

# The EU's Global Strategy, Brexit and 'America First'

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*In less unusual times, the European Union's Global Strategy for Foreign and Security Policy would have been received as merely the latest iteration of the main tenets and ambitions of EU external action – this time with an enhanced dose of pragmatism to respond to a more challenging international environment. However, with 'Brexit' looming large and one and a half years into the Trump Presidency in the United States, the Global Strategy has acquired a new level of significance. This article argues that while meant to express a largely uncontroversial 'Western' consensus, it now needs to be re-contextualized as a distinctive vision in the face of trends of anti-globalism and Euroscepticism. This concerns in particular the Strategy's emphasis on rules-based global governance. Challenged by both President Trump's 'America First' policy and the British government's course for a 'hard Brexit', the Global Strategy now represents a contested blueprint and rallying point for a continued pursuit of a liberal world order based on the rule of law.*

## 1 INTRODUCTION

The EU's new Global Strategy on Foreign and Security Policy (EUGS), entitled *Shared Vision, Common Action: A Stronger Europe*,<sup>1</sup> was presented on 28 June 2016 by High Representative Mogherini to the European Council. In its conclusions, the latter welcomed 'the presentation of the Global Strategy ... by the High Representative and invites the High Representative, the Commission and the Council to take the work forward'.<sup>2</sup> The finalization of the EUGS was the culmination of a year-long consultative and drafting process.<sup>3</sup> Moreover, it is the

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<sup>1</sup> EU Global Strategy, *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy* (June 2016).

<sup>2</sup> European Council, *European Council Conclusions*, EUCO 26/16, pt. 20 (Brussels, 28 June 2016).

<sup>3</sup> See N. Tocci, *The Making of the EU Global Strategy*, 37 *Contemp. Sec. Pol'y* 461 (2016).

latest milestone in the history of developing, refining, and laying down the identity of the European Union as an international actor. It represents the agreed language on the overall direction of EU foreign policy for years to come.

Originally conceived as the latest effort to respond to a changing, more challenging international environment, the EU Global Strategy now has to be re-contextualized for two main reasons, which are both developments right at the heart of the 'West'. The first coincided with the publication of the Global Strategy. At the time it was ready for presentation to the European Council, public attention was focused on the result of the EU membership referendum in the United Kingdom, which had taken place a mere five days earlier. Already a momentous setback for European integration, the subsequent withdrawal negotiations, which point to a 'hard Brexit',<sup>4</sup> put even more pressure on the credibility of the EU as a global actor in general, and on its ability to deliver on the EUGS in particular. At the same time, with the election and inauguration of Donald Trump as President of the United States, having made clear during his campaign that 'Americanism, not globalism, will be [the United States'] credo',<sup>5</sup> a shared transatlantic vision for international law and global governance is being questioned at the highest political level in the world's most powerful country.

Against this backdrop, this article argues that the EU's Global Strategy needs to be understood no longer as a slightly modified expression of an uncontroversial 'Western' consensus on the desirability of a liberal world order buttressed by rules and institutions.<sup>6</sup> Its significance is no longer 'only' that of a summary of the hallmarks and instruments of EU external action with an enhanced dose of pragmatism to respond to a more daunting international environment. The new quality it has acquired is that of a defiantly distinctive vision in the face of the trends of anti-globalism, Euroscepticism and nationalist hubris. In other words, it has become a blueprint for a continued collective effort by the EU to defend a liberal world order defined by rules-based global governance.

In an effort to elaborate on the need for this re-contextualization, this article proceeds as follows. Following a brief overview of the background from which the EUGS emerged, it shines the spotlight on three main aspects that characterize the Global Strategy: Law, governance, and nuance. Doubtlessly, the EUGS serves as a rich tome as regards various aspects of EU foreign policy, many of which have become more controversial in view of these latest developments, including human rights, sustainable

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<sup>4</sup> See as the crucial official starting point of this positioning the Lancaster House Speech, Prime Minister's Office, *The Government's Negotiating Objectives for Exiting the EU: PM Speech* (London, 17 Jan. 2017), <https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech> (accessed 25 July 2018).

<sup>5</sup> *Donald Trump's Speech at the Republican Convention, as prepared for delivery*, CNN (22 July 2016), <http://edition.cnn.com/2016/07/22/politics/donald-trump-rnc-speech-text/> (accessed 25 July 2018).

<sup>6</sup> This definition of liberal world order used here draws on G. J. Ikenberry, *Liberal Leviathan: The Origins, Crisis, and Transformation of the American World Order*, 18–20 (Princeton University Press 2011).

development, the EU at the UN, and security and defence integration within the EU. These and others are bound to receive their due share of attention in the scholarly appraisal of the EUGS and its implementation.<sup>7</sup> To a large extent, however, the categories of law, governance, and nuance serve as baskets into which many of these aspects fall. For instance, promoting human rights is part of the overall promotion of the rule of law in EU foreign policy, while giving the United Nations pride of place indicates one important target of global governance reform.

Beyond categorization, there are other reasons for focussing on these three aspects in appraising what the Global Strategy means for the future of EU foreign policy. A focus on law is justified because the changed context puts in question the emphasis on 'integration through law' both within the European Union and internationally.<sup>8</sup> Governance merits special attention because of the emphasis in EU foreign policy on what used to be called 'effective multilateralism'<sup>9</sup> and the observation that the EU operates under a 'governance mode'<sup>10</sup> in its external relations. This emphasis, too, is under pressure as institutions that have been seen as cornerstones of contemporary global governance are being challenged, ranging from the United Nations to human rights bodies, NATO, and the WTO. The latter serves as a particularly stark example where both the rule of law and global governance institutions are under siege at the same time, seeing the US government's on-going attempt to erode the WTO Appellate Body by blocking the appointment of new members as the current members' terms gradually expire.<sup>11</sup> Lastly, nuance matters because of the equally long-standing observation of a 'capabilities–expectations gap'<sup>12</sup> in EU foreign policy, i.e., falling short of living up to its own ambitions as a global actor. While such shortcomings have long been pointed out by scholars,<sup>13</sup> the need for nuance, also called 'principled

<sup>7</sup> See e.g. European Union Institute for Security Studies, *After the EU Global Strategy – Consulting the experts – Security and defence* (2016); and with a focus human rights, C. Altafin, V. Haász & K. Podstawa, *The New Global Strategy for the EU's Foreign and Security Policy at a Time of Human Rights Crises*, 35 N. Q. H. R. 122 (2017).

<sup>8</sup> See e.g. M. Leonard, *Why Europe Will Run the 21st Century* 36 (Fourth Estate 2005), who describes law as the EU's 'weapon of choice' in international relations.

<sup>9</sup> See on the conceptualization of this notion, J. Wouters, S. de Jong & Ph. De Man, *The EU's Commitment to Effective Multilateralism in the Field of Security: Theory and Practice*, 29 Y.B. Eur. L. 164, 170–174 (2010).

<sup>10</sup> G. de Búrca, *EU External Relations: The Governance Mode of Foreign Policy*, in *The EU's Role in Global Governance: The Legal Dimension*, 39 (B. Van Vooren, S. Blockmans & J. Wouters eds, Oxford University Press 2013).

<sup>11</sup> G. Schaffer, *The Slow Killing of the World Trade Organization*, Huffington Post (17 Nov. 2017), [https://www.huffingtonpost.com/entry/the-slow-killing-of-the-world-trade-organization\\_us\\_5a0ccd1de4b03fe7403f82df](https://www.huffingtonpost.com/entry/the-slow-killing-of-the-world-trade-organization_us_5a0ccd1de4b03fe7403f82df) (accessed 25 July 2018).

<sup>12</sup> C. Hill, *The Capability-Expectations Gap, or Conceptualising Europe's International Role*, 31 J. Com. Mkt. Stud. 305 (1993).

