

opportunity to address the system's weaknesses and reposition the WTO for the future,"⁸³ a sentiment that has sparked "broad agreement" among members on the urgent need for institutional renewal.

Furthermore, despite its aggressive bilateral approach, the United States remains engaged on the multilateral front. For instance, recent trade agreements—such as the one with Indonesia—contain repeated references to the WTO e-commerce moratorium and the Joint Initiative on Services Domestic Regulation. This indicates that, contrary to widespread assumptions of disengagement, the United States still seeks to shape the WTO agenda, at least in specific areas. So let us all heed the Director-General's warning: "We must not waste a crisis."⁸⁴

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From Cooperation to Anomie and Transaction in the Transatlantic Relationship? A View from Europe on the Trump Administration 2.0

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Europe has been dealing with a series of ongoing crises—Russia's invasion of Ukraine (2014/2022), the rise of populist nationalism, and increasing economic challenges in some countries. While the re-election of President Donald J. Trump was not unexpected, the administration's actions in the first months of the president's second term exacerbate all three challenges and ruin the foundation upon which the friendly transatlantic relations were built since World War II.

Even more damaging than the administration's antagonistic measures is the shattered belief that Europe and the United States are jointly upholding common values and ideas. Europe¹ is not only a continent but also an idea that has been pursued across centuries. As it currently stands, this idea is rooted in democracy, human rights, and the rule of law² as founding principles, based on the Enlightenment, and reflected in the major European international organizations: the Council of Europe (CoE) and the European Union (EU). Those principles became important landmarks, as they were considered critical conditions

⁸³ WTO Press Release, DG Okonjo-Iweala: Broad Agreement on WTO Reform as "Central Priority" for MC14 (May 7, 2025), at https://www.wto.org/english/news_e/news25_e/tnc_07may25_e.htm [<https://perma.cc/DVG8-KG9D>].

⁸⁴ *Id.*

¹ I define Europe here as the forty-six member states of the Council of Europe (CoE), including states which are not part of the EU (twenty-seven member states). The Russian Federation is no longer a member of the Council of Europe. See *Consequences of the Aggression of the Russian Federation Against Ukraine*, CM/Del/Dec(2022)1428ter/2.3 (Mar. 16, 2022).

² The CoE protects and promotes three core values: human rights, democracy, and the rule of law. See Statute of the Council of Europe, pmbl., Art. 3, 87 UNTS 103, ETS 1. Among its bodies is the European Court of Human Rights. The European Union defines its core values in Article 2 of the Treaty on European Union as respect for human dignity, freedom, democracy, equality, rule of law, and respect for human rights, including those of minorities. See Consolidated Version of the Treaty on European Union, Art. 2, 2012 OJ (C 326) 13 (Oct. 26, 2012).

for upholding peace between European nations, which for centuries had been torn apart by wars.³ The belief in peace through law, including peaceful settlement of disputes, is deeply engrained. It has also led to the description of Europe as a civilian and normative power, not a military one.⁴

Europeans have been immensely grateful for having been saved by the United States from the scourge of Nazism and dictatorship, at immense human and material costs. American soldiers were saviors and friends; the new generation grew up remembering the first chewing gums given to them by the U.S. soldiers, creating a strong emotional bond; the United States was the big, protective brother first for Western Europe and after 1990 for Europe as a whole. This has changed.⁵ Europe viewed the United States as its closest ally and friend (next to other European states), sharing the values of democracy, human rights, and the rule of law. Europe also shared with the United States the belief in the role and importance of science, facts, and data gathering in achieving better policies, deeply rooted in the Enlightenment. It relied on the protection of the United States during the Cold War, via the North Atlantic Treaty Organization (NATO).⁶ And the United States became Europe's biggest trading partner.⁷ The implicit and explicit reliance on, and trust in, the United States in matters of international values, security (despite fault lines, such as the 2003 Iraq war), trade, and international cooperation has been huge, and it has an emotional element as well, as all trust

³ On the European approach (or approaches) to international law, see OXFORD HANDBOOK OF INTERNATIONAL LAW IN EUROPE (Anne van Aaken, Pierre D'Argent, Lauri Mälksoo & Johann Justus Vassel eds., 2024).

