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**THE EU'S GLOBAL STRATEGY IN THE AGE OF BREXIT
AND 'AMERICA FIRST'**

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Abstract

In June 2016, the European Union launched its new 'Global Strategy for Foreign and Security Policy'. In less unusual times, it 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 the contours of 'Brexit' becoming clearer and the start of the Trump Presidency in the United States, the EU's Global Strategy has acquired a whole new level of significance. This paper argues that while meant to express a largely uncontroversial consensus, it now needs to be recontextualized as a distinctive vision in the face of trends of anti-globalism and Euroscepticism. This concerns in particular its emphasis on rules-based global governance. Challenged by both President Trump 'America First' policy and the British government's course for a 'hard Brexit', the Global Strategy represents a blueprint and rallying point for a continued pursuit of a liberal world order based on the rule of law.

Keywords

Brexit; EU external action; global governance; Global Strategy; multilateralism; rule of law; transatlantic relations

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THE EU'S GLOBAL STRATEGY IN THE AGE OF BREXIT AND 'AMERICA FIRST'

1. INTRODUCTION

On 28 June 2016, High Representative Mogherini presented the EU's new Global Strategy on Foreign and Security Policy (EUGS), entitled *Shared Vision, Common Action: A Stronger Europe*,¹ to the European Council. In its conclusions, the Council noted that it 'welcomes the presentation of the Global Strategy for the European Union's Foreign and Security Policy by the High Representative and invites the High Representative, the Commission and the Council to take the work forward.'² Admittedly, this did not sound like a ringing endorsement or official 'adoption' of the Strategy, as was the case with its 2003 predecessor,³ but this document now nonetheless represents the agreed language on the overall direction of EU foreign policy for years to come.

The finalization of the EUGS was the culmination of a year-long consultative and drafting process.⁴ Moreover, it is the latest milestone in the history of developing, refining, and laying down the identity of the European Union as an international actor, including the kind of contributions it seeks to furnish to the international (legal) order. This history is marked by a succession of both legal and policy documents, each of which exhibited grand ambitions and aspirations, but each of which was also prompted by failures and crises of the past.

Initially conceived of as the latest effort to respond to a generally changing, more challenging international environment, the EU Global Strategy now has to be recontextualized for two principal reasons—one on either side of the Atlantic. These are neither crises in faraway, conflict-torn regions, nor upheavals in the EU's neighbourhood, but 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 to a very large extent focused on the clamour surrounding the result on 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 subsequently emerging contours of the

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

² European Council Conclusions, EUCO 26/16, Brussels, 28 June 2016, pt 20.

³ The European Council adopted the European Security Strategy (ESS) in December 2003, Presidency Conclusions of the Brussels European Council (12 and 13 December 2003), Brussels, 5 February 2004, 5381/04, pt 84.

⁴ The mandate to draft the Global Strategy was given to the High Representative by the European Council Conclusions, EUCO 22/15, Brussels, 26 June 2015, pt 10 b). An assessment of the changing strategic environment was prepared in June 2015 under the title *The European Union in a changing global environment: A more connected, contested and complex world*, https://eeas.europa.eu/docs/strategic_review/eu-strategic-review_strategic_review_en.pdf (accessed 21 November 2017). See also Nathalie Tocci, 'The making of the EU Global Strategy' (2016) 37 *Contemporary Security Policy* 461.

British negotiation strategy, which point to a 'hard Brexit'⁵ put even more pressure on the credibility of the EU as a global actor in general, and on its ability to deliver on the Global Strategy in particular. At the same time, with the election and inauguration of Donald Trump as President of the United States of America, having made clear that 'Americanism, not globalism, will be our credo',⁶ a liberal, rules-based international order is being questioned at the highest political level in the world's most powerful country.

Against this backdrop, the paper argues that the EU's new Global Strategy needs to be understood no longer as a slightly modified expression of a general, largely uncontroversial 'Western' consensus,⁷ serving as another useful reference for the already large literature on the EU's international identity and global actorhood penned by lawyers and political scientists.⁸ 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 challenging international environment. The new quality it has now acquired is that of a defiantly distinctive vision—an inadvertent *Gegenentwurf* to the trends of anti-globalism in the U.S. administration and Euroscepticism in the British government, including its efforts to remove the UK from the EU as a collective global actor. In other words, it has become a blueprint for continued collective efforts by the EU to defend a liberal world order based on rules-based global governance.

With a view to carrying out this recontextualization of the Global Strategy, the paper proceeds as follows. Firstly, it provides some background by situating the Strategy in both the history and discourse on EU external relations. In the subsequent section, the paper puts the focus on three interrelated aspects: Law, governance, and nuance. While the Global

⁵ See as the crucial official starting point of this positioning British Prime Minister Theresa May's Lancaster House speech, Prime Minister's Office, The Rt Hon Theresa May MP, The government's negotiating objectives for exiting the EU: PM speech (London, 17 January 2017), <https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech> (accessed 21 November 2017). It remains doubtful whether the deal reached on 8 December 2017 on the modalities of withdrawal, and especially the regime of 'regulatory alignment' between the Republic of Ireland and Northern Ireland, and by extension between the EU and UK as a whole, will have a 'softening' effect. See the specifics of the deal: Joint report from the negotiators of the European Union and the United Kingdom Government on progress during phase 1 of negotiations under Article 50 TEU on the United Kingdom's orderly withdrawal from the European Union, 8 December 2017, TF50 (2017) 19, https://ec.europa.eu/commission/sites/beta-political/files/joint_report.pdf (accessed 9 December 2017).

⁶ '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 21 November 2017).

⁷ This is not to deny that there have been transatlantic policy rifts in the past, most notably the Iraq War in 2003 and diverging approaches to climate change or the International Criminal Court. The current chasm, however, appears particularly stark in view of the contrast with the previous Obama administration and the UK's unprecedented step of becoming the first country to ever leave the EU.

⁸ See, e.g., Christopher Hill, Michael Smith and Sophie Vanhoonacker (eds), *International Relations and the European Union* (3rd edn, OUP 2017); Stephan Keukeleire and Tom Delreux, *The Foreign Policy of the European Union* (2nd edn, Palgrave Macmillan 2014); Henri de Waele and Jan-Jaap Kuipers (eds), *The European Union's Emerging International Identity: Views from the Global Arena* (Martinus Nijhoff 2013); Richard Whitman (ed), *Normative Power Europe: Empirical and Theoretical Perspectives* (Palgrave Macmillan 2011); Finn Laursen (ed), *The EU as a Foreign and Security Policy Actor* (Republic of Letters 2009); Sonia Lucarelli and Ian Manners (eds), *Values and Principles in European Union Foreign Policy* (Routledge 2006); Ole Elgström and Michael Smith (eds), *The European Union's Roles in International Politics: Concepts and analysis* (Routledge 2006); and Charlotte Bretherton and John Vogler, *The European Union as a Global Actor* (2nd edn, Routledge 2006).

Strategy 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 development, climate change, and security and defence integration within the EU. Doubtlessly, these and others will receive their due share of attention in the scholarly appraisal of the Strategy and its implementation.⁹ To a large extent, however, the categories of law, governance, and nuance already serve as baskets under which many of these aspects can feature. 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 specific 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, firstly, while the EUGS is not a treaty amendment, or any legal act for this matter, it will have to be implemented through the existing, complex, legal framework of EU external relations. Secondly, and more importantly, the changed context puts in question both the emphasis on law within the European Union as well as the usefulness of many existing international agreements. Governance, similarly, merits special attention, because of the long-standing emphasis in EU foreign policy on what used to be called 'effective multilateralism',¹⁰ i.e., an emphasis on global institutions and shaping a rules-based international system, which is well captured by the idea of the EU operating a 'governance mode'¹¹ of 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 and the WTO to regional free trade areas and human rights bodies to NATO. The EU's endeavours to promote institutions and the rule of law abroad show how law and governance intersect in EU external relations,¹² becoming the vehicle for the EU's contributions to developing the international order and its institutions. By contrast, a particularly stark example of targeting both the rule of law and global

⁹ See, e.g., *After the EU Global Strategy – Consulting the experts – Security and defence* (European Union Institute for Security Studies 2016); with a focus human rights, Chiara Altafin, Veronika Haász and Karolina Podstawa, 'The new Global Strategy for the EU's Foreign and Security Policy at a time of human rights crises' (2017) 35 *Netherlands Quarterly of Human Rights* 122; and homing in on security, global norms, and sustainable development, Tom Buitelaar, Joris Larik, Aaron Matta and Bart de Vos, *The EU's New Global Strategy: Its Implementation in a Troubled International Environment* (The Hague Institute for Global Justice, November 2016).

