summer, the *KdK (Conference of Cantonal Governments)* announced an investigation and for once proved to be a suitable representation of its members.

On 23 March 2018, the Plenary Assembly of the KdK took up a clear and distinct position.[4] Here are some excerpts from the position paper:

"If Switzerland introduces a ban on state aid according to the standards of EU law, all state action is fundamentally subject to […] scrutiny. The ban on subsidies would also cover situations which […] have a regional or local significance. A wide range of policy areas would be affected. […]" (Point 5)

Therefore, the KdK very clearly states: "An anchoring of rules or principles on state aid in horizontal agreements such as in an institutional agreement or a framework agreement is out of the question." (Point 10)

At most, individual bilateral agreements may regulate principles on state aid, but only if they "take account of Switzerland's federal structure and the characteristics of each economic sector". However, the KdK has legitimate doubts that a contract drawn up by Brussels could meet these requirements: "It should be borne in mind that the EU system is not constitutionally and state politically compatible with the Swiss system. An adoption and dynamic further development of EU regulations is therefore excluded in any case." (Point 11)

If nothing else, a state aid scheme would have to be included in the individual agreement (point 14), and control would only be admissible by a Swiss authority and under Swiss law (point 16/17).

In addition, a Swiss supervisory authority should at most have a recommendation authority vis-à-vis the federal, cantonal and municipal authorities. Repayment obligations or other sanctions would have to be excluded (point 18).

So much for the Conference of Cantonal Governments. Well done! They could teach Ms Leuthard and her colleagues a thing or two … However, this is not quite what the EU Commission wants to hear from Switzerland …

Voices from the most varied angles: We do not need a framework agreement

It becomes clear already on the basis of these two examples – the abolition of the ban on cabotage and the restriction of state aid – that it is no wonder that our Federal Councillors do not want to tell us what this clouded-in-secrecy framework agreement is to say. The more of its desires the EU wants to pack in, the less likely is the citizens' "aye" in the referendum vote.

It is gratifying that more and more well-known personalities from very different angles agree that Switzerland does not need a framework agreement:

Daniel Lampart, Head of the Secretariat and *Chief Economist of the Swiss Trade Union Confederation (SGB),* on 20 January in the Swiss tabloid "Blick": "In our view, the framework agreement is not something that Switzerland should have. It is more the EU Commission that wants it

continued on page 12

"In our view, the framework agreement is not something that Switzerland should have. It is more the EU Commission that wants it and less the member states. From an economic point of view, there is no urgent need for action." *Daniel Lampart, Chief Economist of the Swiss Trade Union Confederation*

"It is not necessary for us to come to a framework agreement with the EU at all costs. We are partners at eye level. I hope that our Federal Councillors are courageous. I am convinced that the people will reward them for it." *Rolf Dörig*

Framework agreement Switzerland-EU

Cross-border commuter financing as the next stumbling block

mw. Again, there is talk of an EU decree which Switzerland would have to adopt – if it were so unwise to sign a framework agreement. The EU member states have just agreed to a paradigm shift with regard to cross-border commuters. In future, cross-border commuters who have become unemployed will no longer be supported by their state of residence, but where they have recently made contributions to the social insurance system. Now, a cross-border commuter must have worked for three months in the host country in order to receive unemployment insurance benefits.

With a framework agreement, Switzerland would be forced to adopt this system change on the basis of the Agreement on the Free Movement of Persons, with high costs. And this still without real control options: For how should our RAV (Regional Employment Centers) check whether the beneficiaries are seriously looking for jobs from their country of residence or maybe they even have a job there? Around 320,000 cross-border commuters from EU/EFTA member states already work here.[1] It is likely that the new regulation would attract far more jobseekers, because it is well known that Swiss social benefits are higher than in most other countries.

By the way: According to the definition of the EU, "cross-border commuters" are not just working people from a neighboring country, who travel from Italy to Ticino to work every day and are back home in the evening, but: "cross-border commuters are persons who work in a member state, but have their place of residence in an other member state."[2] So, for example, on Sunday evening from Bulgaria to Switzerland and back home over the weekend. Under the EC Treaty, private persons have the right to move to other EU Member States in connection with taking up or pursuing employment without being discriminated in terms of employment, remuneration and other working conditions.

Such concrete examples show what an institutional framework agreement with Brussels would mean for Switzerland: We would grant the EU a general mandate to impose new regulations on us on an unknown scale, often at hefty costs. Federal Councilor *Ignazio Cassis* can continue telling that this or another EU regulation is beyond his "red line". Fact is that the EU committees do not care much about such red lines, which they also openly proclaim. Still worse: we citizens who are used to voting on whether or not we want this or any other change in our legal system – we would simply be ignored. That would be the end of direct democracy. But in Switzerland it's still the sovereign who decides. And even if the Federal Council defers the disclosure of the text of the contract ad nauseam – the voting date will come, and who wants to preserve the political rights of the Swiss people, will know how he has to vote. With letters to the editor and from citizen to citizen, each of us can contribute even today to the formation of opinion on this important issue. •

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[1] Some figures: Employees in Switzerland in the 1st quarter of 2018: Swiss: 3.454 million. Foreigners: 1.550 million [almost half as many!]. cross-border commuters: 317,000 [i.e. about 20% of foreign workers!]. (Source: Federal Statistical Office, *Employment Statistics ETS)*

[2] European Commission, cross-border workers (*https://ec.europa.eu/taxation_customs/individuals/personal-taxation/crossborder-workers_en)*

"What does the 'the adoption of ..."
continued from page 11

and less the member states. From an economic point of view, there is no urgent need for action."[5]