⁴ Ian Manners, *Normative Power Europe: A Contradiction in Terms?*, 40 J. COMMON MKT. STUD. 235 (2002); ANU BRADFORD, *THE BRUSSELS EFFECT* (2020). Certainly, even with these common ideas, Europe is diverse, linguistically, culturally, and politically, which sometimes leads to (institutional and political) gridlock. Yet, being European has been described as "being at home abroad"; diversity is proudly embraced. It is therefore necessarily superficial to take *one* view of Europe on the Trump administration 2.0 and thus the following does not do justice to the diversity of European voices and European governments. See TIMOTHY GARTEN ASH, *HOMELANDS: A PERSONAL HISTORY OF EUROPE* 48 (2023). In this contribution, I take the view of a German-born European, growing up during the Cold War, on the privileged Western side of the Iron Curtain, and as an unapologetic believer in European values, which are also the values of the Western World, even if not always followed.

⁵ See Richard Wike, Jacob Poushter, Laura Silver & Janell Fetterolf, *U.S. Image Declines in Many Nations Amid Low Confidence in Trump*, PEW RSCH. CTR. (June 11, 2025), at https://www.pewresearch.org/wp-content/uploads/sites/20/2025/06/gap_2025_06_11_us-image-2025_report.pdf [<https://perma.cc/7LF4-433J>]. That said, people who place themselves on the ideological right tend to rate the United States more favorably, especially in Hungary.

⁶ North Atlantic Treaty, Art. 5, Apr. 4, 1949, 63 Stat. 2241, 34 UNTS 243.

⁷ In 2024, the EU and the United States traded goods worth €865 billion (imports and exports), representing 17% of all EU trade in goods. The United States was the largest destination for EU exports, resulting in a goods trade surplus of €157 billion for the EU. See *International Trade in Goods*, EUROSTAT, at https://ec.europa.eu/eurostat/statistics-explained/index.php?title=International_trade_in_goods. Total bilateral services trade reached €746 billion, with the United States having a service trade surplus with the EU, and a services deficit for the EU of about €109 billion in 2023. The EU and the United States are also major investment partners. EU and U.S. firms have €4.7 trillion worth of investment in each other's markets (2023 data). See European Commission, *EU Trade Relations with the United States. Facts, Figures and Latest Developments*, at https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/united-states_en. There is no dedicated free trade agreement between the EU and the United States. The Transatlantic Trade and Investment Partnership negotiations were launched in 2013, but they ended in 2016 without conclusion and were formally closed in 2019. Yet, cooperation is pursued in the EU-U.S. Trade and Technology Council (TTC), launched in 2021. The latest ministerial meeting was held in April 2024. The TTC served as a forum for the EU and the United States to coordinate approaches to key global trade, economic and technology issues, and to deepen transatlantic trade and economic relations based on shared democratic values.

has. Already during the first Trump administration, there were disappointed expectations. And it was difficult for Europe to adapt to the changing grammar of relations, resulting in calls (reluctantly heeded)⁸ from French President Emmanuel Macron for strategic autonomy.⁹ Now, the sentiment of French Senator Claude Malhuret, that Europe “is fighting a dictator (Putin), supported by a traitor (Trump),”¹⁰ is widely shared. The impression is that the national and international rule of law have been displaced by uncertainty and by fear as an instrument of power—for people, companies, and states alike.

For Europeans, what is even more shocking about Trump 2.0 is the very openness of the abrupt and seismic shift from cooperative to transactional and zero-sum relations, as well as the United States’ concomitant move to discard and disregard the language and ordering function of international law in international relations that Europe holds dear. It is the language of the Trump administration—a type of Orwellian “new speak” that avoids mentioning international law and the (liberal democratic) values upon which the world order post-World War II has been built—that most irritates Europeans.¹¹ The law’s character as an argumentative practice seems to have been discarded by the Trump administration, replaced by a discourse of “deal-making” that is in reality a strategy of coercion.

The impression is mounting that the rift also amounts to a culture war,¹² with U.S. society seeming to be increasingly aligned with authoritarian states like Russia on human rights and diversity, equity, and inclusion (DEI), as well as the relationship between state and religion. The sense is that the shared values are no more, just as a common understanding of enlightened self-interest, based on science, is also now gone.

Given that Europe was founded on (the rule of) law in its internal relations (this being viewed not only as a central achievement of the post-World War II order but also an essential feature of peaceful relations within Europe and globally), U.S. abandonment of the values

⁸ See European Parliament, Briefing Paper: EU Strategic Autonomy 2013–2023. From Concept to Capacity, (2022), at [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733589/EPRS_BRI\(2022\)733589_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733589/EPRS_BRI(2022)733589_EN.pdf) [<https://perma.cc/T4JW-9U2Q>].

⁹ See The French Presidency Press Release, President Macron Gives Speech on New Initiative for Europe (Sept. 26 2017), at <https://www.elysee.fr/en/emmanuel-macron/2017/09/26/president-macron-gives-speech-on-new-initiative-for-europe>.