¹⁰ See on the conceptualization of this notion, Jan Wouters, Sijbren de Jong and Philip De Man, 'The EU's Commitment to Effective Multilateralism in the Field of Security: Theory and Practice' (2010) 29 *Yearbook of European Law* 164, at 170-174; while the European Security Strategy did not explicitly use the term, other official documents did, e.g., Communication from the Commission to the Council and the European Parliament, *The European Union and the United Nations: The choice of multilateralism*, Brussels, 10 September 2003, COM(2003) 526 final, at 3. See also Art 21(2)(h) TEU, referring to the need to promote an international system 'based on stronger multilateral cooperation and good global governance'.

¹¹ Gráinne de Búrca, 'EU External Relations: The Governance Mode of Foreign Policy' in Bart Van Vooren, Steven Blockmans, and Jan Wouters (eds), *The EU's Role in Global Governance: The Legal Dimension* (OUP 2013); see also Fabian Amtenbrink and Dimitry Kochenov, 'The Active Paradigm of the Study of the EU's Place in the World: An Introduction' in Fabian Amtenbrink and Dimitry Kochenov (eds), *The European Union's Shaping of the International Legal Order* (CUP 2013).

¹² See e.g. Mark Leonard, *Why Europe Will Run the 21st Century* (Fourth Estate 2005), at 36, describing law as the EU's 'weapon of choice' in international relations; see also Frank Hoffmeister, 'The Contribution of EU Practice to International Law' in Marise Cremona (ed), *Developments in EU External Relations Law* (OUP 2008), pp. 37-127.

governance institutions at the same time are the U.S. government's on-going attempts to erode the WTO Appellate Body by blocking the appointment of new members as the current members' terms gradually expire.¹³

Lastly, nuance matters because of the equally long-standing observation of a 'capabilities–expectations gap'¹⁴ in EU foreign policy, i.e., a lack of realizing its full potential as a global actor and falling short of living up to its own ambitions. While such shortcomings have long been pointed out by scholars,¹⁵ and have come increasingly into the public attention, the need for nuance, also called 'principled pragmatism'¹⁶ in the Global Strategy, or '*Realpolitik* with European Characteristics' by analysts,¹⁷ seems now more present than ever.

Whether this additional dose of nuance will be sufficient to make EU external action more credible, 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, remains very much an open question. Therefore, the paper's final 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 reconceptualization of the EUGS as a document not of broad consensus but as a counter-position to the rising tide of anti-globalism and Euroscepticism.

2. ANTECEDENTS TO THE GLOBAL STRATEGY

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. These documents can be legal in nature, those being the treaties representing the EU's 'primary law' and 'constitutional charter',¹⁸ or they can be 'mere' policy documents without legally binding effect. The present section briefly recalls these main documents and traces the evolution they represent, culminating in the Global Strategy of June 2016.

The first main document in this history is the Schuman Declaration of 1950. It is arguably best remembered for its internal perspective, i.e., reconciliation between France and Germany and the pooling of strategic resources to make future wars impossible. However, the Schuman Declaration already contained an explicit external outlook. It starts not with a reference to peace in Europe, but by stating that '[w]orld peace cannot be safeguarded

¹³ Gregory Schaffer, 'The Slow Killing of the World Trade Organization' (*Huffington Post*, 17 November 2017), https://www.huffingtonpost.com/entry/the-slow-killing-of-the-world-trade-organization_us_5a0ccd1de4b03fe7403f82df (accessed 22 November 2017).

¹⁴ Christopher Hill, 'The Capability-Expectations Gap, or Conceptualising Europe's International Role' (1993) 31 *Journal of Common Market Studies* 305.

¹⁵ See, e.g., Asle Toje, 'The European Union as a Small Power' (2011) 49 *Journal of Common Market Studies* 43; and Adrian Hyde-Price, 'A neurotic "centaur"—The limitations of the EU as a strategic actor' in Kjell Engelbrekt and Jan Hallenberg (eds), *The European Union and Strategy: An Emerging Actor* (Routledge 2008).

¹⁶ EUGS, at 8;

¹⁷ Sven Biscop, *The EU Global Strategy: Realpolitik with European Characteristics*, EGDMONT Security Policy Brief No. 75 (June 2016).

¹⁸ CJEU, Case 294/83 *Parti écologiste 'Les Verts'*, EU:C:1986:166, para 23.

without the making of creative efforts proportionate to the dangers which threaten it.¹⁹ The Declaration notes furthermore that ‘the contribution which an organized and living Europe can bring to civilization is indispensable to the maintenance of peaceful relations.’²⁰ The ideas of ‘normative power Europe’²¹ and of connecting global aspirations with regional integration are thus embryonically present in the European project from the very start. The language of the Schuman Declaration would soon thereafter be used as the blueprint for the preamble of a legal document, the Treaty Establishing the European Coal and Steel Community Treaty (ECSC).²²

A similar pattern is repeated three decades later, starting with the adoption of the Stuttgart Declaration. After the Treaty of Rome of 1957 had introduced the Common Commercial Policy as an external policy field with its own objectives,²³ the Member States of the then Community resolved to cooperate also in other foreign policy domains, though in a more intergovernmental fashion. Consequently, the Solemn Declaration on European Union signed in Stuttgart in 1983 included a call for the ‘progressive development and definition of common principles and objectives as well as the identification of common interests in order to strengthen the possibilities of joint action in the field of foreign policy’.²⁴ Subsequently, this was codified and specified further in the 1987 Single European Act (SEA), which emphasises in its preamble ‘the responsibility incumbent upon Europe to aim at speaking ever increasingly with one voice and [...] to display the principles of democracy and compliance with the law and with human rights’.²⁵

The next milestone in the development of an overarching foreign policy agenda at the European level was again a legal document, the Maastricht Treaty of 1992, refined subsequently by the Amsterdam and Nice Treaties. This treaty, most well-known among legal scholars for introducing the pillar structure,²⁶ including a Common Foreign and Security Policy (CFSP). The Treaty’s operative part includes as one of the objectives of the Union ‘to assert its identity on the international scene, in particular through the implementation’ of the new CFSP.²⁷ Important facets of such an international identity can be found under specifically external policy titles in the TEU after Maastricht. For instance, specific objectives of the CFSP included safeguarding of ‘common values, fundamental interests,

¹⁹ Schuman Declaration, 9 May 1950.

²⁰ *Ibid.*

²¹ Ian Manners, ‘Normative Power Europe: A Contradiction in Terms?’ (2002) 40 *Journal of Common Market Studies* 235.

²² Treaty Establishing the European Coal and Steel Community Treaty, Paris, 18 April 1951, first and second recitals of the preamble .

²³ Treaty establishing the European Economic Community (EEC Treaty) (original version), Rome, 25 March 1957, sixth recital of the preamble and Art 110.

²⁴ European Council, Solemn Declaration on European Union, Stuttgart 19 June 1983, reproduced from the Bulletin of the European Communities, No. 6/1983, pt 3.2.

²⁵ Single European Act [1987] OJ L 169/1, fifth recital of the preamble.

²⁶ See Marise Cremona, ‘The Common Foreign and Security Policy of the European Union and the External Relations Powers of the European Community’ in David O’Keeffe and Patrick Twomey (eds), *Legal Issues of the Maastricht Treaty* (Wiley Chancery 1994).

²⁷ Treaty on European Union [2006] OJ C 321E/1 (hereinafter: TEU (Nice version)), Art 2(1).

independence and integrity of the Union in conformity with the principles of the United Nations Charter' and developing and consolidating 'democracy and the rule of law, and respect for human rights and fundamental freedoms'.²⁸ Similarly, the section on development cooperation emphasized 'the sustainable economic and social development of the developing countries'²⁹ as well as democracy and the rule of law,³⁰ including compliance with the commitments 'approved in the context of the United Nations' in this area.³¹ In doing so, the Treaties start to substantiate the content of EU external action and thus its desired global identity. Law and governance became discernible as cross-cutting themes, evidenced by the references to human rights, the rule of law, and the United Nations.