Gerhard Schwarz, former head of the NZZ (Swiss newspaper "Neue Zürcher Zeitung") city desk and director of the independent free-market Swiss think tank *Avenir Suisse,* and *Rudolf Walser,* former chief economist of the Swiss corporate union *economie suisse* and also at Avenir Suisse, list in the "Neue Zürcher Zeitung" of 9 April a whole series of reasons why the agreement should not be concluded - and above all not in a "hard-to-understand hurry": "Firstly, a trade volume of around CHF 240 billion (2016) is annually transacted practically without any friction on the existing contractual basis. Secondly, in the framework agreement, the EU is the "demandeur". Switzerland or the European and Swiss economies have never asked for an institutional framework agreement. Thirdly, there are currently no issues that urgently call for a bilateral agreement [...]." Fourthly, Schwarz and Walser advise to wait until Brexit is settled. In comparison, a quick and unbalanced solution is "really a 'red line'" – for all liberals as well as for all those who consider Switzerland's political system [...] to be less bad than that of its European partners and the EU."[6]

According to "Finanz und Wirtschaft" (finance and economics) and *Current Concerns* banker *Felix W. Zulauf* admonishes the Federal Council loudly as follows: "Berne can never negotiate good contracts with the EU, if its own representatives prefer to sit on the other side of the table."[7]

Finally, *Rolf Dörig,* President of the *Swiss Insurance Association* and Chairman of the Board of Directors of the temp staffing firm *Adecco* and of the insurance company *Swiss Life,* had the opportunity to speak at the DFA Ambassadors' Conference on 2 May and concluded his address with the words: "It is not necessary for us to come to a framework agreement with the EU at all costs. We are partners at eye level. I hope that our Federal Councillors are courageous. I am convinced that the people will reward them for it."[8] It is to be hoped that the head of the EDA and his diplomats took good note.

So, when it becomes ever clearer that we do not need an institutional framework agreement and that it does not fit the Swiss state structure – what makes our team in the Federal Council and in the federal administration want to bring it about anyway – by hook or by crook? What makes them almost tell the Brussels bureaucracy to believe that much might be squeezed out of Switzerland? The Federal Council and some of the parliamentarians elected by the people will have to justify themselves to us. •

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[1] media release of 28 June 2017

[2] "Kantone rüsten sich wegen EU-Forderungen" (Cantons get prepared because of EU-demands) in the Swiss newspaper "*Ostschweiz am Sonntag"* of 2 July 2017, also see "Status review at midyear 2017" in *Current Concerns* No 17/18 of 25 July 2017.

[3] EU Commission *Information for consumers. State aid to the economy*

[4] KdK position statement. *State aid rules applied by Switzerland and the EU.* Plenary assembly of 23 March 2018

[5] Lüchinger, René. "We don't need a framework agreement!" Interview with SGB chief economist Daniel Lampart. *"Blick"* of 20 January 2018

[6] "Forgotten red lines". Guest commentary by Gerhard Schwarz and Rudolf Walser. "*Neue Zürcher Zeitung"* 9 April 2018

[7] "Straighten up EU-Switzerland relations" by Felix W. Zulauf. *Current Concerns* No 10 of 17 May 2018

[8] "Agreement with the EU – not at all cost". Guest commentary by Rolf Dörig. "*Neue Zürcher Zeitung*" of 18 May 2018

Winterkorn: Peak salaries no longer without liability

by Prof. Dr Eberhard Hamer

Eberhard Hamer (picture ma

The difference between a single owner enterprise and an equity company is that the entrepreneur must always accept total liability for his business, but the owner of a corporation has limited (limited liability company) or no (incorporated company) liability for "his" company.

In this limitation or exclusion of liability lies the great attraction of corporations compared to the individual companies. Limitation of liability also includes the main difference between an entrepreneur and a manager. The latter is – even in top positions – only an employee of his company, and his liability for his entrepreneurial activity is therefore limited to breaches of the "care and attention of a prudent businessman" or to cases of "intent or gross negligence" in the line of duty.

In this way, the disproportion developed that in the top positions, salaries amounted to millions and trillions according to the international model, and yet in Germany, the higher personal liability common in international management did not apply for managers. Again and again, management mistakes were corrected by the companies, without holding the managers personally liable. And even in the case of most corporate bankruptcies, the managers could not be held personally responsible because it was impossible to prove malice, and even gross negligence was rarely demonstrable.

In this situation, the US criminal charges against Winterkorn have hit like a bomb. So far, VW has had to pay more than $ 25 billion in penalties and fines to US customers and dealers and, through the judiciary, especially to the US state, for mistakes which their management rather than their employees had engineered and executed, which they were responsible for. Nevertheless, this same management was in most cases discharged and royally paid. The company itself would not have come up with the idea of demanding compensation from its management for the damage done.

One may argue about the the US judge's reasoning of "conspiracy" and the alleged risk of absconding (because the defendant does not reside in the US) being appropriate or only politically determined. The fact is, however, that American judges can use arbitrary reasons to punish any manager for management mistakes and take him into liability. Thus managers' lives have suddenly become more risky. They no longer assume no or only limited liability, but they are now personally liable, at least in the US, for company mistakes.

> "SME research has always pointed to the contradiction that top executives with super-top salaries should not be personally liable for their mistakes, while every mittelstand small and medium business owner is completely liable for all errors of his company and is responsible for the performance of all orders, even without any personal fault – even with his personal assets. And what is more, this liability is even the longest-termed in our liability law (30 years). The one gets a top-salary with no responsibility at all, the other earns little but assumes an over-the-top liability."