¹⁰ Speech Against Trump, French Senator Claude Malhuret, at 1:50 (Mar. 2025), at <https://youtu.be/unSSHfs3U0?si=L0oXHOix0hFCmnDj>.

¹¹ President Trump described the EU as being founded to “screw” the United States. *Trump Says the EU Was Formed to “Screw” the United States*, FRANCE 24 (Feb. 26, 2025), at <https://www.france24.com/en/europe/20250226-trump-says-eu-formed-to-screw-united-states-tariffs>. Vice President JD Vance’s speech at the 61st Munich Security Conference accusing Europe of backsliding on freedom of speech and democracy has been characterized as a declaration of an “ideological war” and a “culture war” against the United States’ European allies. See Elsa Conesa & Sylvie Kauffmann, *In Munich, JD Vance Declares Ideological War on Europe*, LE MONDE (Feb. 15, 2025), at https://www.lemonde.fr/en/international/article/2025/02/15/in-munich-jd-vance-declares-ideological-war-on-europe_6738189_4.html; Suzanne Lynch, *JD Vance Brings Culture War to Europe*, POLITICO (Feb. 15, 2025), at <https://www.politico.eu/newsletter/global-playbook/jd-vance-brings-culture-war-to-europe>; David Frum, *America’s Lonely Future: What Happens When the Nation Takes a Zero-sum Approach to the World?*, ATLANTIC (Jan. 2025), at <https://www.theatlantic.com/magazine/archive/2025/01/trump-foreign-policy-isolation/680754>; Doyle McManus, *Trump Isn’t an Isolationist. He’s a Bully — and That’s Hurting U.S. Influence in the World*, L.A. TIMES (Feb. 10, 2025), at <https://www.latimes.com/world-nation/story/2025-02-10/trump-is-not-an-isolationist-hes-a-bully-and-that-hurts-us-influence-in-the-world>.

¹² See *Culture Wars, Political Polarization and Deepening Inequality: The Roots of Trumpism*, CONVERSATION (May 7, 2025), at <https://theconversation.com/culture-wars-political-polarization-and-deepening-inequality-the-roots-of-trumpism-255778>.

that had been shared for so long came as quite a shock, especially after Russia's flagrant disregard of the UN Charter and the CoE principles in 2022. Now, Europe finds itself not only squeezed between two major powers disregarding international law (expected from Russia, but still with an emotional shock to have a war of aggression on European soil)¹³ but also encumbered with disappointed expectations concerning the United States.

In the remainder of this essay, I do not focus on the Trump administration's actions in specific areas of international law.¹⁴ Rather, the focus is on the structural issues that affect Europe deeply. Although the whole world is concerned with these actions, for Europe, having been a close U.S. partner in the last eighty years, they are especially upsetting and disrupting. I focus on three themes: (1) U.S. actions that paralyze multilateralism and demonstrate zero-sum thinking and free-riding on the provision of global public goods and commons;¹⁵ (2) U.S. conduct and statements that ignore central pillars of international law; and (3) U.S. activities that destabilize Europe itself through political meddling.

FREE-RIDING ON MULTILATERALISM

After World War II, Europe constructed the international legal order in close transatlantic cooperation with the United States. Despite strong realist and sometimes isolationist views in the United States, a positive sum thinking on multilateralism seems to have been the norm in the relationship, embedded and based on international law and friendly diplomatic relations. There have always been differences in view, but there was a strong basis on which to work together and with other states. What we see now is the United States, with great speed, turning its back on the multilateralism that characterized prior decades,¹⁶ withdrawing contributions to global public goods, potentially weakening the global commons and endangering club goods such as security pacts. To be sure, withdrawal from treaties and international organizations is not a violation of international law. Yet, it amounts to a significant weakening of the multilateral institutions that were built to provide global public goods and preserve the global commons. And it leads, as well, to free-riding on the provision of those goods, for example, climate change mitigation. Since states, as people, are conditional cooperators, if the expectation is created that others, especially big players, will not cooperate, the provision of those goods may break down entirely, endangering multilateralism overall.¹⁷

¹³ See Seda Gürkan, *Constructing an "Emotional Community" in Times of Crisis: The EU's Response to Russia's Invasion of Ukraine in 2022*, 46 J. EUR. INTEGRATION 635 (2024).

¹⁴ For an excellent overview of the actions taken by the Trump administration during the first eight weeks of his second term, see Jacob Katz Cogan, *Contemporary Practice of the United States*, 119 AJIL 313, 314 (2025).