<sup>13</sup> See e.g. A. Toje, *The European Union as a Small Power*, 49 J. Com. Mrk. Stud. 43 (2011); and A. Hyde-Price, *A Neurotic 'Centaur' – The Limitations of the EU as a Strategic Actor*, in *The European Union and Strategy: An Emerging Actor*, 153 (Kjell Engelbrekt & Jan Hallenberg eds, Routledge 2008).

pragmatism'<sup>14</sup> in the Global Strategy or 'Realpolitik with European Characteristics' by analysts,<sup>15</sup> seems now more present than ever.

Whether this additional dose of nuance will be sufficient to make EU external action more credible and effective, in a context in which both a Member State with significant economic and military capabilities and important international clout is preparing to leave and the EU's most important international partner is becoming unpredictable, will be put to the test as the EUGS is being implemented. Therefore, the final main section addresses the double challenge of a 'hard Brexit' and the Trump Presidency for the EU as a global actor and elaborates on the argument for the need for the re-contextualization of the EUGS as a normative breakwater to the tide of anti-globalism and Euroscepticism.

## 2 FROM THE ESS AND LISBON TREATY TO THE EUGS

The Global Strategy is the latest episode in a series of high-level documents which set out the grand lines and ambitions of EU foreign policy. Its most direct predecessor is the European Security Strategy (ESS) of 2003. Following the disunion among EU Member States regarding the Iraq War, it served, firstly, to reinstate a sense of unity and purpose in EU external relations.<sup>16</sup> Secondly, its aim was to develop further the overarching vision of the EU's role in the world, which was now cast explicitly in strategic terms.

Though some commentators noted that the 2003 document had little in common with national security strategies of powers such as the United States,<sup>17</sup> I noted at the time that there was a considerable degree of overlap and compatibility between ESS and the US National Security Strategy, which had been issues by the administration of President George W. Bush.<sup>18</sup> In sketching out the main challenges, threats, and objectives of the EU, it expounded a comprehensive understanding of security. The ESS stressed that 'internal and external aspects of security are indissolubly linked',<sup>19</sup> that tackling security threats requires the use of

<sup>14</sup> EU Global Strategy, *supra* n. 1, at 8.

<sup>15</sup> S. Biscop, *The EU Global Strategy: Realpolitik with European Characteristics*, EGMONT Security Policy Brief No. 75 (June 2016).

<sup>16</sup> Klaus Becher, *Has-Been, Wannabe, or Leader: Europe's Role in the World After the 2003 European Security Strategy*, 13 Eur. Sec. 345, 346–347 (2004).

<sup>17</sup> A. Riemer & G. Hauser, *Die Nationale Sicherheitsstrategie der USA und die Europäische Sicherheitsstrategie: Ein Vergleich des Unvergleichbaren*, in *Die Sicherheitsstrategien Europas und der USA: Transatlantische Entwürfe für eine Weltordnungspolitik*, 104 (T. Jäger, A. Höse & K. Oppermann eds, Nomos 2005); and A. Toje, *The 2003 European Union Security Strategy: A Critical Appraisal*, 10 Eur. Foreign Aff. Rev. 117 (2005).

<sup>18</sup> J. Larik, *Kennedy's 'Two Pillars' Revisited: Does the ESDP Make the EU and the US Two Equal Partners in NATO?*, 14 Eur. Foreign Aff. Rev. 289, 295–297 (2009).

<sup>19</sup> European Council, *A Secure Europe in a Better World: European Security Strategy*, 2 (Brussels, 12 Dec. 2003).

all policy tools with an emphasis on multilateral solutions, and that success depends on addressing root causes.<sup>20</sup>

Law and governance are both emphasized as central elements of EU foreign policy in the ESS. It identified the 'development of a stronger international society, well-functioning international institutions and a rule-based international order' as well as the EU's commitment 'to upholding and developing International Law' as objectives and noted that the 'fundamental framework for international relations is the United Nations Charter'.<sup>21</sup> Though it acknowledged that there 'are few if any problems we can deal with on our own',<sup>22</sup> the ESS both starts and ends with notes brimming with confidence, observing the 'increasing convergence of European interests and the strengthening of mutual solidarity of the EU'<sup>23</sup> and its 'potential to make a major contribution, both in dealing with the threats and in helping realise the opportunities'.<sup>24</sup>

Subsequently, the Lisbon Treaty, which entered into force in December 2009, not only established the current legal framework of the EU, but also contributed to defining the overarching vision of EU foreign policy prior to the Global Strategy. Already at the Convention on the Future of Europe of 2002/2003, which was tasked with drafting the Treaty Establishing a Constitution for Europe, the idea emerged of codifying a general statement of EU foreign policy goals.<sup>25</sup> After the Constitutional Treaty's failure, elements such as the flag and anthem were removed from what would become the Lisbon Treaty in order to make it more palatable to electorates weary of adding such state-like elements. However, the foreign policy aspects were virtually all taken over.<sup>26</sup>

Innovations in the area of EU foreign policy brought about by the Lisbon Treaty include, firstly, institutional reforms such as an enhanced, double-hatted High Representative of the Union for Foreign Affairs and Security Policy supported by a new European External Action Service (EEAS). Secondly, it enshrined a set of foreign policy objectives spanning all policy areas in the EU's highest laws. These can be found in Articles 3(5) and 21 TEU and provide a broad normative basis of EU external action, including a mandate to contribute to 'peace, security, the sustainable development of the Earth, [...] as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter' (Article 3(5) TEU).<sup>27</sup>

<sup>20</sup> See also S. Biscop, *The European Security Strategy in Context: A Comprehensive Trend*, in *The EU and the European Security Strategy: Forging a Global Europe*, 5 (S. Biscop & J. J. Andersson eds, Routledge 2008).

<sup>21</sup> European Council, *supra* n. 19, at 9.

<sup>22</sup> *Ibid.*, at 13.

<sup>23</sup> *Ibid.*, at 1.

<sup>24</sup> *Ibid.*, at 14.

<sup>25</sup> J. Larik, *Foreign Policy Objectives in European Constitutional Law*, 82–86 (Oxford University Press 2016).

<sup>26</sup> J.-C. Piris, *The Lisbon Treaty: A Legal and Political Analysis*, 25–48 and 238 et seq. (Cambridge University Press 2010).

<sup>27</sup> See further Larik, *supra* n. 25, at 124.

The TEU post-Lisbon puts a clear emphasis on the cross-cutting importance of law and governance in the EU's external relations. As Article 21 TEU notes, the EU 'shall promote multilateral solutions to common problems, in particular in the framework of the United Nations' (Article 21(1)(2) TEU), 'consolidate and support democracy, the rule of law, human rights and the principles of international law' (Article 21(2)(b) TEU), and 'promote an international system based on stronger multilateral cooperation and good global governance' (Article 21(2)(h) TEU). It is with this history in mind that we have to understand the EU's Global Strategy as the latest milestone in the process of articulating the EU's international identity and ambitions, including the prominent role assumed therein of global governance and the rule of law.

### 3 LAW, GOVERNANCE, AND NUANCE IN THE GLOBAL STRATEGY

The overall trajectory of the formulation and codification of the substantive normative basis of EU foreign policy is one of continuous evolution. The core values and objectives are increasingly clearly defined and law and governance emerge as overarching themes. The Global Strategy of June 2016 can be understood as the next step in this process. However, at the same time there is a shift away from the trend of seemingly ever-increasing ambition, warranted by a new awareness of the strategic limitations of the European Union and its Member States in a changing global environment. This justifies the introduction of what can be termed 'nuance' in the Global Strategy as a prominent cross-cutting element compared to earlier documents. This section elaborates on the observation that while the emphasis on law and governance as hallmarks of EU external relations is retained, a striking difference is the infusion of nuance as an umbrella term for what is also known as pragmatism, prioritization, or *realpolitik*.