SME research has always pointed to the contradiction that top executives with super-top salaries should not be personally liable for their mistakes, while every mittelstand small and medium business owner is completely liable for all errors of his company and is responsible for the performance of all orders, even without any personal fault – even with his personal assets. And what is more, this liability is even the longest-termed in our liability law (30 years). The one gets a top-salary with no responsibility at all, the other earns little but assumes an over-the-top liability. This could now be corrected by the Winterkorn case – not only for top managers, but also for the middle management, depending on their own share of the mistakes. The unrest among German managers because of the charges against Winterkorn and because of their fear of the US judgment to be expected is accordingly great. The fact that these judgments as parts of the American trade war against Europe are not delivered without political reference plays a lesser role in generating this unrest than does the substanciation of a new level of international liability, and therefore of a new risk for management. The American judiciary may be politically controlled and thus hostile, as it is an instrument of commercial warfare, but of course the German judiciary will also get busy with the Winterkorn case. Only then will it be decided whether the American manager liability also spills over to Germany or if the old limited liability for managers continues to apply.

But why should managers remain unscathed for errors of their corporations, if every entrepreneur is liable for every least mistake of his company, even if it occurred without any fault of his own?

As early as ten years ago, surveys conducted by the SME institute Niedersachsen revealed that most managers do not want to become entrepreneurs, because they would then have to take on personal liability for their actions in the company. So managers prefer to remain employees because they fear the risks to the self-employed entrepreneur. It follows that the difference between managers and entrepreneurs is inappropriate, not only in terms of management return, but also concerning the difference in their liability. •

(Translation *Current Concerns)*

Letter to the Editor

How powerful is geography?

In our conventional geography lessons we learned about the world in terms of political, topographical, climatic, economic and physical conditions. Now in his book "The Power of Geography" (see *Current Concerns* No 10, 17 May 2018), *Tim Marshall* introduces us to the thinking of a geostrategist, who does not consider the topographical conditions of his own country and of all the others primarily from the point of view of geological science, but rather in terms of a geostrategic analysis.

Thus, straits, mountain ranges, deserts, seas and coasts with natural deep-sea ports or rough cliffs, the island position of a state or its use of two shores, an Atlantic and a Pacific one, are analyzed in detail and considered from a geostrategic point of view, on the one hand for the protection of the state itself and on the other hand for the development of an empire. Interconnected navigable rivers not only represent natural trade routes, but also enable the flowering of economic activities and the rapid transport of any goods, including military supplies. Artificial waterways connecting two oceans, such as the Suez or the Panama Canal, make use of geostrategic istmuses, and human skills create economic and military benefits.

The Strait of Gibraltar, a strait that allows any military force to control, from a rock in Spain, the shipping traffic between the Atlantic and the Mediterranean, is also a geostrategic point in which a "power" is inherent which should not be underestimated. The British have secured a rocky spot on the Spanish Mediterranean coast of Gibraltar to control the access to and exit from the Mediterranean.

But what about the exercise of power over these geostrategic points? We know that power does not emanate per se from a strait or an isthmus, or from the Northern European Plain, which is repeatedly mentioned in the book. It is probably rather a kind of attraction. Only, who is attracted by these places? This question, however, is not problematised by Tim Marshall; it is not even thematised, because he is first and foremost in the English tradition of a *Halford John Mackinder*[1] and an apparently natural imperialist mission, which seems to spring from the British island situation. As a longtime correspondent for the BBC from more than 30 crisis areas around the world, he has received numerous awards, earning questionable fame in a medium we know to be only one of the myriad of NATO media.

The lucrative and militarily priceless Panama Canal has been taken over by the US, and not in a peaceful way. The former Colombian province of Panama was split off from Colombia by a secessionist war after Colombia had refused to grant the area to a US consortium. The war was led by the US. The chairman of that US consortium which was founded specifically to build the canal became Panama's first president. Similar adversity seems to have been looming over Nicaragua for some time now.

In this context Marshal's statement regarding the behaviour of the Chinese kingdom in the Middle Ages is astonishing: "The Chinese were great sailors; in the 15th century, notably, they plowed through the Indian Ocean. Admiral *Zheng He*'s expedition went all the way to Kenya. But these were ventures to earn money, not representations of power, and they were not meant to create outposts that could support military operations.» Thus, it seems to have been possible at all times to conduct economic and cultural exchanges around the world, without resorting to the insane idea of founding a world empire claiming world domination.

This book might also have been useful to discuss and develop the question of cooperation instead of aggression. It would have been possible to represent the beauty of our world and the resources of our planet from the point of view of transnational human interaction for the benefit of all. At least the description of the African continent, especially of the Democratic Republic of the Congo, might have made it clear who impedes the people of the Congo from living in peace and prosperity and how these merciless actions are carried out. The activities are named to a certain, small, extent. But the masterminds remain in the dark, the heart stays cold. Equally untouched by the human aspect, Marshall continues to describe the geostrategic importance of the Northern European Plain. The Northern European lowlands may well be a space without major geographical barriers or insurmountable natural obstacles, but by no means is this space therefore an invitation to forcibly gain access to Russian mineral resources. In this area geography may, as it were, offer a gateway to an imperialist aggressor, but what is the invader's justification for simply taking, regardless of all human strokes of fate, everything for himself, and for even believing it to be his. But this idea does not occur to Marshall.

What blessing there is in mutual cooperation, in negotiating fair contracts, always seeking to realise benefits for all sides. The world will then be there for everyone.