¹⁵ See Stefanie Stantcheva, *A Win-Lose Situation? To Understand America Today, Study the Zero-Sum Mindset*, ECONOMIST (July 7, 2025), at <https://www.economist.com/by-invitation/2025/07/07/to-understand-america-today-study-the-zero-sum-mindset-writes-stefanie-stantcheva>.

¹⁶ See *Withdrawing the United States from the World Health Organization*, Exec. Order 14155, 90 Fed. Reg. 8361 (Jan. 20, 2025); *The Organization for Economic Co-operation and Development (OECD) Global Tax Deal (Global Tax Deal)*, 90 Fed. Reg. 8483 (Jan. 20, 2025); *Putting America First in International Environmental Agreements*, Exec. Order 14162, 90 Fed. Reg. 8455 (Jan. 20, 2025).

¹⁷ See Anne van Aaken, *Behavioral Aspects of the International Law of Global Public Goods and Common Pool Resources*, 112 AJIL 67 (2018).

The United States trades with the EU (and basically all of Europe)¹⁸ on the basis of World Trade Organization (WTO) rules.¹⁹ The first signs of weakening of the international trading order, as built after World War II and reaffirmed and extended in the 1990s, came with the non-reappointment of WTO Appellate Body (AB) members during the Obama and first Trump administrations, rendering the AB non-operational.²⁰ The EU reacted with the initiative of the Multi-Party Interim Appeal Arbitration Arrangement (MPIA),²¹ as an alternative system for resolving WTO disputes (of which the United States is not a part), reflecting the deep European belief in settling disputes through judicial mechanisms. The multiple U.S. violations of WTO law during the first Trump administration through the imposition of tariffs that were justified on the basis of national security²² were followed by a complete undermining of the General Agreement on Tariffs and Trade's (GATT) Most-Favored Nation Clause in President Trump's second term through the imposition of "reciprocal tariffs." These trade policies ignored WTO commitments and undermined basic norms of global trade. The politicization of trade policy by the Trump administration and the interference in the *domaine réservé* of targeted countries²³ is deeply troubling for Europe. In reaction, Europeans are already boycotting U.S. goods.²⁴

The EU declared after the announcement of President Trump's "Liberation Day" tariffs that it will stand firm and retaliate. Europe was still hoping for a resolution of the trade conflict even as it reaffirmed its advocacy for free and fair trade and expressed its disappointment in being "let down by [its] oldest ally."²⁵ On July 27, after a meeting between EU Commission President Ursula von der Leyen and President Trump, it was announced that there was a "deal."²⁶ It envisages a 15 percent tariff on most EU exports to the United States, half the rate previously threatened, in return for Europe purchasing more American energy and slashing taxes on some imports. The deal did not receive a warm welcome in European capitals. French

¹⁸ The Economic Prosperity Deal (EPD) between the United Kingdom (UK) and the United States is arguably not a free trade agreement as required under GATT Article XXIV. See General Terms for the United States of America and the United Kingdom of Great Britain and Northern Ireland Economic Prosperity Deal (May 8, 2025), at https://assets.publishing.service.gov.uk/media/681d327d43d6699b3c1d2a9d/US_UK_EPD_050825_FINAL_rev_v2.pdf [<https://perma.cc/2DCL-P9ES>].

¹⁹ The negotiations on the Transatlantic Trade and Investment Partnership between the EU and the United States were halted during the first Trump administration.

²⁰ See Jean Galbraith, *Contemporary Practice of the United States*, 114 AJIL 494, 518–25 (2020); Chad P. Bown & Soumaya Keynes, *Why Trump Shot the Sheriffs: The End of WTO Dispute Settlement 1.0*, 42 J. POL'Y MODELING 799 (2020).

²¹ Multi-Party Interim Appeal Arbitration Arrangement (MPIA), at <https://wto plurilaterals.info/plural-initiative/the-mpia>.

²² See World Trade Organization Press Release, *United States Appeals Panel Reports Regarding US Duties on Steel and Aluminium Products* (Jan. 30, 2023), at https://www.wto.org/english/news_e/news23_e/ds544_552_556_564apl_30jan23_e.htm [<https://perma.cc/F9DR-EKDF>].

²³ See Natalie Sherman & Nadine Yousif, *Trump Threatens Brazil with 50% Tariff and Demands Bolsonaro's Trial End*, BBC NEWS (July 9, 2025), at <https://www.bbc.com/news/articles/c784ee81y4zo>.