#### 3.1 A CONTINUED EMPHASIS ON LAW AND NORMS

The Global Strategy continues the tradition of a rules-based approach to EU external relations. This approach has three related facets. Firstly, EU external action is guided by compliance with norms and procedures as stipulated in the EU Treaties and existing international legal norms. Secondly, legal instruments are used by the EU as a vehicle for other substantive goals and interests of EU foreign policy. Thirdly, international law is not static and needs to be developed further.

The first facet points at both the EU and others. Regarding the former, the EUGS recalls that the EU's values are 'enshrined in the Treaties'<sup>28</sup> and that '[r]emaining true to our values is a matter of law as well as of ethics and

<sup>28</sup> EU Global Strategy, *supra* n. 1, at 13.

identity'.<sup>29</sup> This statement serves an important function in connecting the Global Strategy to the EU Treaties, which both entrench the EU's core values (Article 2 TEU) and commit the Union to promote them in its external action (Articles 3 (5) and 21(1) TEU). In addition, the EU Treaties contain the division of tasks and procedures to be followed in order to achieve this. As the EUGS notes, 'our diplomatic action must be fully grounded in the Lisbon Treaty'.<sup>30</sup>

In a number of instances, moreover, the Global Strategy underlines that measures employed by the EU in its external action must be in compliance with both EU and international law, e.g., 'human rights-compliant anti-terrorism cooperation' with external partners.<sup>31</sup> Also regarding improvements to European security and defence capabilities, the EUGS notes that these should be carried out in 'full compliance with international law'.<sup>32</sup>

Fostering compliance with international law by others is another recurring theme in the EUGS, which clarifies that the 'strict observance' of international law (Article 3(5) TEU) is not only a self-referential objective. For instance, Russia's 'violation of international law and the destabilisation of Ukraine' are mentioned as having 'challenged the European security order at its core'.<sup>33</sup> In response, the EUGS vows that the 'EU will stand united in upholding international law, democracy, human rights, cooperation and each country's right to choose its future freely'.<sup>34</sup> More generally, the Global Strategy continues, '[s]ubstantial changes in relations between the EU and Russia are premised upon full respect for international law and the principles underpinning the European security order'.<sup>35</sup>

Concerning relations with China, moreover, the EUGS premises engagement 'on respect for the rule of law, both domestically and internationally'.<sup>36</sup> In a thinly veiled reference to the South China Sea dispute and the award of the arbitral tribunal at the Permanent Court of Arbitration (PCA), which was pending at the time when the EUGS was finalized,<sup>37</sup> the Strategy notes that in 'East and Southeast Asia, we will uphold freedom of navigation, stand firm on the respect for international law, including the Law of the Sea and its arbitration procedures, and encourage the peaceful settlement of maritime disputes'.<sup>38</sup>

<sup>29</sup> *Ibid.*, at 15.

<sup>30</sup> *Ibid.*, at 46.

<sup>31</sup> *Ibid.*, at 21.

<sup>32</sup> *Ibid.*, at 30.

<sup>33</sup> *Ibid.*, at 33, where the EU vows also that it will 'not recognize Russia's illegal annexation of Crimea'.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*, at 37.

<sup>37</sup> *The South China Sea Arbitration (The Republic of Philippines v. The People's Republic of China)*, PCA Case No. 2013-19, Award of 12 July 2016, ruling in the vast majority of points in favour of the Philippines and condemning China for violating a range of obligations under international law.

<sup>38</sup> EU Global Strategy, *supra* n. 1, at 38.



International law features, moreover, as a vehicle for advancing some of the EU's substantive foreign policy goals and interests. Prosperity is to be furthered through 'shaping global economic and environmental rules'.<sup>39</sup> Regarding security policy, the Global Strategy notes that a 'multilateral order grounded in international law, including the principles of the UN Charter and the Universal Declaration of Human Rights, is the only guarantee for peace and security at home and abroad'.<sup>40</sup> The Iran nuclear deal – now disavowed by the US (see section 4.2) – is used as an example of a success story in this regard.<sup>41</sup> Though it is technically not an international agreement, this showcasing is unsurprising given that the EU played a leading role alongside the US and others in bringing the deal to fruition.<sup>42</sup>

Promoting the rule of law, furthermore, features among the goals in relations with the Western Balkans and Turkey as part of the EU's enlargement policy.<sup>43</sup> In terms of promoting resilience in the EU's neighbourhood more widely, the Global Strategy names legal instruments as tools for promoting the rule of law further. Law is thus both means and end here: 'We will use our trade agreements to underpin sustainable development, human rights protection and rules-based governance'.<sup>44</sup>

In relations with African countries, to give another example, the Global Strategy refers to the Economic Partnership Agreements (EPAs) as a means to 'spur African integration and mobility, and encourage Africa's full and equitable participation in global value chains'.<sup>45</sup> The EUGS also highlights the Transatlantic Trade and Investment Partnership (TTIP) with the United States as an instrument for advancing a wider global agenda. This international agreement – the negotiations of which are on hold – was to demonstrate, in the words of the EUGS, 'transatlantic commitment to shared values' and to signal 'willingness to pursue an ambitious rules-based trade agenda'.<sup>46</sup>

The third facet of developing the international legal order also has a basis in the EU Treaties, which mandate the Union not only to contribute to the 'strict observance' of international law as it stands, but also to contribute to its further 'development' (Article 3(5) TEU). The EUGS picks up this idea and lists as one of

<sup>39</sup> *Ibid.*, at 15.

<sup>40</sup> *Ibid.*, at 15–16.

<sup>41</sup> EU Global Strategy, *supra* n. 1, at 15. The Iran nuclear deal was presented first in a Joint Statement by EU High Representative Federica Mogherini and Iranian Foreign Minister Javad Zarif, and is available publicly as the Joint Comprehensive Plan of Action (Vienna, 14 July 2015), [http://eeas.europa.eu/archives/docs/statements-eeas/docs/iran\\_agreement/iran\\_joint-comprehensive-plan-of-action\\_en.pdf](http://eeas.europa.eu/archives/docs/statements-eeas/docs/iran_agreement/iran_joint-comprehensive-plan-of-action_en.pdf) (accessed 25 July 2018).

<sup>42</sup> See C. Adebahr, *Europe and Iran: The Nuclear Deal and Beyond*, 6 (Routledge 2016).

<sup>43</sup> EU Global Strategy, *supra* n. 1, at 24.

<sup>44</sup> *Ibid.*, at 27.

<sup>45</sup> *Ibid.*, at 36.

<sup>46</sup> *Ibid.*, at 37. For critical remarks in this regard, especially in terms of taking a step back from the well-established WTO dispute settlement system, see J. Larik, *Critiquing TTIP: Systemic Consequences for Global Governance and the Rule of Law*, 43 *Legal Issues Econ. Integration* 423 (2016).



the Union's vital interests the promotion of 'a rules-based global order with multilateralism as its key principle and the United Nations at its core'.<sup>47</sup> This includes widening 'the reach of international norms, regimes and institutions'.<sup>48</sup> This is to be achieved in particular by encouraging states and other international actors to sign up to international treaties, and 'to support the UN Human Rights Council and encourage the widest acceptance of the jurisdiction of the International Criminal Court and the International Court of Justice'.<sup>49</sup>

Lastly, in terms of the content of international rules, the EUGS stresses that at 'the frontiers of global affairs, rules must be further developed to ensure security and sustainable access to the global commons'.<sup>50</sup> Specifically mentioned are the areas of cyber governance, energy, space, health, biotechnology, artificial intelligence, robotics and remotely piloted systems. At all times, the overall development of international law is closely intertwined with reforming global governance.