But perhaps one should not expect something of the kind from such a book, certainly not from a geostrategic reporter in the service of His Majesty. The question of humanity has no place here. Nevertheless, reading this book expands the view to the current conflict areas, and it sheds light on the geostrategic actors' way of thinking.

Ewald Wetekamp, Stockach (D)

(Translation *Current Concerns)*

[1] Sir *Halford John Mackinder* was co founder of *London School of Economics*. In his book "The Geographical Pivot of History" he developed the heartland-theory as part of geopolitics: That means, the key to world power would be to dominate the heartland Eurasia and Great Britain as leading sea power, which could not dominate this region because of its island position, would have to face an upcoming dangerous expansionistic power on the continent, especially Russia.

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The New Hambach Festival 2018

by Klaudia and Tankred Schaer

When driving behind Karlsruhe on the A 65 motorway towards the German Palatinate region, from far away we can already see the Hambach Castle near the city of Neustadt an der Weinstrasse. A particular characteristic is the large black-red-gold flag, visible from afar and showing that Hambach Castle is a landmark of German national history: From 27 to 30 May 1832, 30,000 participants demonstrated at the Hambach Festival for national and democratic goals carrying a black-red-gold flag for the first time. There is hardly a history book without a picture of the Hambach Festival.

After the Congress of Vienna (1814 –1815), anti-republican restoration reigned in Europe and in Germany too. Any civil freedom movement was suppressed. State power exercised by the nobility was to be secured, a nation state constitution was rejected. In 1832 the assembly in the castle was banned by the then competent Bavarian government, and by a decree the access to the surrounding villages was limited. The police were granted special rights to close inns. An action was brought against this regulation and it had to be withdrawn. Finally, from Neustadt a mere 4 kilometres away, people from all parts of Germany started the march to the castle on 27 May 1832. At 11 am 20,000 to 30,000 people were on the grounds of the castle ruin. Some of the speeches were given several times so that as many participants as possible could hear them.

View of the castle of Hambach. On 5 Mai 2018 about 1200 visitors from all over Germany met there for a "New Hambach Festival". All speeches of this event and further informations are available on https://neues-hambacher-fest.de. (picture tas)

Meeting in a symbolic place

At this symbolic location, Dr *Max Otte,* professor of economics and management consultant, had now invited to the "New Hambach Festival 2018" on 5 May 2018. Otte is a professor of general and international business administration. He is a Managing Director of the "Institut für Vermögensentwicklung" [a privately owned institute for asset management], which he founded in 2003. As further speakers he had invited: *Thilo Sarrazin, Imad Karim,* Dr *Markus Krall, Vera Lengsfeld,* Professor *Meuthen,* Professor *Joachim Starbatty* and *Willy Wimmer.* Shortly after the publication of the event, 1200 registrations had been received and the advance sale had to be stopped – since Otte had not obtained authorisation for more participants from the authorities and the castle administration.

With his invitation, Professor Max Otte consciously continued the tradition of 1832. As Otte pointed out, the Germans today are as concerned about their homeland and about freedom of expression as they were then. Speakers and participants agreed that they wanted to give a common signal for a patriotic radical change and for the preservation of the nation state and the free democratic legal system.

Topic immigration

The conference discussed the fact that illegal mass immigration is shaking the foundations of the state. This is how *Thilo Sarrazin,* member of the board of the *Deutsche Bundesbank* until 2010 and author of the bestseller "Deutschland schafft sich ab" (Germany is getting away} described the fact that there is no open debate in Germany on the issue of immigration. He had co-signed the "Joint Declaration 2018" (see box). This explanation is not very explosive in terms of tone and content, he said. It would be reasonable to expect that one takes note of it and evaluates it as a contribution to the formation of socio-political opinion. In the poisoned political discussion in Germany today, in response to such demands from the dominant media, a challenge was made to the signatories, which in the case of Sarrazin culminated in the assumption that he was the spiritual forerunner of the Nazis of today.

Vera Lengsfeld – lack of political culture of discussion

Vera Lengsfeld, civil rights activist and member of the first freely elected people's chamber of the GDR, also described that there are repeated calls for "no podium, no room to rent, no shelter, no food and no beer to serve". Landlords who refused to comply with these demands have already been "ruined in our midst in Germany". Vera Lengsfeld does not see anti-democratic forces in the signatories of the joint declaration. In Germany, however, the balance between the democratic left and the democratic right is suspended. Today the "roaring, beating, stone-throwing Antifa" is a welcome member of the "Alliance against the far right". The lack of a culture of political discussion leads to a division of the people. An unbiased dialogue is the basis of democracy. If voices critical of the government are suppressed in such a way, this is not only a violation of the Basic Law, but threatens the entire state in its existence. It is particularly worrying that the government is supporting forces that are supposed to intimidate the political opposition in the country.

Imad Karim, television journalist, film author and director described his view on Germany as an immigrant from Lebanon to Germany in 1977. He has always experienced the Germans as open and friendly. Germany defines itself as a country with a free, democratic and open society. To great applause he declared: "Germany is the home of my values." However, these values are threatened by uncontrolled Muslim mass immigration. Visibly moved,

continued on page 16

"The New Hambach Festival 2018"
continued from page 15

he described that 39 years ago he had already been to Hambach Castle when, enthusiastic about German history, he set off on a search for traces of the beginnings of Germany. Karim called for joint efforts to preserve the community of values in Germany.