In the new millennium, the next step in the evolution of the substantive basis of EU foreign policy is the Laeken Declaration of 2001. The Laeken Declaration includes a sweeping statement on core questions about both advancing European integration and 'Europe's new role in a globalised world'.³² In what can in hindsight be described as the apex of global ambitions and optimism in thinking about EU external action, the Declaration boldly states that '[n]ow that the Cold War is over and we are living in a globalised, yet also highly fragmented world, Europe needs to shoulder its responsibilities in the governance of globalisation' and become a 'power seeking to set globalisation within a moral framework, in other words to anchor it in solidarity and sustainable development.'³³

The Laeken Declaration was followed by what is the most direct predecessor of the 2016 Global Strategy, 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.³⁴ 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 document had little in common with a national security strategy of powers such as the United States,³⁵ others noted that it dovetailed with the U.S. National Security Strategy, at the time drafted under President George W. Bush, and noted that it exhibited unambiguous Atlanticist features.³⁶ In sketching out the main challenges, threats, and objectives of the EU, it also expounds a

²⁸ Art 11(1) TEU (Nice version).

²⁹ Art 177(1) Treaty establishing the European Community [2006] OJ C 321E/1 (hereinafter: TEC).

³⁰ Art 177(2) TEC. See also regarding economic, financial and technical cooperation with third countries Art 181a, second subpara TEC.

³¹ Art 177(3) TEC.

³² European Council, Presidency Conclusions, European Council meeting in Laeken 14 and 15 December 2001, Annex I, *Laeken Declaration on the Future of the European Union*, at 20.

³³ *Ibid.*

³⁴ Klaus Becher, 'Has-Been, Wannabe, or Leader: Europe's Role in the World After the 2003 European Security Strategy' (2004) 13 *European Security* 345, at 346-47.

³⁵ Andrea Riemer and Gunther Hauser, 'Die Nationale Sicherheitsstrategie der USA und die Europäische Sicherheitsstrategie: Ein Vergleich des Unvergleichbaren' in Thomas Jäger, Alexander Höse and Kai Oppermann (eds), *Die Sicherheitsstrategien Europas und der USA: Transatlantische Entwürfe für eine Weltordnungspolitik* (Nomos 2005), at 104; and Asle Toje, 'The 2003 European Union Security Strategy: A Critical Appraisal' (2005) 10 *European Foreign Affairs Review* 117.

³⁶ Joris Larik, 'Kennedy's "two pillars" revisited: Does the ESDP make the EU and the US two equal partners in NATO?' (2009) 14 *European Foreign Affairs Review* 289, at 295-297.

comprehensive understanding of security. The ESS notes that 'internal and external aspects of security are indissolubly linked',³⁷ that tackling security threats requires the use of all policy tools with an emphasis on multilateral solutions, and that success depends on addressing root causes.³⁸

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'.³⁹ Though it acknowledges that there 'are few if any problems we can deal with on our own',⁴⁰ the ESS both starts and ends on notes brimming with confidence, observing the 'increasing convergence of European interests and the strengthening of mutual solidarity of the EU'⁴¹ and its 'potential to make a major contribution, both in dealing with the threats and in helping realise the opportunities'.⁴²

Lastly, the Lisbon Treaty, which establishes the current legal framework of the EU, should be stressed in its capacity of contributing to an overarching vision on EU foreign policy prior to the Global Strategy. The Lisbon Treaty is the result of the failed attempt of ratifying the Treaty Establishing a Constitution for Europe. The latter has been framed chiefly by the Convention on the Future of Europe envisaged by the Laeken Declaration. At the Convention, the idea of having a general statement of EU foreign policy objectives emerged. While elements such as the flag and anthem were later removed from the Lisbon Treaty in order to make it more palatable to electorates weary of state-like elements, the foreign policy aspects were virtually all taken over.⁴³

Innovations in the area of EU foreign policy brought about by the Lisbon treaty include, firstly, the 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 concerns the codification of a more complete set of foreign policy objectives that span all policy areas, which can today be found in Articles 3(5) and 21 TEU and which enshrine a full kaleidoscope of the substantive basis of EU external action. These include, inter alia, contributing to 'peace, security, the sustainable

³⁷ *A Secure Europe in a Better World: European Security Strategy*, Brussels, 12 December 2003, at 2.

³⁸ See also Sven Biscop, 'The European Security Strategy in context: a comprehensive trend' in Sven Biscop and Jan Joel Andersson (eds), *The EU and the European Security Strategy: Forging a Global Europe* (Routledge 2008). The comprehensive approach became a widely used concept in EU external action subsequently, see Joint Communication to the European Parliament and the Council, *The EU's comprehensive approach to external conflict and crises*, Brussels, 11 December 2013, JOIN(2013) 30 final.

³⁹ *European Security Strategy* (n 37), at 9.

⁴⁰ *Ibid.*, at 13.

⁴¹ *Ibid.*, at 1.

⁴² *Ibid.*, at 14. Five years later, an implementation report on the ESS was published, European Council, *Report on the Implementation of the European Security Strategy: Providing Security in a Changing World*, S407/08, Brussels, 11 December 2008.

⁴³ Jean-Claude Piris, *The Lisbon Treaty: A Legal and Political Analysis* (CUP 2010), at 25-48 and 238 *et seq.*

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.’⁴⁴

The TEU post-Lisbon also puts a clear emphasis on the cross-cutting importance of law and governance. As Article 21 TEU notes, the EU ‘shall promote multilateral solutions to common problems, in particular in the framework of the United Nations’,⁴⁵ ‘consolidate and support democracy, the rule of law, human rights and the principles of international law’,⁴⁶ and ‘promote an international system based on stronger multilateral cooperation and good global governance’.⁴⁷ It is from this historical backdrop that we have to understand the Global Strategy, as the latest milestone in the process of articulating the EU’s international identity and role in the world, including the prominent role assumed therein by 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 basis of EU foreign policy is one of continuity in the sense that the core values and objectives are increasingly clearly defined, and that law and governance emerge as overarching themes. Hence, the Global Strategy of June 2016 can be understood as the next step in this continuous evolution. However, at the same time there is a shift away from the trend of seemingly ever-increasing ambition, warranted by a new sense 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 are 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 has two facets. Firstly, it concerns the fact that EU external action is framed and guided by the norms and procedures enshrined in the EU Treaties as well as existing international legal norms. Secondly, it concerns putting an emphasis on the importance of developing the international legal order further and of using legal instruments as a tool for conducting EU foreign policy. These two facets are interrelated, given that the EU Treaties contain a mandate to the effect of the latter.

⁴⁴ Art 3(5) TEU; see also Art 21 TEU; see further Joris Larik, *Foreign Policy Objectives in European Constitutional Law* (OUP 2016).

⁴⁵ Art 21(1), second subpara TEU.

⁴⁶ Art 21(2)(b) TEU.

⁴⁷ Art 21(2)(h) TEU.

The EUGS both recalls that the EU's values are 'enshrined in the Treaties'⁴⁸ and that '[r]emaining true to our values is a matter of law as well as of ethics and identity.'⁴⁹ This statement serves an important function in connecting the Global Strategy to the EU Treaties, which both entrench the EU's values,⁵⁰ and commit the Union promote them in its external action.⁵¹ This is indeed a matter of law, a constitutional mandate, which could only be amended or abrogated by way of treaty amendment. Specific illustrations of this legal dimension are the 'commitments to mutual assistance and solidarity enshrined in the Treaties' against armed attacks, terrorists, and natural disasters, to which the EUGS refers in order to stress the need for developing adequate military capabilities among the Member States.⁵² In addition, the EU Treaty not only contains the values, but also the division of tasks and procedures to be followed. The EUGS acknowledges this, stating that 'our diplomatic action must be fully grounded in the Lisbon Treaty'.⁵³

In a number of instances, the Global Strategy emphasizes that measures employed by the EU in its external action must be in compliance with both EU and international law, e.g., smart sanctions⁵⁴ or 'human rights-compliant anti-terrorism cooperation with North Africa, the Middle East, the Western Balkans and Turkey, among others'.⁵⁵ Regarding improvements to European security and defence capabilities, the EUGS notes that these should be carried out in 'full compliance with international law'.⁵⁶ Security and defence is among the first areas on which the EU has been focussing regarding the implementation of the EUGS.⁵⁷ First steps for improving defence capabilities have been taken in 2017 with the launching of a European Defence Fund,⁵⁸ and the activation of Permanent Structured Cooperation (PESCO) by a group 25 Member States.⁵⁹

⁴⁸ EUGS, at 13.

