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EDITORIAL COMMENTS

"We perfectly know what to work for": The EU's Global Strategy for Foreign and Security Policy

On 28 June 2016, seemingly little noticed in the hubbub following the UK referendum a few days before, High Representative Federica Mogherini presented her new Global Strategy for the Union's Foreign and Security Policy (EUGS) to the European Council.[1] The European Council simply "welcomed" the presentation of the document and requested the High Representative, Commission and Council to "take the work forward".[2] This low-key reception notwithstanding, the Global Strategy, titled "Shared vision, common action: A stronger Europe", is a significant document. Its predecessor, Javier Solana's European Security Strategy, has lasted for over twelve years,[3] so this Global Strategy may be expected to establish the Union's foreign policy vision and priorities for some years to come. It demonstrates the impact of the Lisbon Treaty on EU foreign policy-making and reveals the stamp which HRVP Mogherini wishes to place on EU foreign policy during her mandate. It had – and has – a part to play in the reflection of the 27 on the future of the Union leading up to and after the Bratislava informal meeting in September 2016.[4] In common with all policy planning and strategic thinking in the short and probably medium term, we need to read it in the light of the existential and practical impact of a possible Brexit.[5] But Brexit apart, the Global Strategy invites us to think about the EU's place in the world and presents us with a vision which is both less complacent and more energized than its 2003 predecessor.

1. "Shared vision, common action: A stronger Europe: A Global Strategy for the European Union's Foreign and Security Policy", 28 June 2016.

2. Conclusions of the European Council, 28 June 2016, EUCO 26/16, para 20.

3. European Union's Security Strategy "A secure Europe in a better world", adopted by the European Council in December 2003; it was renewed in 2008: Secretary General / High Representative Report on the Implementation of the European Security Strategy, "Providing security in a changing world", 10 Dec. 2008, Council doc. 17104/08.

4. On 29 June 2016, the day following the European Council, the Heads of State or Government of the 27 met informally to discuss the impact of the UK referendum result. In their Statement they called for a period of political reflection "to give an impulse to further reforms…and to the development of the EU with 27 Member States"; they agreed to return to this issue at a further informal meeting of the 27 in Bratislava on 16 Sept. 2016.

5. The Global Strategy, for example, is positive about the TTIP, making a case for its contribution to the promotion of international regulatory standards; however, even the possibility of Brexit has cast further doubts on its prospects, already subject to waning political enthusiasm in Germany, France and the USA.

The Global Strategy has taken over two years to gestate. In December 2013, a decade after the adoption of the Solana Strategy, the European Council asked the High Representative to "assess the impact of changes in the global environment, and to report to the Council in the course of 2015 on the challenges and opportunities arising for the Union".[6] The resulting Strategic Review conducted by High Representative Mogherini, who took office in November 2014, made the case for a new foreign policy strategy,[7] and the European Council of June 2015 requested the preparation of an EU global strategy by June 2016.[8] Alongside this process, a number of other "strategic" initiatives with foreign policy implications have marked the EU's post-Lisbon policy-making, including the Energy Security Strategy of May 2014,[9] the European Agenda on Security of April 2015,[10] the Action Plan on Human Rights and Democracy of April 2015,[11] the new trade and investment strategy of October 2015,[12] and the Joint Framework on countering hybrid threats.[13] References to these are found in the EU Global Strategy, and one of its functions is to pull together all these different strategic documents into a coherent "Strategy", which – as the High Representative points out – is global not only geographically but also in terms of policies and instruments.[14]

Strategies existed before the Lisbon Treaty of course; indeed the 2003 European Security Strategy marked a period of strategy formation, on counter-terrorism, weapons of mass destruction, development, and trade. But the Lisbon Treaty institutionalized the process, requiring the Union to develop an external strategy and constitutionalizing at least the outline of what that strategy might look like: by virtue of Article 22(1) TEU the European Council's formal Treaty-mandated strategic role covers all EU external action and not only the CFSP.[15] And in substantive terms, the European Council's

6. Conclusions of the European Council, 20 Dec. 2013, EUCO 217/13, para 9.

7. "The European Union in a changing global environment: A more connected, contested and complex world", 25 June 2015.