For the preservation of the national state

Vera Lengsfeld, Professor *Jörg Meuthen* and Thilo Sarrazin also expanded on the backgrounds of illegal mass immigration. Professor Meuthen has been one of two party leaders of the AfD since 2015. He was the top candidate for the AfD in Baden-Wuerttemberg and has been a member of the European Parliament since the end of 2017. He is a professor of economics and public finance. Vera Lengsfeld raised the question whether the migration policy, which began with the opening of the German border by Chancellor Dr *Angela Merkel* in 2015, had followed a certain political strategy aimed at overcoming the nation state. She pointed to a passage in the government programme stating that Germany would fulfil its obligations from "resettlement and relocation". Behind this is an EU resettlement programme that has so far been hidden from the population.

In this context, Thilo Sarrazin quoted the political scientist *Yasha Mounk* (Harvard University), who on 21 February 2018 in the TV-news "*Tagesthemen"* had declared "[…] that we dare here a historically unique experiment to transform a monoethnic and monocultural democracy into a multi-ethnic one. This can work, I think it will work, but of course there will also be a lot of distortions". (*https://de-vid.com/video/video-8pKWajuY7Yk.html*). Professor Jörg Meuthen also used the term ideological society experiment, which takes place quite deliberately, especially in Germany, because here, based on history, a bond with the fatherland is particularly weak.

Who asked the German people?

In view of these outrageous facts, the question had to be asked: Who asked the German people if they wanted to participate in this experiment? After all, the German people, as sovereign bearers of state authority, are not passive recipients of orders from undeclared experimental applicants. The participants of the New Hambach Festival were in any case agreed that they would oppose this abandonment of our country, as Jörg Meuthen puts it: „We will defend ourselves against it in every democratic way!

EU parliamentarian Professor Dr *Joachim Starbatty* also called on those present to stand up for the nation: "Today the nation is being rediscovered in Hambach Castle", he said and admitted to being a patriot, an enlightened patriot. Starbatty is Professor Emeritus of Economics and has become known in the Federal Constitutional Court with his lawsuits against the introduction of the euro. He has been a Member of the European Parliament since 2014.

"Get out of the euro, now!"

With a view to the opening of the borders by Chancellor Merkel, Starbatty criticised that in Germany today social compassion was above the rule of law. Like all other nations, we should stick to our interests, only then we would be a security element for the world. He opposed the ultra-loose monetary policy pursued by the President of the *European Central Bank (ECB)*. As a result of this policy, savers in Germany had lost 447 billion euros over the last 7 years. The company pensions were no longer safe either. Our twilight years are in danger. Starbatty demanded: "We must put a stop to Mr *Draghi* before he expropriates us all." Starbatty stressed that this European way would fail. It would become more expensive than anyone could imagine. European integration would then also be destroyed. He concluded his speech with the words: "So I want us to say together: get out of the euro, now!"

Willy Wimmer, former Parliamentary State Secretary at the Ministry of Defence and former Vice-President of the OSCE Parliamentary Assembly, quoted the remarks of a leading German police officer who had commented that about 200 African asylum seekers had prevented the deportation of an asylum seeker in Ellwangen (Germany) and threatened to storm the police station. First the state should not protect the borders, and then the policemen would have to go into situations that went beyond their capabilities. Minister of the Interior *Seehofer* called this situation a slap in the face of all law-abiding citizens. Wimmer demanded that the German state of law must be preserved.

Willy Wimmer stresses the importance of the national state for peacekeeping

Wimmer criticised Western policy towards Russia. The West continued to ignore the Russian President's desire for a good neighbourhood. This was not the consequence of a policy associated with the names *Willy Brandt* and *Helmut Kohl*. He emphasised the importance of the nation state for peacekeeping. A strong and democratic state in the centre of Europe could guarantee peace.

Finally Wimmer thanked Max Otte, who had made this meeting possible. At the Hambach Festival the awareness had arisen that the freedom and the right of the German people had to be bravely defended. This day would change the country.

Lasting impressions

Lasting impressions of the "New Hambach Festival 2018" are: the good atmosphere and the awareness of the participants to take part in an important, perhaps historic day; the shared identity that made it easy to get into a dialogue with everyone. There were a remarkable number of young people at the festival. Later, Vera Lengsfeld wrote that she could not remember "having seen such relaxed, happy faces in recent years, competing with the sun".

Those who spent this day at Hambach Castle went home strengthened and encouraged. The people entered into a dialogue with each other and – not as a ritual – sang the German national anthem at the end, whose meaning has perhaps become even more conscious to many: The call to stand up for unity and justice and freedom. •

Joint Declaration of 2018

"With increased astonishment we observe how Germany is being damaged by illegal mass immigration. We express our solidarity with those who peacefully demonstrate for the restoration of the rule of law at the borders of our country".

The declaration was submitted as a petition to the Petitions Committee of the German Bundestag on 16 May 2018. 164,671 (as of 15.5.18) people have signed.

All education comes from doing

*by Carl Bossard**

Carl Bossard (picture ma)

Thinking is a derivative of doing. There is agreement. Controversial is the role of the teacher. Should the teacher be an active guide or just "coach"? A plea for student-oriented guidance.

"Why was *Wolfgang Amadeus Mozart* a genius?" American physics Nobel laureate *Carl Wiemann* asks rhetorically. The professor replies himself: "No one is born a genius. […] Brilliant was first of all Wolfgang Amadeus' father *Leopold,* a mediocre violinist, but excellent music teacher, who wrote one of the first books on music education for the violin."[1] And this fatherly teacher had his son Wolferl already compose when he was a little boy – and kept looking over his shoulder to correct every minimal mistake.

Absolute failure tolerance today

Correct the smallest mistakes and thus optimise the whole! So Leopold Mozart's method. What difference to dogmatics of today, for example, to *Jürgen Reichen*'s literacy approach "writing by ear", scientifically called "Writing to Read". The children write the words as they hear them pronounced – phonemically. They do not have to pay attention to spelling.