⁴⁹ EUGS, at 15.

⁵⁰ Art 2 TEU.

⁵¹ Art 3(5) TEU.

⁵² EUGS, at 14; see also at 19-20. These commitments are laid down, respectively, in Art 42(7) TEU and Art 222 TFEU.

⁵³ EUGS, at 46.

⁵⁴ EUGS, at 32.

⁵⁵ EUGS, at 21.

⁵⁶ EUGS, at 30.

⁵⁷ *From Shared Vision to Common Action: Implementing the EU Global Strategy – Year 1* (June 2017), at 20-24.

⁵⁸ European Commission, *A European Defence Fund: €5.5 billion per year to boost Europe's defence capabilities*, Press Release, Brussels, 7 June 2017.

⁵⁹ Notification on Permanent Structured Cooperation (PESCO) to the Council and to the High Representative of the Union for Foreign Affairs and Security Policy (13 November 2017), <http://www.consilium.europa.eu/media/31511/171113-pesco-notification.pdf> (accessed 22 November 2017); and Council Decision (CFSP) 2017/2315 of 11 December 2017 establishing permanent structured cooperation (PESCO) and determining the list of participating Member States [2017] OJ L 331/57. PESCO is provided for in Arts. 42(6) and 46 TEU and Protocol No. 10 on permanent structured cooperation established by Article 42 of the Treaty on European Union attached to the EU Treaties. The Member States not participating in it are Denmark, Malta and the UK.

Fostering compliance with international law by others is also a recurring theme in the EUGS, recalling that the 'strict observance' of international law is not only a self-referential objective enshrined in the TEU.⁶⁰ 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'.⁶¹ In response to this, the EUGS specifically 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'.⁶² 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, including the Helsinki Final Act and the Paris Charter'.⁶³ In a similar vein, the EU 'will also promote full compliance with European and international law in deepening cooperation with Israel and the Palestinian Authority'.⁶⁴

Concerning relations with China, moreover, the EUGS premises engagement 'on respect for rule of law, both domestically and internationally'.⁶⁵ 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,⁶⁶ the latter 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'.⁶⁷

Regarding the second facet, developing the international legal order further, the EU lists as one of 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'.⁶⁸ The rule of law appears, moreover, as a means to safeguard other vital interests. Prosperity is to be furthered through 'shaping global economic and environmental rules',⁶⁹ while in order to 'safeguard the quality of our democracies, [the EU] will respect domestic, European and international law across all spheres, from migration and asylum to energy, counter-terrorism and trade'.⁷⁰ 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

⁶⁰ Art 3(5) TEU.

⁶¹ EUGS, at 33, where the EU vows also that it will 'not recognize Russia's illegal annexation of Crimea', at 33. On the development of the conflict in Ukraine, including the Association Agreement with the EU and Russian destabilization efforts, see Taras Kuzio, 'Ukraine between a Constrained EU and Assertive Russia' (2017) 55 *Journal of Common Market Studies* 103.

⁶² EUGS, at 33.

⁶³ EUGS, at 33.

⁶⁴ EUGS, at 35.

⁶⁵ EUGS, at 37.

⁶⁶ PCA, *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.

⁶⁷ EUGS, at 38.

⁶⁸ EUGS, at 15.

⁶⁹ EUGS, at 15.

⁷⁰ EUGS, at 15.

Declaration of Human Rights, is the only guarantee for peace and security at home and abroad'.⁷¹ Moreover, the Iran nuclear deal, in the bringing about of which the EU played a leading role,⁷² is used as an example of a success story in this regard—though it is technically not an international agreement.⁷³

Promoting the rule of law, moreover, features among one of the goals in relations with the Western Balkans and Turkey as part of the EU's enlargement policy.⁷⁴ In terms of promoting resilience in the EU's neighbourhood, the Global Strategy even contains an example of using legal instruments in order to promote the rule of law. 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.'⁷⁵

Also in other contexts, international legal instruments are referred to as vehicles for normative EU foreign policy. In relations with African countries, 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.'⁷⁶ The Transatlantic Trade and Investment Partnership (TTIP) with the United States and the Comprehensive Economic and Trade Agreement (CETA) with Canada are both highlighted. TTIP—though currently 'on ice'—as another example of law as means and end, is noted for demonstrating transatlantic resolve 'to pursue an ambitious rules-based trade agenda.'⁷⁷ In relations with Asian countries, furthermore, the EUGS states the ambitions to work 'towards ambitious free trade agreements with strategic partners such as Japan and India, as well as ASEAN member states'.⁷⁸ As an example of using a legal instrument for promoting inter-regional cooperation, 'the goal of an eventual EU-ASEAN agreement' is made explicit.⁷⁹

As part of improving global governance, international law returns, in the form of a commitment 'to widen the reach of international norms, regimes and institutions',⁸⁰ 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

⁷¹ EUGS, at 15-16.

⁷² See Cornelius Adebahr, *Europe and Iran: The Nuclear Deal and Beyond* (Routledge 2016), at 6.

⁷³ EUGS, at 15. The Iran nuclear deal was presented first on 2 April 2017 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 (accessed 21 November 2017).

⁷⁴ EUGS, at 24.

⁷⁵ EUGS, at 27.

⁷⁶ EUGS, at 36.

⁷⁷ EUGS, at 37. For critical remarks in this regard, especially concerning taking a step back from the well-established WTO dispute settlement system, see Joris Larik, 'Critiquing TTIP: Systemic Consequences for Global Governance and the Rule of Law' (2016) 43 *Legal Issues of Economic Integration* 423.

⁷⁸ EUGS, at 38.

⁷⁹ EUGS, at 38; see also Joint Communication to the European Parliament and the Council, *The EU and ASEAN: a partnership with a strategic purpose*, Brussels, 18 May 2015, JOIN(2015) 22 final, at 5, referring to an 'ambitious region-to-region FTA'.

⁸⁰ EUGS, at 41.

acceptance of the jurisdiction of the International Criminal Court and the International Court of Justice'.⁸¹

The EUGS, lastly, advocates the development of new international rules. It stresses that at 'the frontiers of global affairs, rules must be further developed to ensure security and sustainable access to the global commons'.⁸² 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 global institutions, most clearly in the section of the EUGS entitled 'Global Governance in the 21st century'. It elaborates on one of the five priorities of EU external action as identified by the Strategy. In the EUGS, the notion of combining law and governance is expressed in terms of a 'multilateral order grounded in international law, including the principles of the UN Charter and the Universal Declaration of Human Rights'.⁸³

In the words of the EUGS, harking back to Article 21 of the TEU,⁸⁴ '[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'.⁸⁵ Notably, this goes beyond upholding existing rules, which were highlighted in the above sub-section, and preserving existing institutions. According to the EUGS, a commitment to global governance 'translates into an aspiration to transform rather than simply preserve the existing system'.⁸⁶ This adds a governance dimension to the mandate enshrined in the EU Treaties, i.e. not only to contribute to the 'strict observance' of international law as it stands, but also to contribute to its further 'development'.⁸⁷

Reform of the institutions of global governance is to be based on the principles of 'accountability, representativeness, responsibility, effectiveness and transparency'.⁸⁸ Specifically mentioned targets of reform are 'the UN, including the Security Council, and the

⁸¹ EUGS, at 42. Championing 'the indivisibility and universality of human rights' is also mentioned as part of the core principle of taking responsibility internationally, EUGS, at 18.

⁸² EUGS, at 42.

⁸³ EUGS, at 15.

⁸⁴ Art 21(1), first subpara 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'.

⁸⁵ EUGS, at 39.

⁸⁶ EUGS, at 39.

⁸⁷ Art 3(5) TEU.

⁸⁸ EUGS, at 39.