8. Conclusions of the European Council, 26 June 2015, EUCO 22/15, para 10.

9. Commission Communication, "European Energy Security Strategy", 28 May 2014, COM(2014)330 final.

10. Commission Communication, "The European Agenda on Security", 28 April 2015, COM(2015)185 final.

11. Joint Communication by the European Commission and the High Representative, Action Plan on Human Rights and Democracy (2015-2019) "Keeping human rights at the heart of the EU agenda", JOIN (2015) 16.

12. Commission Communication, "Trade for all – Towards a more responsible trade and investment policy", 14 Oct. 2015.

13. Joint Communication by the European Commission and the High Representative, JOIN (2016) 18 final, 6 April 2016.

14. EUGS, p. 4.

15. See also Arts 15(1) and 16(6) TEU.

formulation of the "strategic interests and objectives of the Union" is to be based on the principles and objectives set out in Article 21 TEU.

This constitutional framework is visible in the structure of the Global Strategy, which is considerably more complex than the 2003 version. The 2003 Solana Strategy was 14 pages long, identifying a number of key threats and challenges (terrorism, proliferation of WMD, organized crime, regional conflict and State failure) and proposing a limited number of strategic objectives (addressing the defined threats, security in the neighbourhood, effective multilateralism). The new Global Strategy runs to almost 60 pages and classifies both the Union's interests and the principles that should guide its foreign policy before listing a set of priorities. It is, in effect, an attempt to establish some concrete policy priorities based on the general external objectives we find in Article 21 TEU, and to articulate how Article 3(5) TEU – which requires the Union in its external action to "uphold and promote its values and interests and contribute to the protection of its citizens" – might be put into practice. The Global Strategy refers repeatedly to "our" values and to shared or common interests, reflected in the idea of "shared vision and common action" found in its title. It assumes rather than demonstrating that there is agreement on our shared values and that these interests are indeed common, notwithstanding the different understandings that may attach to the rule of law in different Member States and the divergent interests that challenges such as migration policy have revealed in recent months. We are offered a reflection on the relationship between values and interests as a form of "principled pragmatism" which, it claims, "stem[s] as much from a realistic assessment of the strategic environment as from an idealistic aspiration to advance a better world".[16] The Global Strategy thus attempts to tread a line between realist and normative approaches to foreign policy.[17] The interests it defines (peace and security, prosperity, democracy and a rules-based global order) indeed appear to be a list of desiderata for "a better world", but if we look more closely we find the focus to be on the peace and security of *the Union's* citizens and territory, peace in our neighbourhood being necessary for our security;[18] prosperity refers to growth, jobs, equality, and a safe and healthy environment for *Union* citizens, albeit prosperity should be shared through implementation of the Sustainable Development Goals. The argument is that interests and values are mutually interdependent rather than competing for priority: "[w]e have an interest in promoting our values in the world. At the

16. EUGS, p. 16.

17. See e.g. Nathalie Tocci (a special adviser to HRVP Mogherini with a coordinating role in the preparation of the EUGS), "Profiling Normative Foreign Policy: The European Union and its Global Partners" in Tocci (Ed.) *Who is a Normative Foreign Policy Actor? The European Union and its Global Partners* (CEPS, Brussels 2008), pp. 5–6.

18. EUGS, p. 14.

same time, our fundamental values are embedded in our interests".[19] Thus a rule-based global order is in our interest as necessary for our security and our prosperity. And compliance with our own values (such as democracy, human rights and the rule of law) will enhance our credibility and influence in the world. This is foreign policy based firmly on the needs of the Union itself. This is, indeed, as it should be; the Global Strategy translates the abstract language of the Treaties into pragmatism.

We see this walking of the line also in the principles which are to guide the Union's foreign policy. Big words (unity, engagement, responsibility, partnership) are translated into rather more prosaic conceptions of how the Union should go about its external action: coherence between Member State and EU action, and between different EU policies; recognition of the interconnections between issues and between their internal and external dimensions (migration and environmental challenges, energy and resources, international crime and terrorism); establishing regional and policy priorities for EU engagement; identifying core and like-minded partners with whom to work.