²⁴ See Jenny Gross, *America Last: Why Shoppers Abroad Are Boycotting U.S. Goods*, N.Y. TIMES (Mar. 21, 2025), at <https://www.nytimes.com/2025/03/21/world/europe/europe-boycott-american-products-trump.html>.

²⁵ Seb Starcevic & Camille Gus, *Europe Slams "Illegal" Trump Tariffs, Vows Unified Response*, POLITICO (Apr. 3, 2025), at <https://www.politico.eu/article/europe-donald-trump-tariffs-liberation-day-reaction>.

²⁶ The agreement was subsequently published. See Joint Statement on a United States-European Union Framework on an Agreement on an Agreement on Reciprocal, Fair and Balanced Trade (Aug. 21, 2025), at https://policy.trade.ec.europa.eu/news/joint-statement-united-states-european-union-framework-agreement-reciprocal-fair-and-balanced-trade-2025-08-21_en [<https://perma.cc/KT6Q-KYWP>].

Prime Minister Bayrou called it tantamount to “submission,” whereas German Chancellor Friedrich Merz said the agreement would “substantially damage” Germany’s finances.²⁷ Although a bigger trade war was avoided, President Trump announced in September his intention to lay new tariffs on heavy trucks, kitchen cabinets, furniture, and pharmaceutical products (the latter at rate of 100 percent) unless companies invested in the United States.²⁸ The U.S.-EU “deal” will hit the EU economies hard at the same time they have promised to augment defense spending and make investments to achieve the climate goals. Given that it falls short of satisfying WTO requirements, it endangers the European Union’s credibility in upholding the international trading system²⁹ and risks watering down certain European regulations in the field of sustainability.

The United States used to be, laudably, heavily engaged in the provision of global public goods such as health, having been also the biggest provider of funds for the World Health Organization³⁰ before it announced its withdrawal in January 2025. A withdrawal will not only weaken the institution, and thus global health; it will also increase the likelihood of spill-over effects of communicable diseases, which, ironically, will endanger U.S. health. Furthermore, the withdrawal of funding for the U.S. Agency for International Development will have heavy health consequences around the Global South, including the risk of starvation. Coupled with the national dismantling of health institutions, health research, and data, as well as politically fostered vaccine skepticism, there is in Europe disbelief at how the Trump administration has thrown away the progress made on the public good of health over the past decades.

Another, expected move was the U.S. cessation of its commitment to combat climate change under the Paris Agreement.³¹ While exiting the Paris Agreement was a—legal—repeat of President Trump’s first term, it nevertheless demonstrates a non-willingness to contribute to a global public good and instead free ride.³² Europe will remain faithful to its climate goals, yet, it will potentially be put in a competitive disadvantage in the short run.

The Trump administration is also endangering the concept of common heritage of humankind. The executive order fostering deep seabed mining beyond national jurisdiction³³ is viewed, by China and Europe, as a violation of international law.³⁴ Given that the United

²⁷ See Emily Atkinson & Laura Gozzi, *France and Germany Lead Downbeat EU Response to US Trade Deal*, BBC NEWS (July 28, 2025), at <https://www.bbc.com/news/articles/c3ez97zv5y5o>.

²⁸ See Andrew Jeong & Victoria Craw, *Trump Announces New Tariffs on Trucks, Furniture and Pharmaceuticals*, WASH. POST (Sept. 26, 2025), at <https://www.washingtonpost.com/business/2025/09/25/trump-tariffs-pharmaceuticals-trucks-furniture>.

²⁹ See Alberto Alemanno, *Europe’s Economic Surrender*, PROJECT SYNDICATE (Jul 30, 2025), at <https://www.project-syndicate.org/commentary/high-cost-of-eu-capitulation-to-trump-tariff-threats-by-alberto-alemanno-2025-07>.

³⁰ The United States has contributed around 15 percent to the WHO’s budget in the period between 2020 and 2024 with the biggest share of voluntary contribution, amounting to hundreds of millions of dollars. See Felix Richter, *The U.S. Is the Largest Contributor to the WHO*, STATISTICA (Jan 21, 2025), at <https://www.statista.com/chart/33800/top-contributors-to-the-world-health-organization> [<https://perma.cc/5P3Q-83UX>].

³¹ Paris Agreement, Dec. 12, 2015, TIAS No. 16-1104, 3156 UNTS 79.

³² It remains to be seen what indirect effects the International Court of Justice’s July 2025 advisory opinion on “Obligations of States in Respect of Climate Change” will have on the United States.

³³ See *Unleashing America’s Offshore Critical Minerals and Resources*, Exec. Order 14285, 90 Fed Reg. 17735 (Apr. 24, 2025); see also Jacob Katz Cogan, *Contemporary Practice of the United States*, 119 AJIL 573, 579 (2025).