The joy of fabulating without constraint is the highest didactic principle. The children should not be disturbed. Nobody is allowed to intervene. Vocabulary and grammar are ignored. Faulty forms are part of it. The children would later correct themselves and accuracy would come automatically, according to Reichen's assumption. Also the ability to read would emerge naturally. This is why educationalist Reichen claimed absolute failure tolerance. According to him every kind of intervention or correction destroys the child's creativity.

Myths in education discourse

The magic formula is clearly the following: Students work "actively" and "self-regulatedly". They can acquire the written language themselves, much like infants learn to walk and to speak. Reichen's credo was sacred to countless educators and university pedagogues. Empirical evidence for proving this practice was not available; faith was enough. It was only years later that this allegedly "ingenious" method of language learning was scientifically tested. It should have been forbidden a long time ago, according to Zurich emeritus professor *Jürgen Oelkers.* Nowhere are opinions and myths as persistent as in educational discourse, even if they are long considered outdated.

Ingenious is not always ingenious

Ingenious was, according to Nobel Prize winner Wiemann, Leopold Mozart; Jürgen Reichen was also considered ingenious. Both promoted "active learning". But what is the difference? For Wiemann, "active learning" means letting students do, correct them, let them carry on, correct them again, have them make a kind of autodidactic experience, but under the guidance of a teacher – quasi following the example of Daddy Mozart.

Under the guidance of a teacher, says Wiemann, not through the teacher's withdrawal from the learning process[2] – that's the nuance! "Without intensive teacher control, high learning effectiveness cannot be achieved; not to mention the difficulties that weaker students have with independent learning," writes Professor *Elsbeth Stern,* didactics researcher at ETH Zurich.[3] For many children, open and free forms of learning are more of a risk than a chance.

Learning coach? No: teacher! – The practical test

If that sounds too academic, here comes the field test: A few years ago there was a notorious class at Johannesskola, a problem school in the southern Swedish city of Malmö. In the ninth year, this class received eight new teachers as part of a documentary film experiment. The experiment faced strong resistance; the teacher unions were up in arms about it. But every week it magnetically lured viewers in front of the screens.

In Sweden the ninth grade is very important for the students' future progress. Here it is decided whether the young people can transfer to a further education school. The eight new subject teachers were recruited from across the country; they were educators who had won prizes or otherwise proved to be well-versed. All over Sweden, week after week, TV viewers watched live how demotivated failures became high school students: almost all students reached further education; In the national comparison tests, the class took first place in mathematics.

The success of actively guided learning

One can explain the secret of this success with structured teaching and actively guided learning. The teachers interpreted the brilliant progress straightforwardly: Decisive for their work were respect and aspiration, authority and affection, love of their subject and affection for the pupils. They were teachers who wanted to set and control goals.

Years ago, the founding rector of the Max Planck Institute for Psychological Research in Munich, *Franz E. Weinert,* wrote: "It is not the external school structures that are ultimately decisive, but the teacher and above all those teachers who have the ability to combine a high degree of subject-oriented learner activity with a high degree of student-centred teacher control." It was like that in Malmö.

Direct instruction, but no revival of ex-cathedra teaching

The renowned education researcher *John Hattie* comes to a similar conclusion. "Direct instruction" has a high value for him.[4] Unfortunately, the English term "instructional design" is translated with the frowned-upon word "Frontalunterricht" [frontal instruction; CC] and thus connoted with the old authoritarian school as in *Thomas Mann*'s "Buddenbrooks" or in *Friedrich Torberg*'s novel "Der Schüler Gerber". And thus the authoritarian school is evoked.

But Hattie does not mean the old bogeyman. Hattie has the teacher lead through the lessons like a director in a didactically clever way. The teacher attaches great importance to the students' self-activity. The basis is another important factor: the clarity of the teacher. It provides orientation and thus creates a learning effect.

Even Amadeus needed instruction

If you trust for a brief moment Hattie's studies, the American Nobel laureate Wiemann and the Swedish experiment, then you cannot really stop being surprised – surprised about the fact that self-regulated and self-reliant learning without a teacher is still given so much weight today. Above all, all three convey a single message: good and active learning needs inspiration and instruction, guidance and feedback. That was true even for an exceptional talent like Amadeus. •

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* Dr phil. *Carl Bossard,* certificated grammar school teacher, was head of the Nidwalden gymnasium in Stans, headmaster of the "Kantonsschule Alpenquai Luzern" (grammar school) and founding rector of "Pädagogische Hochschule, PH" Zug. Today he is running advanced training and counselling schools. His key interests are educational policy and social-historical questions. Publications see *www.carlbossard.ch/*

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2 cf. Reichenbach, Roland. *Ethik der Bildung und Erziehung. Essays zur Pädagogischen Ethik.* (Ethics of Education. Essays on Educational Ethics.) Ferdinand Schönigh, Paderborn 2018, pp. 204

3 Felten, Michael; Stern, Elsbeth. *Lernwirksam unterrichten. Im Schulalltag von der Lernforschung profitieren* (Teach effectively. Benefit from learning research in everyday school life.) Cornelsen, Berlin 2014, p. 6

4 Hattie, John; Zierer, Klaus. Kenne deinen Einfluss! "Visible Learning" für die Unterrichtspraxis (Know your influence! "Visible Learning" for classroom practice.) Schneider Verlag, Baltmannsweiler 2017, 2nd ed., pp. 91

Why marijuana is played down and who makes money from it

by Dr med Gabriella Hunziker

Dr *Kurosch Yazdi* is a specialist in psychiatry and psychotherapy. As the head of an addiction clinic, Kurosch Yazdi knows what effects drug use can have. In his book, he describes impressive case studies from his addiction department, such as the 19-year-old Mary, "who was a very inconspicuous, fun-loving and bright girl in her childhood and puberty. She first came into contact with cannabis when she attended tourism school. In the beginning she smoked one joint, and then it became more in the long run". Kurosch subsequently describes the physical, as well the mental decay of Mary, who actually would have had the best prerequisites for a fulfilled life. Usually the parents contact him in their need and despair. The addict himself often sees no connection between cannabis and his problems. This makes the treatment of cannabis addiction, but also of cannabis psychosis so difficult.