These reflections prompt the question: what is a security, or a foreign policy, strategy *for*? It might have an existential purpose, seeking to define the nature of the EU as a foreign policy actor. The 2003 Solana Strategy was in part concerned to establish the EU – ten years after its creation, in the aftermath of the Yugoslav wars and on the brink of a major enlargement – as a global player, with its emphasis on the EU's contribution to international security and "a better world",[20] anchoring itself firmly in the multilateral and legal framework of the UN. This vision was then reflected in the Lisbon Treaty and the provisions on the CSDP with their expanded Petersberg Tasks, including humanitarian tasks, conflict prevention, peace-keeping and crisis management.[21] Perhaps the constitutionalization of the EU's international identity in the Treaties has pushed this function of the Strategy into the background. HRVP Mogherini says in her foreword to the 2016 Global Strategy, "we perfectly know what to work for. We know what our principles, our interests and our priorities are". The 2016 Global Strategy is more concerned to answer questions about how to translate the Union's overall objectives into specific policies and actions.

19. EUGS, p. 13.

20. Its title, "A secure Europe in a better world", reflects this aim.

21. Art. 42(1) TEU refers to "missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter". The "Petersberg Tasks" were first agreed by the WEU Council of Ministers in 1992 and incorporated into the TEU provisions on the CFSP by the Treaty of Amsterdam; an extended list is now found in Art. 43(1) TEU.

The starting point, as in 2003, is security – and in 2016 the emphasis is on the security of the Union itself.[22] This reflects the Lisbon Treaty's emphasis on "the protection of its citizens" in Article 3(5) TEU and the "values, fundamental interests, security, independence and integrity" of the Union, the safeguarding of which is placed at the top of the list of external objectives in Article 21(2) TEU. The focus on security is unsurprising given the apprehensions and experiences of insecurity – of different dimensions – felt by Europeans at present. There is a new insistence that although the Union is incontrovertibly a soft power, it must also, in the interest of credibility and what is termed "strategic autonomy", demonstrate hard power capabilities. The Union's military capability is not only there to enable the EU to contribute to external crisis management; the Union must, if necessary, be able to defend itself: "Europeans must be able to protect Europe".[23] This aim has found at least some support among EU leaders, increased cooperation on defence and intelligence being one of the future needs identified by the French – German – Italian meeting at Ventotene in late August 2016.[24] The impact of a possible Brexit on the CSDP is not straightforward: the removal of one of its original sponsors and a major defence spender, but also the removal of a veto-player and (especially in recent years) unenthusiastic foot-dragger.

The security of the Union is the first of five priorities and is given the most space, but the others (State and societal resilience to east and south; an integrated approach to conflicts and crises; cooperative regional orders; and global governance) also have security implications. Enlargement policy, for example, is seen as "a strategic investment in Europe's security and prosperity" and includes shared approaches to "the challenges of migration, energy security, terrorism and organized crime".[25] Regional security in Europe and the EU's relations with Russia (a "key strategic challenge") are highlighted. The Union's peacebuilding efforts will be concentrated in its wider neighbourhood, the surrounding regions to the east and south; engagement further afield is to be considered "on a case by case basis".[26] One non-European region where the Strategy would like to see the Union developing its security involvement is Asia, including support for an

22. Pascal Vennesson defines a Grand Strategy as primarily concerned with security: "a polity's conception of its security goals and of the ways it plans to ensure its security". Vennesson, "Competing visions for the European Union grand strategy", 15 EFA Rev. (2010) 57, 59.

23. EUGS, p. 19.

24. The three leaders committed themselves to seeing "Europe" as the solution and not the problem in tackling the three major issues of security, the refugee crisis and economic growth. They agreed the need for more intelligence sharing in counter-terrorism and for increased cooperation within the European defence industry.