### 3.2 A CONTINUED EMPHASIS ON GOVERNANCE AND INSTITUTIONS

In addition to a continued emphasis on the rule of law and international norms, the Global Strategy exhibits a parallel and related emphasis on governance and strong institutions at the global, regional and national levels.

At the global level, this commitment is most clearly expressed in the section entitled 'Global Governance in the 21st century'. Harking back to Article 21 of the TEU,<sup>51</sup> the EUGS stresses that '[g]uided by the values on which it is founded, the EU is committed to a global order based on international law, including the principles of the UN Charter, which ensure peace, human rights, sustainable development and lasting access to the global commons'.<sup>52</sup> This goes beyond maintaining existing institutions and dovetails with the idea of developing of international law further. According to the EUGS, a commitment to global governance 'translates into an aspiration to transform rather than simply preserve the existing system'.<sup>53</sup>

Reform of the institutions of global governance is to be based on the principles of 'accountability, representativeness, responsibility, effectiveness and transparency'.<sup>54</sup> Specifically mentioned targets of reform are 'the UN, including the Security

<sup>47</sup> EU Global Strategy, *supra* n. 1, at 15.

<sup>48</sup> *Ibid.*, at 41.

<sup>49</sup> *Ibid.*, at 42.

<sup>50</sup> *Ibid.*

<sup>51</sup> Art. 21(1)(1) TEU: 'The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world'.

<sup>52</sup> EU Global Strategy, *supra* n. 1, at 39.

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*

Council, and the International Financial Institutions (IFIs).<sup>55</sup> Moreover, the EUGS notes that the World Trade Organization (WTO) should again become ‘the centre of global negotiations’<sup>56</sup> – a reference to the stalled multilateral trade talks known as the ‘Doha Round’.

Furthermore, NATO is acknowledged as ‘the bedrock of Euro-Atlantic security for almost 70 years’,<sup>57</sup> with which the EU vows to build closer cooperation. This continues the language used in the ESS, which in 2003 underlined that ‘[o]ne of the core elements of the international system is the transatlantic relationship’ and that ‘NATO is an important expression of this relationship’.<sup>58</sup> However, it must be noted that the ‘Berlin Plus’ arrangement, which allows the EU to make use of part of NATO’s assets in its operations, has not been used for over a decade, while interaction between the two organizations overall remains limited.<sup>59</sup>

The Strategy also puts an emphasis on regional governance through integration. For instance, the EU ‘will promote and support cooperative regional orders worldwide, including in the most divided areas’.<sup>60</sup> With regard to its relations with its Southern neighbourhood, the Strategy notes that the ‘EU will intensify its support for and cooperation with regional and sub-regional organisations in Africa and the Middle East, as well as functional cooperative formats in the region’, including through the Union for the Mediterranean and the Arab League.<sup>61</sup> The stated aim of a trade agreement with ASEAN, moreover, serves an example for inter-regional cooperation.<sup>62</sup>

The EUGS stresses furthermore the importance of good governance and well-functioning institutions at the national level. It does this by making these aspects part of the notion of ‘resilience’, a concept which features prominently in the Strategy. In the words of the EUGS, a ‘resilient society featuring democracy, trust in institutions, and sustainable development lies at the heart of a resilient state’.<sup>63</sup> In this same spirit, the EUGS vows that the EU will ‘pursue locally owned rights-based approaches to the reform of the justice, security and defence sectors, and support fragile states in building capacities’.<sup>64</sup> Here again, the Global Strategy combines law and governance aspects, having added the domestic level to the

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*, at 42.

<sup>57</sup> *Ibid.*, at 38.

<sup>58</sup> *European Security Strategy*, *supra* n. 19, at 9.

<sup>59</sup> S. Duke & S. Vanhoonacker, *NATO-EU Relations: Top-down Strategic Paralysis, Bottom-up Cooperation*, in *The EU, Strategy and Security Policy: Regional and Strategic Challenges*, 157 (L. Chappell, J. Mawdsley & P. Petrov eds, Routledge 2016).

<sup>60</sup> EU Global Strategy, *supra* n. 1, at 32.

<sup>61</sup> *Ibid.*, at 34.

<sup>62</sup> *Ibid.*, at 38.

<sup>63</sup> *Ibid.*, at 24.

<sup>64</sup> *Ibid.*, at 26.

regional and global ones. This amounts to an ambitious transformative agenda, which raises questions as to its realizability.

### 3.3 NUANCE: OPERATING WITHIN THE BOUNDS OF THE POSSIBLE

A major criticism of EU strategic documents, and EU foreign policy at large, has been aimed at the high expectations that are being raised but not followed up on with the political will, capabilities, and instruments to meet them.<sup>65</sup> The EUGS breaks with this trend. Admittedly, it remains an ambitious document both in scope and substance, but it combines this with an emphasis on nuance and prioritization, which it calls '[p]rincipled pragmatism'.<sup>66</sup> It furthermore that '[i]n charting the way between the Scylla of isolationism and the Charybdis of rash interventionism, the EU will engage the world manifesting responsibility towards others and sensitivity to contingency'.<sup>67</sup> The main expressions of principled pragmatism are a focus on the EU's neighbourhood, more flexibility in terms of promoting regional integration, clarifying that the EU will connect and facilitate rather than try to deliver on its own, and blending normative foreign policy with the pursuit of its own interests.

Regarding the focus on the neighbourhood, the Global Strategy states that the EU 'will take responsibility foremost in Europe and its surrounding regions, while pursuing targeted engagement further afield'.<sup>68</sup> While the EU's transformative potential has been lauded when it comes to enlargement,<sup>69</sup> the wider neighbourhood policy to the East and South has received a more sobering assessment.<sup>70</sup> By refocussing EU foreign policy on the surroundings, the EUGS can be seen as an attempt at remedying this and to create more easily visible successes and benefits for its citizens. However, it creates at the same time a paradox in that the *Global Strategy* has a distinctly *regional* outlook.

In terms of (inter-)regional cooperation, the EUGS contains an explicit endorsement of different forms of integration: 'We will not strive to export our model, but rather seek reciprocal inspiration from different regional experiences'.<sup>71</sup> Accordingly, the EU seems to step back from the idea that other regional

<sup>65</sup> See already Ph. Gordeon, *Europe's Uncommon Foreign Policy*, 22 Int'l Sec. 74 (1997/98); and subsequently A. Menon, *La politique de défense européenne après le traité de Lisbonne: Beaucoup de bruit pour rien*, 2 Politique étrangère 375 (2011).

<sup>66</sup> EU Global Strategy, *supra* n. 1, at 16.

<sup>67</sup> *Ibid.*, at 16.

<sup>68</sup> *Ibid.*, at 18.

<sup>69</sup> See e.g. H. Grabbe, *The EU's Transformative Power: Europeanization Through Conditionality in Central and Eastern Europe* (Palgrave Macmillan 2006); and M. Cremona, *The Impact of Enlargement: External Policy and External Relations*, in *The Enlargement of the European Union*, 161 (M. Cremona ed., Oxford University Press 2003).

<sup>70</sup> See S. Giusti, *The EU's Transformative Power Challenged in Ukraine*, 21(2) Eur. Foreign Aff. Rev. 165 (2016); and N. Tocci, *The Neighbourhood Policy is Dead. What's Next for European Foreign Policy Along Its Arc of Instability?*, IAI Working Paper 14/16 (Nov. 2016).

<sup>71</sup> EU Global Strategy, *supra* n. 1, at 32.

organizations should follow the same path of ‘integration through law’<sup>72</sup> with strong supranational institutions forging an ‘ever closer union’ (Preambles of the TEU and TFEU). On the one hand, this puts a caveat on the emphasis on law as an EU foreign policy hallmark. On the other, it makes the commitment to work with organizations such as ASEAN, whose Member States have deliberately chosen a less legalistic and more sovereignty-sensitive model of regional governance (called the ‘ASEAN Way’<sup>73</sup>) more credible. However, there is a tension for the EU in situations when regional organizations commit or condone violations of international law, in particular human rights. The question then arises to which extent the EU will continue to promote collaboration for the sake of mutual inspiration.