International Financial Institutions (IFIs).⁸⁹ Moreover, the EUGS notes that the World Trade Organization (WTO) should again become ‘the centre of global negotiations’⁹⁰—a reference to the stalled multilateral trade talks known as the ‘Doha Round’ and the resort to bilateral free trade agreements, which the EU justifies by stating that ‘an ambitious bilateral agenda [...] complements the EU’s engagement at the World Trade Organization (WTO)’.⁹¹

The Strategy not only focuses on global governance, but also puts an emphasis on regional integration. In the words of the EUGS, the EU ‘will promote and support cooperative regional orders worldwide, including in the most divided areas’.⁹² Specifically mentioned is the aim to ‘foster cooperation with the Council of Europe and the Organisation for Security and Cooperation in Europe’.⁹³ With regard to its relations with its Southern neighbourhood, 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.⁹⁴ References are furthermore made to the Gulf Cooperation Council, the African Union, the Economic Community of Western African States (ECOWAS) and the G5 Sahel,⁹⁵ Community of Latin American and Caribbean States (CELAC) and Mercosur.⁹⁶

NATO, in particular, is acknowledged as ‘the bedrock of Euro-Atlantic security for almost 70 years’,⁹⁷ 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’.⁹⁸ However, it must be noted that in practice 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.⁹⁹

While global governance is of obvious relevance for foreign policy and contributing to the international legal order, 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

⁸⁹ EUGS, at 39.

⁹⁰ EUGS, at 42.

⁹¹ European Commission, *Trade for All: Towards a more responsible trade and investment policy*, Brussels, 14 October 2015, COM(2015) 497 final, at 5.

⁹² EUGS, at 32.

⁹³ EUGS, at 33.

⁹⁴ EUGS, at 34.

⁹⁵ EUGS, at 35.

⁹⁶ EUGS, at 37.

⁹⁷ EUGS, at 38.

⁹⁸ *European Security Strategy* (n 37), at 9.

⁹⁹ Simon Duke and Sophie Vanhoonacker, ‘NATO-EU Relations: Top-down strategic paralysis, bottom-up cooperation’ in Laura Chappell, Jocelyn Mawdsley and Petar Petrov (eds), *The EU, Strategy and Security Policy: Regional and Strategic Challenges* (Routledge 2016), at 157.

sustainable development lies at the heart of a resilient state.¹⁰⁰ 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, including cyber’.¹⁰¹ Here again, the Global Strategy combines law and governance aspects, now having added the domestic level to the regional and global ones.

3.3. NUANCE: OPERATING WITHIN THE BOUNDS OF THE POSSIBLE

A major criticism of EU strategic documents, and EU foreign policy at large, has always been the raising of high expectations without following up with the political will, capabilities, and instruments to realize them.¹⁰² As the previous section has endeavoured to trace, the trajectory of the EU’s codified foreign policy agenda was one of increasing ambition. The EUGS breaks with this trend. Admittedly, it remains an ambitious document both in scope and substance, but it combines that with an emphasis on nuance and prioritization. In the word of the Global Strategy, ‘[p]rincipled pragmatism will guide our external action in the years ahead.’¹⁰³ Showing awareness that EU foreign policy needs to avoid both extremes of too little and too much forward engagement, it notes 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.’¹⁰⁴

The strongest caveat or priority issued in the EUGS is arguably the focus on the neighbourhood. According to the Global Strategy, the EU ‘will take responsibility foremost in Europe and its surrounding regions, while pursuing targeted engagement further afield.’¹⁰⁵ A lot has been written about the EU’s transformative power when it comes to enlargement,¹⁰⁶ while the neighbourhood policy to East and South has received a more sobering assessment.¹⁰⁷ By refocussing EU foreign policy at large on the surroundings, the EUGS can be seen as an attempt at remedying this and to create more easily visible benefits for its citizens. However, it creates at the same time a paradox, in that the *Global Strategy* has a distinctly *regional* outlook.

¹⁰⁰ EUGS, at 24. See further Joint Communication to the European Parliament and the Council, *A Strategic Approach to Resilience in the EU’s external action*, Brussels, 7 June 2017, JOIN(2017) 21 final.

¹⁰¹ EUGS, at 26.

¹⁰² See already Philip Gordeon, ‘Europe’s Uncommon Foreign Policy’ (1997/98) 22 *International Security* 74; and subsequently Anand Menon, ‘La politique de défense européenne après le traité de Lisbonne: Beaucoup de bruit pour rien’ (2011) No. 2 *Politique étrangère* 375.

¹⁰³ EUGS, at 16.

¹⁰⁴ EUGS, at 16.

¹⁰⁵ EUGS, at 18.

¹⁰⁶ See e.g. Heather Grabbe, *The EU’s Transformative Power Europeanization Through Conditionality in Central and Eastern Europe* (Palgrave Macmillan 2006); Marise Cremona, ‘The Impact of Enlargement: External Policy and External Relations’ in Marise Cremona (ed), *The Enlargement of the European Union* (OUP 2003).

¹⁰⁷ Serena Giusti, ‘The EU’s Transformative Power Challenged in Ukraine’ (2016) 21 *European Foreign Affairs Review* 165; Elena Korosteleva, *The European Union and its Eastern Neighbours: Towards a More Ambitious Partnership?* (Routledge 2012); Nathalie Tocci, *The Neighbourhood Policy is Dead. What’s Next for European Foreign Policy Along its Arc of Instability?*, IAI Working Paper 14/16 (November 2016); Daniel Silander and Martin Nilsson, ‘Democratization without enlargement? The European Neighbourhood Policy on post-communist transitions’ (2013) 19 *Contemporary Politics* 441.

Looking beyond the neighbourhood, the Global Strategy also adds a number of formulations aimed at being more realistic and less rigid. In terms of regional cooperation, for instance, an interesting nuance is the explicit endorsement of different forms of integration: 'We will not strive to export our model, but rather seek reciprocal inspiration from different regional experiences.'¹⁰⁸ Accordingly, the EU seems to step back from the idea that other regional organizations will follow the same path of 'integration through law'¹⁰⁹ with strong supranational institutions forging an 'ever closer union'.¹¹⁰ On the one hand, this puts a caveat also on the emphasis on law as a 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 mode of regional governance—the 'ASEAN Way'¹¹¹—more credible. However, there is a tension for the EU in situations when disregard of international law, in particular human rights, might trump promoting regional organizations.

However, if one looks at the language used with regard to Asian security, an impression of 'overstretch' cannot be avoided whereby the EU raises expectations that exceed its capabilities and contradicts the more pragmatic and regionally focussed outlook of the Global Strategy. After all, unlike the U.S., the EU is not present with a massive naval fleet in the Asia-Pacific. Neither do its Member States have bilateral defence agreements with countries such as Japan¹¹² or South Korea.¹¹³

Also in its overall outlook on multilateral cooperation the EUGS introduces a caveat. 'Partnership' is named by the EUGS as one of the guiding principles of EU external action. 'The EU will be a responsible global stakeholder,' the Strategy notes, but adds that 'responsibility must be shared and requires investing in our partnerships', leading to the notion of 'co-responsibility' as the 'guiding principle in advancing a rules-based global order'.¹¹⁴ To this end, the EU commits to 'partner *selectively* with players whose cooperation is *necessary* to deliver global public goods and address common challenges'.¹¹⁵ This acknowledges, firstly, that the EU cannot solve any global challenges alone, and, secondly and more importantly, that multilateralism will only involve as many partners as necessary. This idea is reiterated in the context of global governance, where the EUGS acknowledges

¹⁰⁸ EUGS, at 32.

¹⁰⁹ Mauro Cappelletti, Monica Seccombe, and Joseph Weiler, 'Integration Through Law: Europe and the American Federal Experience – A General Introduction' in M Cappelletti, M Seccombe and JHH Weiler (eds), *Integration Through Law: Europe and the American Federal Experience. Volume I, Book 1* (Walter de Gruyter 1986).

¹¹⁰ TEU, Art 1(2) and thirteenth recital of the preamble; TFEU, first recital of the preamble.

¹¹¹ See Reuben Wong, 'Model power or reference point? The EU and the ASEAN Charter' (2012) 25 *Cambridge Review of International Affairs* 669.

¹¹² Treaty of Mutual Cooperation and Security between the United States and Japan, 19 January 1960, Washington, D.C.

¹¹³ Mutual Defense Treaty between the United States and the Republic of Korea, 1 October 1953, Washington, D.C.

¹¹⁴ EUGS, at 18.