³⁴ For a discussion, see Coalter Lathrop, *The Latest Trump Threat to International Law: Unilaterally Mining the Area*, EJIL:TALK! (May 6, 2025), at <https://www.ejiltalk.org/the-latest-trump-threat-to-international-law>.

States has signed the Agreement relating to the Implementation of Part XI³⁵ of United Nations Convention on the Law of the Seas,³⁶ albeit not having ratified it, it has an obligation to refrain in good faith from acts that would defeat the object and purpose of the treaty. Again here, the U.S. move puts other countries at a competitive disadvantage, thus risking a break-down of multilateral cooperation on the deep seabed via provoking a race to mining. The plan to put a nuclear reactor on the moon announced by NASA³⁷ follows the same rationale—exploiting the global commons. It similarly creates incentives for other states to do the same.

The United States also puts into question the club good of security as created by the North Atlantic Treaty Organization (NATO). Europe's NATO member countries rallied around the United States after the September 11 attacks and the U.S. call under Article 5 of the North Atlantic Treaty to consider those attacks as an attack on all. Article 5 is based on mutual trust, and absent that trust, the organization itself is useless. Yet, Europe was complacent and sleepwalking, free-riding on the U.S. security umbrella and naïve regarding the self-interest of the United States. It is not absurd to argue that NATO ceased to be credible already with the downfall of the Soviet Union since there was thereafter no narrowly understood U.S. self-interest to defend Europe. Yet, Europeans did not realize that, nor did they take action, despite stark warnings during the first Trump administration. The United States' non-committal response to the drone incursions into Poland, and its characterization as a potential mistake by President Trump,³⁸ has not helped. President Trump rightly asked European NATO members to step up defense spending, already in the first term, albeit simultaneously questioning Article 5. Incredulity ensued in the first months of 2025, when President Trump halted intelligence sharing to Ukraine, publicly degraded President Volodymyr Zelensky in the White House, blamed both Ukraine and Russia equally for the war, and announced that the United States would accept a land-for-peace "deal," ignoring the UN Charter. The call for a land-for-peace agreement was repeated after President Trump met President Vladimir Putin in Alaska. European leaders stressed their support for Ukraine, ruling out legal recognition of land acquired by force when they accompanied President Zelensky to the White House in August 2025. As German Chancellor Merz said: "This isn't just about Ukraine's territory; it's about the political order of Europe."³⁹

The United States' new coyness with European security has scared its NATO partners, many of which—particularly those in the east, such as Finland, Poland, and the Baltic states—feel deeply threatened by Russia. As a reaction, those bordering states have initiated

[unilaterally-mining-the-area](https://soundcloud.com/americansocietyofinternationallaw/asil_episode_54). ASIL Podcast, Behind the Headlines, Episode 54, Is the Trump Administration's Deep Seabed Mining Program violating International Law? (May 19, 2025), at https://soundcloud.com/americansocietyofinternationallaw/asil_episode_54.

³⁵ GA Res. 48/263, Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (July 28, 1994).

³⁶ United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 UNTS 397.

³⁷ See Sam Skove, *Duffy to Announce Nuclear Reactor on the Moon*, POLITICO (Aug. 4, 2025), at <https://www.politico.com/news/2025/08/04/nasa-china-space-station-duffy-directives-00492172>.

³⁸ See Matt Spetalnick, Andrew Gray, Andreas Rinke & John Irish, *Analysis-Trump's Public Shrug Over Drone Incursion in Poland Fuels Unease in Europe*, REUTERS (Sept. 13, 2025), at <https://www.reuters.com/business/aerospace-defense/trumps-public-shrug-over-drone-incursion-poland-fuels-unease-europe-2025-09-13>.

³⁹ Tessa Walther, *What Did Europe Achieve at the Washington Summit on Ukraine?*, DEUTSCHE WELLE (Aug. 19, 2025), at <https://www.dw.com/en/us-ukraine-europe-trump-zelensky-talks-eu/a-73683920>.

their withdrawal from the Mine-Ban Convention.⁴⁰ Reacting to the extensive use of mines by Russia (which is not a party), President Zelensky also announced his intention to withdraw Ukraine from the treaty, and in the meantime Ukraine has suspended its operation.⁴¹ Although understandable, these withdrawals contradict EU efforts, as well as the Oslo Action Plan to strengthen the treaty.⁴²