Moreover, rather than creating the impression of wanting to lead and deliver on its own, the EUGS uses the term ‘partnership’ as one of the guiding principles of EU external action. ‘The EU will be a responsible global stakeholder’, the Strategy notes, adding that ‘responsibility must be shared and requires investing in our partnerships’.<sup>74</sup> To this end, the EU commits to ‘partner *selectively* with players whose cooperation is *necessary* to deliver global public goods and address common challenges’.<sup>75</sup> This acknowledges, firstly, that the EU cannot solve global challenges alone, and, secondly and more importantly, that multilateralism will only involve as many key partners as necessary. Hence, the EUGS vows that the EU will cooperate with variable sets of partners, including non-state actors, depending on the issue in question. Seen in this light, the term ‘functional multilateral cooperation’<sup>76</sup> used in the Strategy could be seen as a watered-down version of ‘effective multilateralism’. Regarding particular areas, the EUGS speaks of ‘selective engagement’, for instance in the areas of climate, Arctic governance, maritime security and research.<sup>77</sup>

Lastly, it is made explicit that EU external action will not be purely altruistic but will instead be conducted in a way that caters also to the EU’s own more immediate interests. For instance, in the area of development cooperation, the EU will ‘blend development efforts with work on migration’.<sup>78</sup> This point is reiterated later, where the Strategy stresses that ‘development policy will become more flexible and aligned with our strategic priorities’.<sup>79</sup> This concerns also development financing, as the

<sup>72</sup> M. Cappelletti, M. Secombe & J. H. H. Weiler, *Integration Through Law: Europe and the American Federal Experience – A General Introduction*, in *Integration Through Law: Europe and the American Federal Experience*, vol. I-1, 3 (M. Cappelletti, M. Secombe & J. H. H. Weiler eds, Walter de Gruyter 1986).

<sup>73</sup> See R. Wong, *Model Power or Reference Point? The EU and the ASEAN Charter*, 25 *Cambridge Rev. Int’l Aff.* 669, 671 (2012).

<sup>74</sup> EU Global Strategy, *supra* n. 1, at 18.

<sup>75</sup> *Ibid.* (emphases added).

<sup>76</sup> *Ibid.*, at 34.

<sup>77</sup> *Ibid.*, at 33.

<sup>78</sup> *Ibid.*, at 36.

<sup>79</sup> *Ibid.*, at 48.

EUGS points out that 'lengthy programming cycles limit the timely use of EU support, and can reduce our visibility and impact'.<sup>80</sup>

Overall, the role the EUGS devises for the EU in the world is twofold. One is to 'lead by example on global governance',<sup>81</sup> which harks back to Ian Manners's original conception of normative power, i.e., that 'the most important factor shaping the international role of the EU is not what it does or what it says, but what it is'.<sup>82</sup> The other is outward looking, but realistic about limits in terms of leadership qualities or capacities on the EU's part, which is to act 'as an agenda-shaper, a connector, coordinator and facilitator within a networked web of players'.<sup>83</sup> With the UK on its way out from the Union, and President Trump in the White House, this 'web of players' the EU wants to draw on has shifted rather dramatically, while challenging the erstwhile largely uncontroversial normative outlook enshrined in the Global Strategy.

#### 4 FROM UNCONTROVERSIAL CONSENSUS TO DISTINCTIVE VISION

The EU's Global Strategy, due to the upheavals on both sides of the Atlantic, has become a more controversial yet also more important document than probably even its framers would have anticipated. With its emphasis on law and global governance, infused with an extra dose of pragmatism, it represents continuity in terms of substance and a rupture in terms of stopping the trend of ever-higher global ambitions. Being the project of a year-long process of consultations and having obtained the approval of the European Council, the EUGS is the epitome of a consensus document. By definition, its content should be deemed mainstream or uncontroversial to policy makers, experts and citizens, and arguably also among the EU's allies and partners in Europe and beyond.

With the outcome of the referendum in the UK in favour of leaving the European Union and the subsequent election of Donald Trump as President of the United States, politics are in turmoil in Europe. Internal challenges to the liberal values the EU embodies, and which it seeks to promote globally, had already been present in certain Member States such as Poland and Hungary.<sup>84</sup> These challenges can potentially undo the claimed successes of the EU's enlargement policy from within. Internal tools, such as the EU's rule of law mechanism, are consequently employed to tackle them,

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*, at 43.

<sup>82</sup> I. Manners, *Normative Power Europe: A Contradiction in Terms?*, 40 *J. Com. Mkt. Stud.* 235, 252 (2002).

<sup>83</sup> EU Global Strategy, *supra* n. 1, at 43.

<sup>84</sup> R. D. Kelemen & M. Orenstein, *Europe's Autocracy Problem Polish Democracy's Final Days?*, *For. Aff.* (7 Jan. 2016), <https://www.foreignaffairs.com/articles/poland/2016-01-07/europes-autocracy-problem> (accessed 25 July 2018); and R. Uitz, *Can You Tell When an Illiberal Democracy is in the Making? An Appeal to Comparative Constitutional Scholarship from Hungary*, 13 *Int'l J. Const. L.* 279 (2015).

though their effectiveness remains to be established.<sup>85</sup> From an external perspective, such democratic backsliding may diminish the EU's authority to 'lead by example'.

The Brexit vote and the election of Donald Trump, by contrast, are unambiguous foreign policy challenges. This is certainly the case concerning relations with the United States, but also as regards the EU's future relationship with the UK, in particular the negotiation of an international agreement to serve as a framework for the future EU-UK relationship. These challenges let the EU Global Strategy appear in a different light. As this section argues, both challenge hallmarks of the EU's international identity, including its emphases on law and governance in its external relations, its clout as a global actor, and even the European integration project as such. In the following, both the withdrawal process of the UK from the EU and the Trump Presidency in the US will be assessed regarding their relevance for EU foreign policy in general and the EUGS in particular.

#### 4.1 (HARD) BREXIT AND 'GLOBAL BRITAIN'

The referendum on the UK's membership of the EU had direct consequences for the EUGS, which were subsequently aggravated as the negotiations with the EU regarding withdrawal commenced. Given that the EUGS was approved only a few days after the referendum, it was felt by its drafters that a reference to this momentous event was required. Hence, the foreword by High Representative Federica Mogherini starts with the observation that the 'purpose, even existence, of our Union is being questioned'.<sup>86</sup> She goes on to note that strategic thinking and a joint approach to foreign policy are needed even more 'after the British referendum'.<sup>87</sup> Legally, the referendum was not binding. However, after the British government triggered Article 50 TEU on 29 March 2017, the process established therein has been set in motion, which means the UK will cease to be an EU Member State after a withdrawal agreement enters into force or otherwise two years after the triggering.<sup>88</sup> The prospect of an EU without the UK is relevant for the EUGS as regards the three aspects highlighted in this article.

First, the need for nuance, in terms of pragmatism and prioritization, becomes even more salient when a Member State with one of the largest economies, militaries and international clouts is preparing to leave. As noted by Sophia

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<sup>85</sup> D. Kochenov & L. Pech, *Better Late than Never? On the European Commission's Rule of Law Framework and Its First Activation*, 54 J. Com. Mkt. Stud. 1062 (2016).

<sup>86</sup> EU Global Strategy, *supra* n. 1, at 3.