¹¹⁵ EUGS, at 18 (emphases added).

that while the 'EU will lead by example', 'it cannot deliver alone'.¹¹⁶ Hence, the EUGS vows that the EU will cooperate with variable sets of partners, including non-state actors, depending on the issue in question. Moreover, the term 'functional multilateral cooperation'¹¹⁷ used in the Strategy could be seen as a watered down version of 'effective multilateralism'. Regarding other areas, the EUGS, speaks of 'selective engagement', for instance in the areas of climate, Arctic governance, maritime security and research.¹¹⁸ In a similar vein, when it comes to developing ties with regional groupings in the 'wider Atlantic space', the EU commits to do so 'according to their competitive advantage'.¹¹⁹

In addition, it is made more explicit that development policy will be conducted in a way that caters to the EU's own interests. In the words of the EUGS, the EU will 'blend development efforts with work on migration, health, education, energy and climate, science and technology, notably to improve food security'.¹²⁰ This point is reiterated later, where the Strategy stresses that 'development policy will become more flexible and aligned with our strategic priorities'.¹²¹

Overall, the new role the EUGS devises for the EU in the world is twofold. One is to 'lead by example on global governance',¹²² which harks back to Ian Manner'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'.¹²³ The other is outward looking, but realistic about the limits of leadership qualities or capacities on the EU's part, instead acting 'as an agenda-shaper, a connector, coordinator and facilitator within a networked web of players'.¹²⁴ 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, and also challenges the erstwhile largely uncontroversial normative outlook enshrined in the Global Strategy.

4. THE DOUBLE CHALLENGE OF 'HARD BREXIT' AND 'AMERICA FIRST'

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, through which norms such as human rights and democracy are to be promoted, infused with a dose of

¹¹⁶ EUGS, at 43.

¹¹⁷ EUGS, at 34.

¹¹⁸ EUGS, at 33.

¹¹⁹ EUGS, at 37.

¹²⁰ EUGS, at 36.

¹²¹ EUGS, at 48, where it is furthermore noted that 'lengthy programming cycles limit the timely use of EU support, and can reduce our visibility and impact' and that the 'availability of limited sums for activities on the ground, notably for conflict prevention and civil society support, should be made more flexible.'

¹²² EUGS, at 43.

¹²³ Ian Manners, 'Normative Power Europe: A Contradiction in Terms?' (2002) 40 *Journal of Common Market Studies* 235, at 252.

¹²⁴ EUGS, at 43.

pragmatism, it represents continuity in terms of substance and a slight modification in terms of ambition. Being the project of a year-long process of consultations and having obtained the approval, though not through formal adoption, 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 its 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, both domestic and foreign, are in turmoil in Europe. 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.¹²⁵ 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, though their effectiveness remains to be established.¹²⁶ From an external perspective, such democratic backsliding may diminish the EU's authority to 'lead by example', though it remains nonetheless an internal challenge.

The Brexit vote and the election of Donald Trump 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. Hence, these challenges let the EU Global Strategy appear in a different light. As this section argues, both challenge the substance of what could be called its '*acquis normatif*',¹²⁷ including its emphases on law and governance in its external relations, the EU's clout as a global actor, and to some extent even the European integration project as such. In the following, both the withdrawal process of the UK from the EU and the beginning of the Trump Presidency in the U.S. will be assessed regarding their relevance for EU foreign policy in general and the EUGS in particular. Both developments contribute to turning the Global Strategy into a manifesto countering Eurosceptic and anti-globalist views, and provide the EU furthermore with an opportunity for profiling itself as the guardian of the liberal world order through a process of 'othering' or 'negative identification'.¹²⁸

¹²⁵ R. Daniel Kelemen and Mitchell Orenstein, 'Europe's Autocracy Problem Polish Democracy's Final Days?' *Foreign Affairs*, 7 January 2016, <https://www.foreignaffairs.com/articles/poland/2016-01-07/europes-autocracy-problem> (accessed 22 November 2017); and Renáta Uitz, Can you tell when an illiberal democracy is in the making? An appeal to comparative constitutional scholarship from Hungary' (2015) 13 *International Journal of Constitutional Law* 279.

¹²⁶ Dimitry Kochenov and Laurent Pech, 'Better Late than Never? On the European Commission's Rule of Law Framework and its First Activation' (2016) 54 *Journal of Common Market Studies* 1062.

¹²⁷ Jan-Werner Müller, 'Protecting the Rule of Law (and Democracy!): The Idea of a Copenhagen Commission' in Carlos Closa and Dimitry Kochenov (eds), *Reinforcing Rule of Law Oversight in the European Union* (CUP 2016), at 213.

¹²⁸ Joachim Koops, *The European Union as an Integrative Power: Assessing the EU's 'Effective Multilateralism' Towards NATO and the United Nations* (Brussels University Press 2011), at 134, with further references to these concepts, leading ultimately back to Carl Schmitt.

4.1 (HARD) BREXIT AND 'GLOBAL BRITAIN'

The referendum on the UK's membership of the EU of June 2016 had direct consequences for the EUGS, which were subsequently aggravated as the negotiations with the EU regarding withdrawal started. 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', but that especially in 'challenging times, a strong Union is one that thinks strategically, shares a vision and acts together.'¹²⁹ She then goes on to note that '[t]his is even more true after the British referendum.'¹³⁰ 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 will result in the UK ceasing to be an EU Member State after a withdrawal agreement enters into force or otherwise two years after the triggering.¹³¹ However, this prospect, which has come to dominate much of expert and media discourse, can already be seen as relevant for the EUGS as regards the three aspects highlighted in this paper.

First, the need for nuance, i.e., 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 Besch, 'the UK is one of only two credible military powers in the EU', adding that it 'is one of only four members that spends 2 per cent of GDP on defence and has the largest number of deployable forces of any of them', possessing, 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'.¹³² To use Hill's concept, while the EUGS can be seen as an attempt to somewhat 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 EU27,¹³³ and by continued close cooperation between the UK and EU, which was indicated as a point of interest in Prime

¹²⁹ EUGS, at 3.

¹³⁰ EUGS, at 3.

¹³¹ Art 50(3) TEU, which stipulates also 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 Article 50 TEU notification, which some scholars argue would be legally possible, see Aurel Sari, 'Reversing a Withdrawal Notification under Article 50 TEU: Can a Member State Change Its Mind?' (2017) 42 *European Law Review* 451.

¹³² Sophia Besch, *EU defence, Brexit and Trump The Good, the Bad and the Ugly*, Centre for European Reform (December 2016), https://www.cer.org.uk/sites/default/files/pb_defence_14dec16.pdf (accessed 21 November 2017); see also Nicole Koenig, *EU External Action and Brexit: Relaunch and Reconnect*, Jacques Delors Institut, Berlin, Policy Paper No. 178 (22 November 2016), at 3-7.

¹³³ See Council conclusions on implementing the EU Global Strategy in the area of Security and Defence, Brussels, 14 November 2016, 14149/16; 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, Brussels, 14 November 2016, 14392/16; as well as the references *supra* in footnotes 58 and 59 on the European Defence Fund and PESCO.

Minister Theresa May's speech at Lancaster House,¹³⁴ and later reiterated in the British government's position paper on *Foreign policy, defence and development*.¹³⁵ The latter expresses the UK's interest in 'a future partnership with the EU unlike any other EU-third country relationship' and to which the UK's contribution is said 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.'¹³⁶ 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 CFSP, which is governed by the unanimity principle.¹³⁷ Instead, the UK could take part in the CFSP as a third country. However, existing frameworks show that no decision-making powers are provided to non-members.¹³⁸ A similar point was made in the PESCO notification, issued in full awareness of Brexit, which allows for third country participation, but notes that third countries may be invited only 'exceptionally', that they 'need to provide substantial added value', and that they will not be granted 'decision powers'.¹³⁹

In normative terms, concerning the emphasis on global governance, the effect of the UK's withdrawal is much less clear compared to the new government in the United States as discussed below. On the one hand, the British government has denounced the London Fisheries Convention and threatened to withhold funding from the United Nations,¹⁴⁰ while the position on whether the UK might withdraw from the European Convention of Human Rights in the future remains unclear.¹⁴¹ On the other, the UK continues to support multilateral approaches such as the Paris Climate Accord and the WTO,¹⁴² and has thus far not issued any plans aiming at the withdrawal from other international organizations. Overall, the official objective is 'continuity' of existing relationships and memberships.¹⁴³ To which extent,

¹³⁴ Prime Minister's Office (n 5): 'We will continue to work closely with our European allies in foreign and defence policy even as we leave the EU itself.'

¹³⁵ HM Government, *Foreign policy, defence and development: A future partnership paper* (12 September 2017).

¹³⁶ *Ibid.*, at 22.

¹³⁷ Art 24(1), second subpara TEU.

¹³⁸ See, e.g., Agreement between the European Union and the Kingdom of Norway establishing a framework for the participation of the Kingdom of Norway to the crisis management operations led by the European Union [2005] OJ L67/8, Art 2(2); and 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 [2011] OJ L143/2, Art 1(3).