Building defense and intelligence capabilities takes time, yet coordinated efforts within the EU, as well as with NATO members that are not EU members, are accelerating. The EU only hesitantly took action during the first Trump administration following Russia's annexation of Crimea. It launched the European Defence Fund and the Permanent Structured Cooperation in 2017 to deepen defense collaboration. Europe is now taking a more active approach. States are increasing defense spending, strengthening intra-European security arrangements beyond NATO (Franco-German cooperation; Nordic-Baltic defense networks), and transatlantic defense doctrines (especially regarding nuclear deterrence and command structures) are being revisited to hedge against possible U.S. disengagement. The EU Commission announced the ReArm Europe Plan in 2025, which includes funding for defense capabilities up to €800 billion.⁴³

Especially notable is the United Kingdom's reaction.⁴⁴ It is rebuilding its diplomatic, economic, and security bridges with the EU, especially Germany and France, standing firm against Russia. The UK agreed to coordinate nuclear arsenals with France and concluded a treaty with Germany on mutual defense. These three important states are not breaking ties with the United States completely, but the institutions they are building will supplement NATO and the G7.⁴⁵ Nevertheless, there remain different views in Europe on the engagement with the United States. The unreliability of U.S. behavior creates paralysis. Relying on NATO, the EU never fully developed its European Defence Union, as envisaged in Lisbon Treaty's Article 42, since a duplication in defense structures would be costly. Yet, there is a rising awareness of Europe's, now uncomfortable, dependence on the U.S. defense kit. European arm makers are building up their industry and better European joint procurement is being planned. Yet, the uncertainty around Article 5 still prevents Europe from taking its security fate fully in its own hands, even more so given the

⁴⁰ Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, Sept. 18, 1997, 2056 UNTS 211.

⁴¹ See Andrew Higgins, *Land Mines, a Cold War Horror, Could Return to Fortify Europe's Borders*, N.Y. TIMES (July 8, 2025), at <https://www.nytimes.com/2025/07/08/world/europe/land-mines-treaty-russia-ukraine.html>; C.N.385.2025.TREATIES-XXVI.5 (depositary notification).

⁴² See European Union, Summaries of EU Legislation on the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:4309274> [<https://perma.cc/95JL-WPWC>].

⁴³ European Commission Press Release, Press Statement by President von der Leyen on the Defence Package (Mar. 3 2025), at https://ec.europa.eu/commission/presscorner/detail/en/statement_25_673; EU External Action Service, White Paper for European Defence—Readiness 2030 (Mar. 21, 2025), at https://www.eeas.europa.eu/eeas/white-paper-for-european-defence-readiness-2030_en.

⁴⁴ In July 2025, the UK and Germany signed a wide-ranging treaty for mutual defense, economic cooperation, and other partnerships. Concurrently, France and the UK, the sole nuclear powers in Europe (except for Russia), agreed to coordinate their nuclear arsenals. See Michael D. Shear & Jim Tankersley, *Brothers in Arms: Macron, Merz and Starmer Plan for a Post-U.S. Future*, N.Y. TIMES (July 18, 2025), at <https://www.nytimes.com/2025/07/18/world/europe/macron-starmer-merz-trump-eu.html>.

⁴⁵ *Id.*

requests by the Trump administration for Europe to buy U.S. weapons in the U.S.-EU trade deal.

INTERNATIONAL LAW ANOMIE

Even more breathtaking to Europeans than the U.S. withdrawal from its multilateral commitments was its apparent renunciation of core elements of the international legal order. It is one thing for the United States not to have an interest in adhering to international law in certain circumstances. It is another to send signals, as is now standard in Trump 2.0, that indicate that the United States has no serious interest in international law as such or working with international institutions. Unfortunately, there are many examples.

President Donald Trump's desire to acquire Greenland, possibly even by force, is prohibited by the UN Charter. It is legally incompatible with the principles of territorial integrity, sovereignty, and self-determination. The tactics that the United States has employed, including influence operations to promote Greenland's secession from Denmark,⁴⁶ are reminiscent of Russia's covert actions in Europe to influence elections.

A further disregard of the UN Charter manifested in President Trump's so-called "final offer" in late April, that would have required Ukraine to *de jure* recognize Russia's annexation of Crimea (land for peace), *de facto* accept Russian control over nearly the entirety of the occupied regions in eastern and southern Ukraine, and renounce any prospect of joining NATO.⁴⁷ This demand came after the halting of U.S. intelligence sharing⁴⁸ and military aid to Ukraine. It was considered in Europe as bullying, the "final offer" a clear breach of international law. All this took place concurrently with the "mineral deal."⁴⁹ Signed under pressure, the agreement retains neo-colonial characteristics of resource exploitation. At the same time came the announcement that the U.S. administration was defunding the database crucial for documenting the criminal accountability of President Putin for war crimes.⁵⁰

⁴⁶ See Paul Kirby, *U.S. Tells Denmark Summons to "Calm Down" Over Alleged Greenland Influence Operation*, BBC NEWS (Aug. 27, 2025), at <https://www.bbc.com/news/articles/c0j9l08902eo>.