<sup>87</sup> *Ibid.*

<sup>88</sup> Note that Art. 50(3) TEU stipulates that the two-year deadline can be extended by unanimous agreement between all Member States including the UK. Alternatively, the UK could decide to revoke its Art. 50 TEU notification, which some scholars argue is legally possible, see A. Sari, *Reversing a Withdrawal Notification Under Article 50 TEU: Can a Member State Change Its Mind?* 42 Eur. L. Rev. 451 (2017).

Besch, 'the UK is one of only two credible military powers in the EU' and 'one of only four members that spends 2 per cent of GDP on defence'.<sup>89</sup> The UK possesses, moreover, 'assets that are more difficult to quantify: the global outlook of the British, their diplomatic network, and the professionalism and training of their military personnel'.<sup>90</sup> To use Christopher Hill's concept of the capabilities–expectations gap, while the introduction of 'principled pragmatism' in the EUGS can be seen as an attempt to lower expectations in EU foreign policy, the withdrawal of the UK will significantly reduce its capabilities, thus widening the gap again. To a limited extent, this loss may be mitigated by better cooperation between the Member States of the EU27,<sup>91</sup> as well as by continued close cooperation between the UK and EU. The latter was indicated as a point of interest in Prime Minister Theresa May's speech at Lancaster House,<sup>92</sup> and later stressed in the British government's position paper on *Foreign policy, defence and development*. The position paper expresses the UK's intention to build 'a future partnership with the EU unlike any other EU–third country relationship'.<sup>93</sup> The UK's contribution to such a partnership is to be 'unprecedented in its breadth, taking in cooperation on diplomacy, defence and security, and development, and in its depth, in terms of the degree of engagement that the UK and the EU should aim to deliver'.<sup>94</sup> The British Prime Minister reiterated the desire for close cooperation in the area of security both at the Munich Security Conference in February 2018<sup>95</sup> and in the White Paper following the cabinet talks at Chequers in July 2018.<sup>96</sup>

Nevertheless, close cooperation in foreign and security policy will look very different from what the UK currently has as an EU Member State. In particular, it will no longer have a veto in decision-making in the Common Foreign and Security Policy (CFSP), which is governed largely by the unanimity principle.<sup>97</sup> Instead, the UK could take part in the CFSP as a third country. However, existing frameworks

<sup>89</sup> S. Besch, *EU Defence, Brexit and Trump: The Good, the Bad and the Ugly*, Centre for European Reform, 2 (Dec. 2016).

<sup>90</sup> *Ibid.*

<sup>91</sup> See Council of the European Union, *Council Conclusions on Implementing the EU Global Strategy in the Area of Security and Defence*, Brussels 14149/16 (Brussels, 14 Nov. 2016); High Representative of the Union for Foreign Affairs and Security Policy, Vice President of the European Commission, and Head of the European Defense Agency, *Implementation Plan on Security and Defence*, 14392/16 (Brussels, 14 Nov. 2016).

<sup>92</sup> Prime Minister's Office, *supra* n. 4: 'We will continue to work closely with our European allies in foreign and defence policy even as we leave the EU itself.'

<sup>93</sup> See HM Government, *Foreign Policy, Defence and Development: A Future Partnership Paper*, 22 (12 Sept. 2017).

<sup>94</sup> *Ibid.*

<sup>95</sup> Prime Minister's Office, The Rt Hon Theresa May MP, *PM speech at Munich Security Conference* (17 Feb. 2018), <https://www.gov.uk/government/speeches/pm-speech-at-munich-security-conference-17-february-2018> (accessed 25 July 2018).

<sup>96</sup> HM Government, *The Future Relationship Between the United Kingdom and the European Union*, Cm 9593, 51–72 (July 2018).

<sup>97</sup> Art. 24(1)(2) TEU.



show that no decision-making powers are provided to non-members.<sup>98</sup> A similar point was made in the decision to launch Permanent Structured Cooperation (PESCO) in December 2017. While third country participation is an option, the decision notes that third countries may be invited only ‘exceptionally’ and that they will not be granted ‘decision powers’.<sup>99</sup>

Secondly, in normative terms, concerning the emphasis on global governance, the effect of the UK’s withdrawal is much less clear compared to the change of government in the United States, which is discussed below. On the one hand, the British government has denounced the London Fisheries Convention and threatened to withhold funding from the United Nations.<sup>100</sup> Whether the UK might withdraw from the European Convention of Human Rights in the future remains unclear.<sup>101</sup> On the other, the UK continues to support multilateral approaches such as the Paris Climate Accord and the WTO,<sup>102</sup> and has thus far not issued any plans aiming at the withdrawal from other international organizations. Instead, the Prime Minister acknowledged the challenges facing the global order and ‘the rules-based system that underpins our very way of life’<sup>103</sup> in her Munich Security Conference speech. In a similar vein, the White Paper of July 2018 stresses that the ‘UK and the EU sit at the heart of the rules-based international system as champions of multilateralism’.<sup>104</sup> Regarding treaty relations, the UK’s official objective is maintaining ‘continuity’ of existing relationships.<sup>105</sup> To which extent, however, the label ‘Global Britain’ will be employed by the UK as a vehicle for going beyond continuity and towards strengthening and reinvigorating multilateral institutions, remains to be seen post-Brexit.

Thirdly, as regards the emphasis on international law and the rule of law more broadly, two related observations can be made. Concerning regional integration in

<sup>98</sup> See e.g. *Framework Agreement Between the United States of America and the European Union on the Participation of the United States of America in European Union Crisis Management Operations*, OJ (2011) L 143/2, Art. 1(3).

<sup>99</sup> Council of the European Union, *Council Decision (CFSP) 2017/2315 of 11 December 2017 establishing permanent structured cooperation (PESCO) and determining the list of participating Member States*, OJ (2017) L 331/57, Annex III, pt. 2.2.1, para. 7.

<sup>100</sup> See respectively UK Government, *UK Takes Key Step Towards Fair New Fishing Policy After Brexit*, Press Release (2 July 2017), <https://www.gov.uk/government/news/uk-takes-key-step-towards-fair-new-fishing-policy-after-brexit> (accessed 25 July 2018); and *UK Threatens to Withhold United Nations Funding*, BBC (20 Sept. 2017), <http://www.bbc.com/news/uk-politics-41337444> (accessed 25 July 2018).

<sup>101</sup> See M. Amos, *The Value of the European Court of Human Rights to the United Kingdom*, 28 Eur. J. Int’l L. 763, 764–765 (2017).

<sup>102</sup> See respectively J. Stone, *Britain Will not Renegotiate the Paris Climate Change Deal for Donald Trump, Theresa May says*, Independent (7 July 2017), <http://www.independent.co.uk/news/uk/politics/paris-climate-change-deal-g20-donald-trump-theresa-may-a7828531.html> (accessed 25 July 2018); and UK Department for International Trade, *Preparing for our future UK trade policy*, Cm 9470, 24–26 (Oct. 2017) on rules-based trade governance.

<sup>103</sup> Prime Minister’s Office, *supra* n. 95.

<sup>104</sup> HM Government, *supra* n. 96, at 51.

<sup>105</sup> UK Department for International Trade, *supra* n. 102, at 28.

particular, the act of withdrawing from the EU itself is undoubtedly a blow to the supranational, rules-based model espoused by the EU. Prime Minister May made clear as early as the Lancaster House address that the UK would not seek a future relationship with the EU that would resemble that of Norway, i.e., single market access through membership of the European Economic Area (EEA), which has its own adjudicatory mechanism in the form of the EFTA Court.<sup>106</sup> Despite 'soft' rhetoric, the Chequers Plan of July 2018 did not change the course towards a 'hard Brexit'.<sup>107</sup> Thus, the prospect of what has become known as a 'hard Brexit' is an unequivocal rejection of this particular form of regional governance characterized by 'integration through law'. While the EUGS now clearly states that the EU's brand of supranational regional integration does not need to be replicated elsewhere, Brexit does little to make this model shine by the power of attraction so that others would want to emulate it.<sup>108</sup>

At the global level, it is too soon to tell whether the UK's post-EU foreign policy will either align itself with the EU in developing further international norms or distance itself from the EU's commitments as expressed in the EUGS. This will depend also on the shape of the future UK-EU relationship, which may exhibit either a 'cooperative' approach to international agreements<sup>109</sup> and efforts 'to work closely together on sanctions'<sup>110</sup> applied to countries violating international law or will turn into an assertion of the UK's new-found autonomy in diverging from the EU's approaches.