25. EUGS, p. 24.

26. EUGS, p. 28.

ASEAN-led regional security architecture and the peaceful settlement of maritime disputes. The "scaling up" of the Union's security role in Asia which the Global Strategy calls for is accompanied by an insistence on the importance of economic relations with the region and the connection between European prosperity and Asian security. This draws attention to a second feature of the Strategy's approach to priority-setting.

The rather long list of priorities, grouped under the five heads already mentioned, is an attempt to bring together all the Union's key external policies under one umbrella. In contrast to the Solana Strategy's rather narrower CFSP focus they include references, as well as to security and defence, to enlargement, the European Neighbourhood policy, trade, development and, in places somewhat sketchily, relations with all the major countries, regions and continents as well as the UN, NATO, the Council of Europe and OSCE. This change is a natural result of the Lisbon Treaty bringing together all dimensions of external action under a set of common provisions and the integration of the CFSP into the Union's structures more generally. It reflects too the creation of the European External Action Service and the double mandate of the HRVP, to "conduct" and "carry out" the CFSP and CSDP as well as "coordinating" other aspects of the Union's external action and ensuring the consistency of the Union's external action as a whole.[27] It is a natural extension of the "Comprehensive Approach" which emphasizes the integration of different policies and tools in tackling specific objectives.[28] In places the Strategy reads more like a roll-call of the EU's current external relations activities than a newly-considered set of priorities, but these activities have at least been placed within a reasonably coherent – if rather capacious – framework.

The framework has two features that are important for the Union's future action. The first is the inter-connectedness of internal and external policies, starting of course with internal and external security (counter-terrorism, organized crime, cyber-security, energy security) but also extending to climate change, environmental protection, migration, digital governance, internal market and defence, and the internal market and international trade and investment policies. The Treaty requires respect for the Union's general external principles and objectives in the development and implementation of the external dimension of its internal policies,[29] and its trade agreements must

27. Art. 18(2) and (4) TEU.

28. For example, Joint Communication by the European Commission and the High Representative on the EU's comprehensive approach to external conflicts and crises, JOIN (2013) 30 final, 18 Dec. 2013; see also Council conclusions on the EU's Comprehensive Approach, 12 May 2014, Council doc. 9644/14.

29. Art. 21(3) TEU.

be compatible with internal Union policies and rules.[30] The Global Strategy suggests a closer integration between external and internal: it argues in effect that the Union's goals cannot really be categorized as either "internal" or "external", and that their pursuance requires a combination of internal and external action. It is hard to disagree, but this reality poses challenges for the Union's competence and decision-making structures, which have tended to separate along internal and external lines. Witness the recent debates over whether asset-freezing measures directed at suspected terrorists should be seen as part of the CFSP or the Area of Freedom, Security and Justice;[31] or the argument over whether criminal justice measures in an agreement on the treatment of suspected pirates should be seen as CFSP or police and criminal cooperation.[32] Integrating the external dimension of "internal" policy DGs into its policy-making has been one of the challenges for the EEAS.[33] The period since the Lisbon Treaty has also been marked by inter-institutional disputes as the new institutional balance becomes established and as the EU engages in a wider range of international action.[34] The Strategy does not offer institutional solutions – it would not be its place to do so – and its appeals to joined-up action and coherence are predictably familiar, but it does at least put the issue on the table.

The second feature is flexibility. Flexibility in the EU's approach to third countries, notably the move away from a neighbourhood policy where countries move at different conditionality-based speeds in the same (integration) direction, towards a recognition that its neighbouring States will have different objectives in their relations with the EU.[35] Flexibility also in bringing together Union and Member State external action: the Strategy envisages individual Member States taking forward foreign policy initiatives in agreement with the Council as well as enhanced cooperation possibilities in the CSDP (a passing reference is even made to the potential for so-far unused permanent structured cooperation[36]). These are both welcome signs of maturity. Flexibility is an important component of EU foreign policy in another way. Despite the recent attention given to the requirements of autonomy of the Union's legal order, the Union can in fact accommodate a

30. Art. 207(3) TFEU.

31. Case C-130/10, *Parliament* v. *Council* EU:C:2012:472.

32. Case C-658/11, *European Parliament* v. *Council*, EU:C:2014:2025; Case C-263/14, *European Parliament* v. *Council*, EU:C:2016:435.