The book makes a valuable and important contribution to educating people about the supposed "soft" drug cannabis. It is published in due time, as worldwide an attempt is being made to make cannabis acceptable for medical purposes in order to earn a lot of money at the expense of young people. The tobacco industry in the United States, which has suffered massive financial losses due to more strictly smoking control laws, is increasingly turning into a cannabis industry. As is well known, the health of young people is not the main focus of the cigarette industry, but industry's concern is all about making as much profit as possible. Therefore, "within a few years, a flood of campaigns were started for image polishing of marijuana and co. Suddenly it was remembered that the ancient Chinese used cannabis in their traditional medicine 3000 years ago and that cannabis can also have an analgesic effect. And that it is not addictive, and many myths more".

According to Yazdi, it has been shown for some time that in order to legalize cannabis in whole or in part, the number of users is increasing. For example, in Colorado, where cannabis was legalised for adults, the 12 to 17 year olds consumed 39 per cent more than the US average. In psychiatric clinics and practices of psychiatrists, the number of young patients who no longer have their lives under control due to the drug is increasing. As well, it is often concealed that the concentration of the intoxicating substance THC in the plant is much higher today than before. "Twenty years ago, there was a ratio of about 10 to 1 in marijuana. For every ten shares of THC, there was one share of cannabidiol. Today it's almost 100 to 1 for THC." The higher the percentage of THC, the greater the risk of psychosis. No wonder, cannabis-related disorders have increased drastically, especially among young people.

Moreover, "numerous studies show that regular users of cannabis are far more likely to consume other illicit drugs than those who rarely or never smoke marijuana. Therefore cannabis is a gateway drug in any case". "The reason for this is in the brain. Once the brain gets used to being addicted to a substance, it becomes dependent on other substances much more quickly." According to Yazdi, one of the main symptoms of any addiction is the development of tolerance. "In medicine, this means that the effect of a substance, if it is consumed regularly and the body has gotten used to it, decreases over time. Conversely, this means that I have to consume more and more of the substance concerned in order to achieve the same effect. This phenomenon also exists in addictive behaviour such as gambling or the Internet."

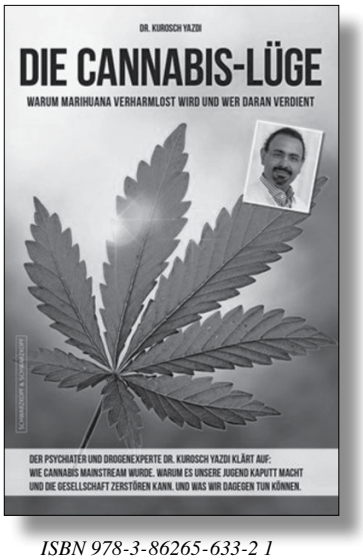
> "'Twenty years ago, there was a ratio of about 10 to 1 in marijuana. For every ten shares of THC, there was one share of cannabidiol. Today it's almost 100 to 1 for THC.' The higher the percentage of THC, the greater the risk of psychosis. No wonder, cannabis-related disorders have increased drastically, especially among young people."

At the end of the book, you will find a dictionary with the most important terms relating to cannabis and the references of the numerous scientific studies listed in the book. The book is very well written and generally understandable even for non-physicians such as parents, teachers, young people and all those who are interested in real education. I am highly recommend it. •

Yazdi, Kurosch. *Die Cannabis-Lüge. Warum Marihuana verharmlost wird und wer daran verdient* (The cannabis lie. Why marijuana is played down and who makes money from it). Schwarzkopf & Schwarzkopf, April 2017

(Translation *Current Concerns)*

> "[…] in Colorado, where cannabis was legalised for adults, the 12 to 17 year olds consumed 39 per cent more than the US average. […] Cannabis-related disorders have increased drastically, especially among young people."



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Hornets are better than their reputation

The exterminator is not always needed!

*by Heini Hofmann**

The big yellow buzzing insects are star architects of lightweight construction. Their impressive nests with integrated thermoregulation are filigree lightweight constructions made from chipped wood shavings mixed with saliva. The fact that hornets' nests are still being destroyed today is not just about fear, but also about superstition and prejudice.

The queen is almost twice the size of the worker, and she is the only one who survives the winter. (picture Gunther Klenk)

Probably because of their size (female worker 2-2.5 cm, queen 4 cm) and their fast flight, but also because of the yellow warning colour and the red chest part, we humans feel the largest state-forming insect as particularly menacing. Wrongly so!

Caution yes, panic no

Yet, all, fear and panic are out of place. Hornets are much better than their reputation. They are useful insect exterminators and thus fulfil an important task in nature's household. Their main prey is flies which they often catch in flight. Also, they are far less intrusive than wasps and neither aggressive nor sting happy (except near the nest). The superstitious vernacular rule, "three stitches kill one man, seven a horse" is simply wrong. A hornet sting is admittedly painful, but not more dangerous than that of a bee (for insect allergy sufferers, the same rules of conduct apply as in a bee sting).