Thus far, in addition to its quest for continuity, 'Global Britain' seems focussed on paving the way for a host of new international trade agreements post-Brexit.<sup>111</sup> However, while still an EU member, the UK lacks the competence to negotiate trade agreements, which is the EU's exclusive domain,<sup>112</sup> whereas during the transition it may be prohibited from becoming bound by any such agreements 'unless authorised to do so by the Union'.<sup>113</sup> Moreover, a number of such treaties would be needed for substituting for trade (and other) agreements the EU has already concluded

<sup>106</sup> Prime Minister's Office, *supra* n. 4: 'What I am proposing cannot mean membership of the single market'.

<sup>107</sup> HM Government, *supra* n. 96, at 1 (Foreword by the Prime Minister): 'And that is what we will do – leaving the Single Market and the Customs Union, ending free movement and the jurisdiction of the European Court of Justice in this country'.

<sup>108</sup> See e.g. R. Wong, *Brexit and the False Analogies with Asean*, Straits Times (3 Aug. 2016), <http://www.straitstimes.com/opinion/brexit-and-the-false-analogies-with-asean> (accessed 25 July 2018), attempting to refute concerns about ASEAN's future with the argument that its governance model is markedly different from the EU's.

<sup>109</sup> T. Streinz, *Cooperative Brexit: Giving Back Control over Trade Policy*, 15 Int'l J. Const. L. 271 (2017).

<sup>110</sup> Prime Minister's Office, *supra* n. 95.

<sup>111</sup> Prime Minister's Office, *supra* n. 4.

<sup>112</sup> Art. 3(1)(e) TFEU. The EU, however, could empower the UK to that effect under Art. 2(1) TFEU, as highlighted by Streinz, *supra* n. 109, at 284–287.

<sup>113</sup> Council of the European Union, *Supplementary Directives for the Negotiation of an Agreement with the United Kingdom of Great Britain and Northern Ireland Setting Out the Arrangements for Its Withdrawal from the European Union*, XT 21004/18, pt. 16 (Brussels, 29 Jan. 2018).

with external partners.<sup>114</sup> While this approach may quantitatively contribute to more international treaties, the idea of developing international norms would also mean that such ‘trade deals’ break new ground in terms of substance and institutional design. Whether they will reach – or will even be intended to reach – the level of sophistication that can be seen in the newer generation of EU trade agreements is unclear.<sup>115</sup> The US, on its part, has already signalled that it would expect the UK to abandon certain EU standards in exchange for a favourable future trade deal.<sup>116</sup>

#### 4.2 THE TRUMP PRESIDENCY AND ‘AMERICA FIRST’

Next to Brexit, the other momentous event to have profound effects on EU foreign policy was the election of Donald Trump as President of the United States. Already during his campaign and in the first one and a half years of his Presidency, Trump has openly challenged norms and conventions considered unshakable pillars of the Western liberal consensus and transatlantic relations.

Back in 2003, the ESS proclaimed that ‘the transatlantic relationship is irreplaceable’ and that when ‘[a]cting together, the European Union and the United States can be a formidable force for good in the world’.<sup>117</sup> This transatlantic commitment was reiterated in the EUGS in 2016, which states that a ‘solid transatlantic partnership through NATO and with the United States and Canada helps us strengthen resilience, address conflicts, and contribute to effective global governance’.<sup>118</sup> This formulation, put in its historical context, seems to assume that the United States would always be the strategic partner *par excellence* together with which the EU can pursue its foreign policy agenda, even given that the relationship passes through difficult periods at times.<sup>119</sup>

However, this relationship and its shared normative basis are now put in question. Breaking with the long-standing US policy to support European

<sup>114</sup> P. McClean et al., *The Brexit Treaty Renegotiation Checklist*, Financial Times (20 Aug. 2017), <https://ig.ft.com/brexit-treaty-database/> (accessed 25 July 2018).

<sup>115</sup> An example for this is the Comprehensive Economic and Trade Agreement between Canada and the EU and its Member States (CETA), which includes innovative chapters on trade and sustainable development. See further L. Puccio & K. Binder, *Trade and Sustainable Development Chapters in CETA*, European Parliamentary Research Service Briefing (Jan. 2017).

<sup>116</sup> See P. Crerar, P. Wintour & P. Walker, *Trump: Soft Brexit Will ‘Kill’ UK’s Chances of US Trade Deal*, Guardian (13 July 2018), <https://www.theguardian.com/politics/2018/jul/12/may-bids-for-trump-brexit-backing-with-vow-to-rip-up-red-tape> (accessed 25 July 2018); and earlier R. Partington, *Trump Adviser Ross Says UK-US Trade Deal Will Mean Scrapping EU Rules*, Guardian (6 Nov. 2017), <https://www.theguardian.com/business/2017/nov/06/trump-ross-says-uk-us-trade-deal-eu-brexit-chlorinated-chicken> (accessed 25 July 2018).

<sup>117</sup> *European Security Strategy*, *supra* n. 19, at 13.

<sup>118</sup> EU Global Strategy, *supra* n. 1, at 36.

<sup>119</sup> See for an overview G. Burghardt, *The EU’s Transatlantic Relationship*, in *Law and Practice of EU External Relations: Salient Features of a Changing Landscape*, 376 (A. Dashwood & M. Maresceau eds, Cambridge University Press 2008).

integration, in January 2017 then President-elect Trump, expressed open support for the UK's withdrawal from the EU, noting that 'Brexit is going to end up being a great thing',<sup>120</sup> observing also that the EU was 'a vehicle for Germany'<sup>121</sup> and that NATO was 'obsolete'.<sup>122</sup> A week later, in his inaugural address, the new US President summed up his country's new foreign policy outlook:

From this moment on, it's going to be America First. Every decision on trade, on taxes, on immigration, on foreign affairs, will be made to benefit American workers and American families. We must protect our borders from the ravages of other countries making our products, stealing our companies, and destroying our jobs. Protection will lead to great prosperity and strength.<sup>123</sup>

Even if during his tenure as US President most of this were to remain rhetoric, coming from the leader of the world's most powerful country cannot but rock the trust of America's allies including the EU and its Member States in its commitment to buttress, lead, and develop further the international (legal) order. The measure of nuance included in the EUGS, by any standards, cannot do justice to this upheaval in the transatlantic relationship and the geopolitical outlook at large.

In addition, the new US administration has shown little sympathy for the institutions of global governance and the international rule of law, even judging by the one and a half years that President Trump has been in office. The new President's stance can be summed up by the slogan he used on the campaign trail: 'Americanism, not globalism, will be our credo'.<sup>124</sup> A number of steps in putting this idea into action have become visible already during the first half of President Trump's term in office. During this period, the US has already withdrawn its signature from the Trans-Pacific Trade Partnership (TPP) that had been negotiated for eight years with eleven countries around the Pacific Rim.<sup>125</sup> Subsequently, in the course of 2017, the US has notified its intention to withdraw from the Paris Climate Agreement,<sup>126</sup> issued a notification to withdraw from UNESCO,<sup>127</sup> and ended its participation in drafting a UN Global

<sup>120</sup> As cited in the interview conducted by M. Gove, *Donald Trump Interview: Brexit Will Be a Great Thing*, The Times (15 Jan. 2017), <http://www.thetimes.co.uk/article/donald-trump-interview-brexit-brit-ain-trade-deal-europe-queen-5m0bc2tns> (accessed 25 July 2018).