¹³⁹ Notification on Permanent Structured Cooperation (PESCO) (n 59), at 8; see also Council Decision (CFSP) 2017/2315 (n 59), Art 4(2)(g), Art 9 and Annex III, pt 2.2.1 para 7.

¹⁴⁰ See, respectively, UK Government, *UK takes key step towards fair new fishing policy after Brexit*, Press Release, 2 Jul 2017, <https://www.gov.uk/government/news/uk-takes-key-step-towards-fair-new-fishing-policy-after-brexite> (accessed 10 December 2017); and 'UK threatens to withhold United Nations funding' (*BBC News*, 20 September 2017), <http://www.bbc.com/news/uk-politics-41337444> (accessed 11 December 2017).

¹⁴¹ See Merris Amos, 'The Value of the European Court of Human Rights to the United Kingdom' (2017) 28 *European Journal of International Law* 763, at 764-765.

¹⁴² See, respectively, Jon 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 11 December 2017); and UK Department for International Trade, *Preparing for our future UK trade policy*, Cm 9470 (October 2017), at 24-24 on rules-based governance and at 37 in support of the WTO's dispute settlement mechanism.

¹⁴³ UK Department for International Trade (n 142), at 28.

however, the label 'Global Britain' will be employed by the UK as a vehicle going beyond continuity and towards strengthening and reinvigorating multilateral institutions, remains to be seen post-Brexit.

As regards regional integration, the act of withdrawing from the EU itself is undoubtedly a blow to the supranational governance 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, which has its own adjudicatory mechanism in the form of the EFTA Court.¹⁴⁴ Thus, the prospect of what has become known as a 'hard Brexit' is an unequivocal rejection of this particular form of regional governance. 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.¹⁴⁵

To some extent, the latter observation also applies to the emphasis on the international rule of law and the development of the international legal order. Rejecting the legislative mechanisms of the EU and the jurisdiction of its Court of Justice, while implicitly rejecting also the 'softer' fall-back option of the EFTA Surveillance Authority and the EFTA Court amounts to dismissing this particular model marked by 'integration through law'. 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,¹⁴⁶ or a assertion of the UK's new-found autonomy in diverging from the EU's approaches.

Thus far, 'Global Britain' seems focussed on paving the way for a host of new international trade agreements. As the British Prime Minister noted in her Lancaster House speech:

We want to get out into the wider world, to trade and do business all around the globe. Countries including China, Brazil, and the Gulf States have already expressed their interest in striking trade deals with us. We have started discussions on future trade ties with countries like Australia, New Zealand and India. And President-Elect Trump has said Britain is not 'at the back of

¹⁴⁴ Prime Minister's Office (n 5): 'But I want to be clear. What I am proposing cannot mean membership of the single market.'

¹⁴⁵ See also Reuben Wong, 'Brexit and the false analogies with Asean' (*The Straits Times*, 3 August 2016), <http://www.straitstimes.com/opinion/brexit-and-the-false-analogies-with-asean> (accessed 21 November 2017), attempting to refute concerns about ASEAN's future with the argument that its governance model is markedly different from the EU's.

¹⁴⁶ Thomas Streinz, 'Cooperative Brexit: Giving back control over trade policy' (2017) 15 *International Journal of Constitutional Law* 271.

the queue' for a trade deal with the United States, the world's biggest economy, but front of the line.¹⁴⁷

However, while still an EU member, the UK lacks the competence to negotiate trade agreements, which is the EU's exclusive domain.¹⁴⁸ Moreover, a number of such treaties would be needed simply for substituting for trade (and other) agreements the EU has already concluded with external partners.¹⁴⁹ 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,¹⁵⁰ remains very much an open question. The U.S., 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.¹⁵¹

4.2 THE TRUMP PRESIDENCY AND 'AMERICA FIRST'

Next to Brexit, the other momentous event to have profound effects on the position of the EU in the world was the election of Donald Trump as President of the United States. Already during his campaign and in the early stages of his presidency, Trump has openly challenged norms and conventions considered unshakable pillars of the Western liberal consensus and of U.S. policy towards the EU and the world at large for decades.

In 2003, the European Security Strategy 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.'¹⁵² 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.'¹⁵³ This formulation, put in its

¹⁴⁷ Prime Minister's Office (n 5).

¹⁴⁸ Joris Larik, 'Sincere cooperation in the Common Commercial Policy: Lisbon, a "joined-up" Union, and "Brexit"' (2017) 8 *European Yearbook of International Economic Law* 83, at 102-104. The EU, however, could empower the UK under Art 2(1) TFEU, see in particular Streinz (n 146), at 284-287.

¹⁴⁹ Paul McClean, Alex Barker, Chris Campbell and Martin Stabe, 'The Brexit treaty renegotiation checklist' (*Financial Times*, 20 August 2017), <https://ig.ft.com/brexit-treaty-database/> (accessed 11 December 2017); and with a focus on transatlantic treaty relations, Joris Larik, 'Brexit and the Transatlantic Trouble of Counting Treaties' (*EJIL: Talk!*, 6 December 2017), <https://www.ejiltalk.org/brexit-and-the-transatlantic-trouble-of-counting-treaties/> (accessed 12 December 2017).

¹⁵⁰ A prime example for this is the Comprehensive Economic and Trade Agreement between Canada and the EU and its Member States, signed in Brussels on 30 October 2016, which includes innovative chapters, among others, on an Investment Court System and sustainable development. See further on the former aspect further, Naboth van den Broek and Danielle Morris, 'The EU's Proposed Investment Court and WTO Dispute Settlement: A Comparison and Lessons Learned latter' (2017) 2 *European Investment Law and Arbitration Review Online* 35; and on the latter aspect see Laura Puccio and Krisztina Binder, *Trade and sustainable development chapters in CETA*, European Parliamentary Research Service Briefing (January 2017).

¹⁵¹ Richard Partington, 'Trump adviser Ross says UK-US trade deal will mean scrapping EU rules' (*The Guardian*, 6 November 2017), <https://www.theguardian.com/business/2017/nov/06/trump-ross-says-uk-us-trade-deal-eu-brexit-chlorinated-chicken> (accessed 22 November 2017).

¹⁵² *European Security Strategy* (n 37), at 13.

¹⁵³ EUGS, at 36.

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.¹⁵⁴

However, this relationship and its shared normative basis are now put in question. Breaking with a long-standing U.S. policy to support European integration,¹⁵⁵ in January 2017 then President-elect Trump, in one of his first international interviews, expressed open support for the UK's withdrawal from the EU, noting that 'Brexit is going to end up being a great thing', predicting that 'others will leave', observing that the European Union is 'a vehicle for Germany', and that NATO was 'obsolete'.¹⁵⁶ A week later, in his inaugural address, the new U.S. 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.¹⁵⁷

Even if during his tenure as U.S. 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 order at large.

In addition, the new U.S. administration has shown little sympathy for the institutions of global governance and the international rule of law, even judging by the relatively short time President Trump has been in office at the time of writing this paper. The new President's stance can be summed up by a slogan he used on the campaign trail: 'Americanism, not globalism, will be our credo'.¹⁵⁸ First steps in putting this into action have become visible as reports have emerged on executive orders being drafted with the aim 'to drastically reduce the United States' role in the United Nations and other international organizations, as well as

¹⁵⁴ See for an overview Günther Burghardt, 'The EU's transatlantic relationship' in Alan Dashwood and Marc Maresceau (eds), *Law and Practice of EU External Relations: Salient Features of a Changing Landscape* (CUP 2008); and outlining a prospect for joint EU-U.S. leadership, published shortly before the election of Donald Trump, see Simon Schunz, 'The Prospects for Transatlantic Leadership in an Evolving Multipolar World' (2016) 21 *European Foreign Affairs Review* 431.

¹⁵⁵ See comprehensively Geir Lundestad, *The United States and Western Europe Since 1945: From 'Empire' by Invitation to Transatlantic Drift* (OUP 2005).

¹⁵⁶ As cited in the interview conducted by Michael Gove, 'Donald Trump interview: Brexit will be a great thing' (*The Times*, 15 January 2017), <http://www.thetimes.co.uk/article/donald-trump-interview-brexit-britain-trade-deal-europe-queen-5m0bc2tns> (accessed 21 November 2017).