33. EEAS Review, July 2013, p. 8.

34. In addition to the cases cited at note 32 *supra*, see e.g. Case C-425/13, *Commission* v. *Council,* EU:C:2015:483; Case C-660/13, *Council* v. *Commission*, EU:C:2016:616; Case C-73/14, *Council* v. *Commission*, EU:C:2015:663.

35. EUGS, p. 25.

36. EUGS, p. 48.

wide variety of modes of participation in its external action, by both Member States and third countries. Mixed agreements allow Member States to participate alongside the EU in international agreements where both have interest and competence. Member States who do not take part in EU internal policies may participate alongside the EU in international agreements covering those policy fields,[37] and may even enter into agreements with the Union itself so as to preserve a unified position.[38] Third countries may align themselves with CFSP positions and restrictive measures and participate in EU CSDP missions, and frequently do. These flexibilities could prove important assets in the event of negotiations with the UK over future foreign policy relations, allowing – should the political will be there – a degree of continuity to be maintained.[39] Indeed, the brightness of the line between internal and external has been brought to the fore by speculation over the precise nature of the UK's future relationship with the EU (can a non-Member State be a full member of the internal market, or rather, what does being a full member of the internal market entail?).[40] Whatever the outcome of those discussions, the high degree of integration between the EU and some of its neighbours – which in some cases includes elements of foreign policy – together with the increased recognition and even acceptance of differentiated integration within the EU, suggest that models of differentiated membership encompassing both internal and external will shape the future of the Union.

What might be the impact of the new Global Strategy? Its political impact on the Union's external interlocutors will be hard to measure. To some extent, as we have seen, it is a reflection of the Union's existing internal and external priorities and as such will serve internally as a useful reference point more than stimulating a radical change of direction. Nevertheless the open-ended nature of the EU's external objectives as established in the Treaties inevitably grants additional significance to these strategic exercises and despite the lack of formal legal status, the Court of Justice has shown itself ready to refer to strategic statements of this kind in defining the proper scope of Union

37. See e.g. Council Decision 2006/619/EC of 24 July 2006 on the conclusion, on behalf of the European Community, of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, insofar as the provisions of the Protocol fall within the scope of Part III, Title IV of the Treaty establishing the European Community, O.J. 2006, L 262/51, as regards the position of the UK, Ireland and Denmark.

38. See e.g. the Agreement between the EC and Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, concluded so as to extend the Brussels I regime to Denmark, Council Decision 2006/325/EC, O.J. 2006, L 120/22.

39. On the UK and the CSDP see Faleg, "The implications of Brexit for the EU's Common Security and Defence Policy", CEPS Commentary, 26 July 2016.

40. Walker, "The Brexit Vote: The wrong question for Britain and Europe", Verfassungsblog, 16 June 2016.

policy-making.[41] And there are signals that may prove indicative of future direction and emphasis: the need for unity in purpose alongside acceptance that "our diversity is a tremendous asset"; the pragmatic insistence that the EU expresses its values (peace, security, prosperity, a rule-based global order) through pursuit of its interests; the emphasis on the need to protect the "European security order"; the identification of the EU's neighbourhood and the "surrounding regions" to the east and south as a priority for "responsible engagement" in the interest of both internal and external security; the ambition to be a leader and agenda-shaper in global governance and international rule-making. The Strategy was published on a day when most attention was directed elsewhere, but in gathering themselves together to deal with the outcome of the Brexit referendum the Union's leaders will be aware that the Union's strategic place in the world is of vital importance for its citizens.

41. This both before and after the Lisbon Treaty; see e.g. the references to the European Consensus on Development and the EU Strategy on small arms and light weapons in Case C-91/05, *Commission* v. *Council*, EU:C:2008:288, paras 66–70 and the reference to the European Consensus on Development in Case C-377/12, *Commission* v. *Council*, EU:C:2014:1903, para 42.