<sup>121</sup> *Ibid.*

<sup>122</sup> *Ibid.*

<sup>123</sup> *Inaugural Address: Trump's Full Speech*, CNN (21 Jan. 2017), <http://edition.cnn.com/2017/01/20/politics/trump-inaugural-address/> (accessed 25 July 2018).

<sup>124</sup> *Donald Trump's speech at the Republican convention*, *supra* n. 5.

<sup>125</sup> P. Baker, *Trump Abandons Trans-Pacific Partnership, Obama's Signature Trade Deal*, N.Y. Times (23 Jan. 2017), <https://www.nytimes.com/2017/01/23/us/politics/tpp-trump-trade-nafta.html> (accessed 25 July 2018).

<sup>126</sup> US Department of State, *Communication Regarding Intent To Withdraw From Paris Agreement*, Media Note (4 Aug. 2017), <https://www.state.gov/r/pa/prs/ps/2017/08/273050.htm> (accessed 25 July 2018).

<sup>127</sup> US Department of State, *The United States Withdraws From UNESCO*, Press Statement (12 Oct. 2017), <https://www.state.gov/r/pa/prs/ps/2017/10/274748.htm> (accessed 25 July 2018).

Compact on Migration.<sup>128</sup> During 2018, the US withdrew from the Iran nuclear deal,<sup>129</sup> as well as from the UN Human Rights Council.<sup>130</sup> In addition, it continues eroding the WTO dispute settlement system, in particular the Appellate Body.<sup>131</sup>

The new National Security Strategy (NSS) published in December 2017 refers to transatlantic relations and the EU in a more positive way, albeit only briefly. It notes that the US and Europe ‘are bound together by our shared commitment to the principles of democracy, individual liberty, and the rule of law’.<sup>132</sup> However, President Trump would later refer to the EU as a ‘foe’ during his visit to the UK in July 2018.<sup>133</sup> In any event, the new ‘National Security Strategy puts America First’,<sup>134</sup> stressing that it ‘is a strategy of principled realism’.<sup>135</sup> Under the new administration, the US hence vows to ‘prioritize its efforts in those [international] organizations that serve American interests’.<sup>136</sup> Thus, whereas both the EU and the US commit to reforming global governance institutions in their respective strategies, the key difference between European ‘principled pragmatism’ and American ‘principled realism’ is the emphasis on – and confidence in – the intrinsic value of rules-based approaches and institutions.

Similar to the case of the UK described above, the US under President Trump may well produce more international law in the form of new bilateral agreements in the future, but against the backdrop of ‘America First’, it is highly doubtful whether they can be viewed as developing international law and global governance further. Instead, these new agreements may rather become evidence of a form of normative backsliding at the global level.

While it remains still too early to form any definite judgments on future US-EU cooperation, the signs coming from the first one and a half years of the new US administration, including hostile statements and specific actions, indicate a widening rift between the US and the EU marked by fundamental differences in their approaches to foreign policy. Already now, it can be concluded that this has two consequences for the EU and the implementation of the EUGS. Firstly, without US

<sup>128</sup> US Department of State, *U.S. Ends Participation in the Global Compact on Migration*, Press Statement (3 Dec. 2017), <https://www.state.gov/secretary/20172018/tillerson/remarks/2017/12/276190.htm> (accessed 25 July 2018).

<sup>129</sup> M. Landler, *Trump Abandons Iran Nuclear Deal He Long Scorned*, N.Y. Times (8 May 2018), <https://www.nytimes.com/2018/05/08/world/middleeast/trump-iran-nuclear-deal.html> (accessed 25 July 2018).

<sup>130</sup> G. Harris, *Trump Administration Withdraws U.S. From U.N. Human Rights Council*, N.Y. Times (19 June 2018), <https://www.nytimes.com/2018/06/19/us/politics/trump-israel-palestinians-human-rights.html> (accessed 25 July 2018).

<sup>131</sup> Schaffer, *supra* n. 11.

<sup>132</sup> White House, *National Security Strategy of the United States of America*, 47 (Dec. 2017).

<sup>133</sup> J. Hirschfeld Davis & K. Rogers, *Trump, on Eve of Putin Meeting, Calls E.U. a Trade ‘Foe’*, N.Y. Times (15 July 2018), <https://www.nytimes.com/2018/07/15/world/europe/trump-putin-summit-meeting.html> (accessed 25 July 2018).

<sup>134</sup> White House, *supra* n. 132, at ii (Foreword by the President).

<sup>135</sup> *Ibid.*, at 1.

<sup>136</sup> *Ibid.*, at 40.

support on key issues such as climate change, rules-based trade governance, and migration, making progress with the implementation of the Global Strategy will be more difficult. Secondly, the outlook of the Trump Presidency, inadvertently, contributes to recasting the normative commitments in the EUGS from being shared on both sides of the Atlantic into something more distinctively European – recalling also that the UK seems to remain officially committed to rules-based governance and multilateralism post-Brexit. As the new US administration is turning its back on a rules-based global governance architecture, the EUGS now appears as a document of defiance, a manifesto of the global, and a refutation of the 'other' in the form of a US government committed to a self-proclaimed 'America First' policy.

## 5 CONCLUSION

With the Global Strategy for Foreign and Security Policy, the EU has given itself a new blueprint for its ambitions and role in the world. The EUGS will serve as the standard against which to judge the EU's external action over the coming years. Its implementation in an already troubled and uncertain international environment would have been a tall order in any event. Having been issued at a time when Euroscepticism, anti-globalism and nationalist hubris loom large, this challenge has become even more daunting. However, as argued here, this makes the Global Strategy also a much more interesting and relevant document. This article's re-contextualization and analysis of the EUGS can be summarized in three points.

First, the Global Strategy represents the latest milestone in an evolution of the EU as a global actor. This evolution was marked by attempts to respond to past crises and to think ahead for creating a stronger EU presence on the world stage. The EUGS amounts to the most sophisticated endeavour yet to articulate the EU's international identity, interest, and priorities, being an important translation of the values and objectives enshrined in the EU Treaties after the Lisbon reform. In an age of Euroscepticism, it serves as a reminder of the added value and necessity of the EU from the perspective of foreign policy.

Second, in terms of its substance, the Global Strategy represents both continuity and rupture. It continues – and clarifies further – two hallmarks of EU external action, i.e., emphasizing the centrality of law and governance in its foreign policy and explaining how their promotion is in the Union's ultimate interest. By contrast, the emphasis on geographical priorities and a more pragmatic approach represent a shift from previous documents. Without a doubt, the EUGS remains ambitious. Nevertheless, it clearly recognizes the limits of the EU. It therefore stresses the need to manage expectations better and use resources more effectively with select partners. In an age of hubris, of which 'Global Britain' is one stark manifestation, introducing the idea of 'principled pragmatism' was long overdue.

Third, even without Brexit and the election of Donald Trump, the Global Strategy would have been a significant document – at least for diplomats, policy experts, and scholars. These two developments, however, turn it into something manifestly more important. Its substance, which would have seemed largely uncontroversial before – representing if not a universal than at least a transatlantic consensus – has been cast into an altogether different light. In an age of increasing anti-globalism, the new leader of the world’s most powerful country is pursuing a policy of withdrawal from international agreements, normative processes and institutions. This turns the EU’s Global Strategy from a mere reiteration of values which seemed to be widely shared into a manifesto upholding them in the face of adversity from within the ‘West’. From this perspective, it serves as a rallying point for the EU and its Member States, as well as for any other actor – state and non-state alike – to continue to defend, support and develop further rules-based global governance in the twenty-first century.