¹⁵⁷ 'Inaugural address: Trump's full speech' (*CNN*, 21 January 2017), <http://edition.cnn.com/2017/01/20/politics/trump-inaugural-address/> (accessed 21 November 2017).

¹⁵⁸ 'Donald Trump's speech at the Republican convention' (n 6).

begin a process to review and potentially abrogate certain forms of multilateral treaties.¹⁵⁹ As a *fait accompli*, President Trump has already withdrawn the United States' signature from the Trans-Pacific Trade Partnership (TPP) that had been negotiated for eight years with eleven countries around the Pacific Rim.¹⁶⁰ The agreement envisages innovative substantive provisions on labour and environmental standards and a sophisticated institutional architecture,¹⁶¹ and may still go ahead between the other eleven parties without the U.S.¹⁶² In addition, a commitment to basic human rights of the U.S. government is put in question, not least by public statements attesting to the effectiveness of torture.¹⁶³ The trend continues, as the U.S. expressed threats to withdraw from the Iran nuclear deal,¹⁶⁴ has notified its intention to withdraw from the Paris Climate Agreement in August 2017,¹⁶⁵ is set on eroding the WTO dispute settlement system,¹⁶⁶ issued a notification to withdraw from UNESCO,¹⁶⁷ and withdrew its participation in drafting a UN Global Compact on Migration.¹⁶⁸

In contrast to campaign rhetoric, the new National Security Strategy (NSS) published in December 2017 refers to transatlantic relations and the EU in a more positive tone, albeit only briefly. After noting that the U.S. and Europe 'are bound together by our shared commitment to the principles of democracy, individual liberty, and the rule of law',¹⁶⁹ the NSS stresses that the 'United States will deepen collaboration with our European allies and partners to confront forces threatening to undermine our common values, security interests, and shared vision.'¹⁷⁰ As an implicit recognition of Brexit, the NSS provides furthermore that

¹⁵⁹ Max Fisher, 'Trump Prepares Orders Aiming at Global Funding and Treaties' (*The New York Times*, 25 January 2017), https://www.nytimes.com/2017/01/25/us/politics/united-nations-trump-administration.html?_r=0 (accessed 21 November 2017).

¹⁶⁰ Peter Baker, 'Trump Abandons Trans-Pacific Partnership, Obama's Signature Trade Deal' (*The New York Times*, 23 January 2017), <https://www.nytimes.com/2017/01/23/us/politics/tpp-trump-trade-nafta.html> (accessed 21 November 2017).

¹⁶¹ TPP was signed on 4 February 2016 in Auckland. Its text can be found on the website of the Australian Department of Foreign Affairs and Trade, <http://dfat.gov.au/trade/agreements/tpp/official-documents/Pages/official-documents.aspx> (accessed 21 November 2017).

¹⁶² Alexandra Stevenson and Motoko Rich, 'Trans-Pacific Trade Partners Are Moving On, Without the U.S.' (*New York Times*, 11 November 2017), <https://www.nytimes.com/2017/11/11/business/trump-tpp-trade.html>.

¹⁶³ Dan Merica, 'Trump on waterboarding: "We have to fight fire with fire"' (*CNN*, 26 January 2017), <http://edition.cnn.com/2017/01/25/politics/donald-trump-waterboarding-torture/index.html> (accessed 21 November 2017).

¹⁶⁴ Mark Landler and David Sanger, 'Trump Disavows Nuclear Deal, but Doesn't Scrap it' (*New York Times*, 13 October 2017), <https://www.nytimes.com/2017/10/13/us/politics/trump-iran-nuclear-deal.html> (accessed 22 November 2017).

¹⁶⁵ U.S. Department of State, *Communication Regarding Intent To Withdraw From Paris Agreement*, Media Note, 4 August 2017, <https://www.state.gov/r/pa/prs/ps/2017/08/273050.htm> (accessed 22 November 2017). According to Art 28(1) of the Paris Agreement, signed on 22 April 2016, withdrawal is possible at the earliest three years from the date of entry into force of the agreement, which was on 4 November 2016, and, according to Art 28(2), withdrawal only becomes effective one year after the official notification.

¹⁶⁶ Schaffer (n 13).

¹⁶⁷ U.S. Department of State, *The United States Withdraws From UNESCO*, Press Statement, 12 October 2017, <https://www.state.gov/r/pa/prs/ps/2017/10/274748.htm> (accessed 11 December 2017).

¹⁶⁸ U.S. Department of State, *U.S. Ends Participation in the Global Compact on Migration*, Press Statement, 3 December 2017, <https://www.state.gov/secretary/remarks/2017/12/276190.htm> (accessed 12 December 2017).

¹⁶⁹ The White House, *National Security Strategy of the United States of America*, December 2017, at 47.

¹⁷⁰ *Ibid.*, at 48.

the U.S. 'will work with the European Union, and bilaterally with the United Kingdom and other states, to ensure fair and reciprocal trade practices and eliminate barriers to growth.'¹⁷¹

Despite this nod to shared values, the new 'National Security Strategy puts America First',¹⁷² stressing that it 'is a strategy of principled realism that is guided by outcomes, not ideology.'¹⁷³ While the previous NSS of 2015 under President Obama still noted the importance of 'a rules-based international order that works best through empowered citizens, responsible states, and effective regional and international organizations',¹⁷⁴ similar references are now missing. Under the new administration, the U.S. vows to 'prioritize its efforts in those organizations that serve American interests, to ensure that they are strengthened and supportive of the United States, our allies, and our partners.'¹⁷⁵ Hence, whereas both the EU and the U.S. vow to reform global governance institutions in their respective strategies, a key difference between European 'principled pragmatism' and American 'principled realism' can be seen in the emphasis on—and confidence in—rules-based approaches and institutions.

Similar to the case of the UK described above, the U.S. under President Trump may well produce more international law in the form of new bilateral trade agreements in the future,¹⁷⁶ including with the UK. 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 judgments on future U.S.-EU cooperation, the signs coming from the first year of the new U.S. administration, including hostile statements and first specific actions, indicate a widening rift between the U.S. 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 U.S. 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. As the new U.S. administration seems set on turning its back on a rules-based global governance architecture, the EUGS now appears as a document of defiance, a manifesto of the global,

¹⁷¹ *Ibid.* The only other instance where the EU is explicitly referred to is where the Strategy notes that 'Russia views the North Atlantic Treaty Organization (NATO) and European Union (EU) as threats' (at 25).

¹⁷² *Ibid.*, at ii (Foreword by the President).

¹⁷³ *Ibid.*, at 1.

¹⁷⁴ The White House, *National Security Strategy*, February 2015, at 1.

¹⁷⁵ *National Security Strategy of the United States of America*, December 2017 (n 169), at 40.

¹⁷⁶ See *ibid.*, at 20: 'The United States will pursue bilateral trade and investment agreements with countries that commit to fair and reciprocal trade and will modernize existing agreements to ensure they are consistent with those principles.'

and a refutation of the 'other' in the form of a U.S. government committed a self-proclaimed 'America First' policy.

5. CONCLUSION: FROM MAINSTREAM TO MANIFESTO

With the Global Strategy for Foreign and Security Policy, the EU has given itself a new blueprint for its ambitions and role in the wider world. It 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 which may be described as an age where Euroscepticism, anti-globalism, and an oscillation between identity crises 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. The present contextualization and analysis of the EUGS can be summarized in the following three points.

First, the Global Strategy represents the latest milestone in an evolution of the EU as a global actor spanning seven decades, starting with the Schuman Declaration of 1950. This evolution was marked by a back-and-forth between legal and policy documents, attempting to respond to past crises and failures and thinking ahead for creating a stronger European voice on the world stage. The Global Strategy amounts to the most sophisticated endeavour yet to articulate the EU's international identity, interests 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 compared to its predecessors. It continues—and clarifies further—two hallmarks of EU external action, i.e. emphasizing the centrality of law and governance to its foreign policy and explaining how their promotion is in the Union's ultimate interest. By contrast, the emphasis of clear geographical priorities and a more pragmatic approach represent a shift from previous documents. Without a doubt, the EUGS remains very ambitious, and many of its points will likely remain aspirational. Nevertheless, the Global Strategy clearly recognizes the limits of the EU, the need to manage expectations better, and to use resources more effectively with more 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 in the U.S., 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—either representing a universal or at least a transatlantic consensus—is suddenly 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 norms, 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 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 support and develop further rules-based global governance in the twenty-first century.



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