We humans are not threatened by the hornets, but the other way around, since, due to our intervention their habitat is no longer intact. Similar to the colonies of wasps and bumblebees, hornet colonies live for only a year. The workers and the male drones die the latest at the onset of winter, and only the mated queens endure the cold season in fissures, tree gaps or bug bores.

But only every tenth queen manages to found a new colony in spring. Because the dangers are many such as fungal infections, cold spells, lack of food and, unfortunately, because of our exterminator keenness the dangerous search for nesting opportunities. Because natural dwellings such as decaying and hollow trees or woodpecker caves are becoming increasingly rare, hornet queens are found in bird nesting boxes, barns and attics. Rarely, they also nest in the ground.

Ingenious building biology

Because of the mostly unfounded fear of hornets, we are denied the fascinating insight into their ingeniously constructed nests. The courageous people who come to terms with their hornets at their house or on their balcony prove that things can be done differently. It is usually easy. Apart from this, such a coexistence may discover a marvel earth. For even insects and especially those big buzzing insects have to protect themselves from environmental influences in their dwelling that equals mass housing. They do this brilliantly and in a highly professional manner. Old nests are no longer used. A hibernated queen begins a new nest by attaching the first cells to a thin stalk and placing an egg over it. In this small honeycomb she raises the first workers. Unlike the bees, the nest material is not wax but some kind of paper. Soft, rotten wood is abraded with the mandibles/jaws/ and mixed with saliva functioning as a glue and thus formed into small beads.

Initially, the queen has to do all the work by herself until she can concentrate on lay-

continued on page 20

Living storage pots

hh. The honeycomb cells in the hornets' nest are directed downwards, just like stalactites in stalactites. Eggs and young larvae stick to the cell roof so they don't fall out. The white-grey maggots have neither legs and wings nor feelers and eyes, but strong masticatory tools and lateral bulges with which they cling to the cell wall - in the last two of a total of five development stages.

Because the hungry offspring demand a lot of animal food, the field workers carry insects, from flies and grasshoppers to dragonflies, but also wasps and occasionally bees. Overpowered and bitten to death, the loot-animals are usually in flight. Before being introduced, the victims are crushed and chewed to form feedable meat clots.

If the ravenous larvae do not receive enough food, they protest with „hunger scratches": they throw their heads sweepingly forward and scratch the cell wall wood with their masticatory tools. If one of the maggots starts, the others go along, in the same rhythm as the prescratcher.

Hornet larvae are not only fed and coddled. If the food availability is limited due to bad weather, the adult animals - because they do not build up food storage - use their own brood by tickling the larvae until they secrete a nutritious drop of saliva. This causes the larvae to lose half their weight, but the survival of the colony is ensured. Combined youth and old-age provision!

The field workers need less protein than carbohydrate-containing nourishment for their own flight muscles. However, because they only have limited access to nectar because of their short proboscis, they use fallen fruit and honeydew (= excretion of aphids) as well as sap from bleeding trees. Hornets are therefore not nectar-collecting visitors to flowers.

(Translation *Current Concerns)*

"Hornets are better than ..."
continued from page 19

ing eggs after the hatching of the first workers. The workers now expand, enlarge and encase the nest. Like all insects, hornets also show high heat loss due to an unfavourable ratio of body surface area and volume. This is why the nest, which is composed of tower-like superimposed honeycomb plates, is surrounded by an insulating shell consisting of air chambers. It keeps the heat in the nest area and leads it to the hatch.

Tricky Sterzeln

In addition, the hornets can regulate the nesting temperature very precisely and on cool nights reduce heat loss. In case of imminent overheating though, when the air in the nest is humid and therefore more energetic than the outside air, the hornets use a trick that honey bees are also familiar with: the Sterzeln. At the nest entrance, with ventilating wing beats they provide ventilation, thus discharging energy from the interior of the nest.

The wood-based building material of the hornets is also hygroscopic. It binds water. Hence it absorbs moisture at night and gives off condensation heat in the nest room at the same time, while during the day it reduces the heat by cooling evaporation. The hornets know to reinforce this effect by targeted moisture entry and additional air exchange. An ingenious system for an insect that has a brain only the size of a pinhead! Thanks to this fascinating lightweight construction with integrated, extremely efficient thermoregulation, the hornets have in their nests until late autumn a constant hatching temperature of about 29° C.

Mentor nature

Hornets are therefore both, star architects of lightweight construction and world champion in building biology! No wonder that such a phenomenon is of interest to the material sciences. Is there a bionic potential here, that is, can new technical solutions be derived from the construction of the social hymenoptera, for example for facade engineering? Or can thermodynamic mechanisms be used in timber construction? It would not be the first time that man learns from nature! •

(Translation *Current Concens)*

Hornets' nest in a bird's nest box, the walls of which largely replace the isolating shell. (picture Gunther Klenk)

Research object

hh. It is not for nothing that science is interested in the ingenious design of the largest hymenoptera. For example, researchers from *Empa* (Swiss Federal Institute of Materials Testing) in the Swiss city of Dübendorf in cooperation with the Institute of Structural Engineering at ETH Zurich conducted an unusual experiment on the Empa roof with two hornet populations in order to gain a better understanding of the thermodynamic behaviour of timber structures and to enable applications of these mechanisms.

Adaptations in multi-layered, ventilated building envelopes or the utilisation of the hygroscopic potential of the building material wood are conceivable by integrating it into the building envelope as a passive damper against undesired fluctuations in the internal climate.

(Translation *Current Concerns)*