⁴⁷ See Barak Ravid, *Trump's "Final Offer" for Peace Requires Ukraine to Accept Russian Occupation*, AXIOS (Apr. 22, 2025), at <https://www.axios.com/2025/04/22/trump-russia-ukraine-peace-plan-crimea-donbas>.

⁴⁸ See Jonathan Landay & Erin Banco, *US Cuts Intelligence Sharing for Ukraine, Adding Pressure for Russia Peace Deal*, REUTERS (Mar. 5, 2025), at <https://www.reuters.com/world/us-cuts-off-intelligence-sharing-with-ukraine-ft-reports-2025-03-05>.

⁴⁹ See Agreement Between the Government of the United States of America and the Government of Ukraine on the Establishment of a United States-Ukraine Reconstruction Investment Fund, TIAS 25-523 (Apr. 30, 2025) [hereinafter Minerals Agreement]; Gregory Shaffer & Sergio Puig, *The U.S.-Ukraine Strategic Minerals Partnership in the Wake of Russia's War of Aggression*, 119 AJIL 700 (2025). The agreement takes care to avoid conflicts with a future Ukrainian EU accession. See Minerals Agreement, *supra* note 6, Arts. VII(1)(c), VII(2), VIII(3).

⁵⁰ See Cybele Mayes-Osterman & Francesca Chambers, *Project that Tracks Ukrainian Kids Kidnapped by Russia Defunded by Trump Administration*, USA TODAY (Mar. 19, 2025), at <https://eu.usatoday.com/story/news/world/2025/03/19/trump-abducted-ukrainian-kids/82541604007>. It seems that the data has been saved, after initial uncertainty about this. See Orion Kim & Davis Zong, *Yale Lab Seeks New Funders for Research on Kidnapped Ukrainian Children*, YALE DAILY NEWS (Jun 12, 2025), at <https://yaledailynews.com/blog/2025/06/12/yale-lab-seeks-new-funders-for-research-on-kidnapped-ukrainian-children>.

The sanctioning of International Criminal Court (ICC) officials by President Trump⁵¹ was condemned by the EU Commission and governments.⁵² From a European perspective, international accountability for international crimes should be pursued through international law. Forty-five European states are state parties to the Rome Statute of the ICC,⁵³ and the EU has actively promoted for many years the court's development as a pillar of the international legal order.⁵⁴

Another instance of complete disregard of basic principles of international law was President Trump's call for the removal of Palestinians from the Gaza strip, an act that would amount to a crime against humanity.⁵⁵ European countries have collectively condemned the October 7 massacre by Hamas and have reaffirmed the right of Israel to defend itself within the limits of international law. Increasingly, those limits are being broken, and Europe is less willing to stand by the side of Israel.⁵⁶ The UK and Norway, among others, have issued sanctions against Israeli ministers for the incitement of violence in the illegal settlements in

⁵¹ See Imposing Sanctions on the International Criminal Court, Exec. Order 14203, 90 Fed. Reg. 9369 (Feb. 6, 2025); Cogan, *supra* note 14, at 318; see also U.S. Dep't of State Press Release, Imposing Further Sanctions in Response to the ICC's Ongoing Threat to Americans and Israelis (Aug. 20, 2025), at <https://www.state.gov/releases/office-of-the-spokesperson/2025/08/imposing-further-sanctions-in-response-to-the-iccs-ongoing-threat-to-americans-and-israelis-2> [<https://perma.cc/J8V3-V5E8>]; U.S. Dep't of State Press Release, Sanctioning Foreign NGOs Directly Engaged in ICC's Illegitimate Targeting of Israel (Sept. 20, 2025), at <https://www.state.gov/releases/office-of-the-spokesperson/2025/09/sanctioning-foreign-ngos-directly-engaged-in-iccs-illegitimate-targeting-of-israel> [<https://perma.cc/5NHD-M7NX>]. UN human rights experts called for the European Commission to enforce the Council Regulation (EC) No. 2271/96, also known as the EU Blocking Statute, to Shield ICC Officials from Unlawful Sanctions and Reprisals. See Office of the High Commissioner for Human Rights Press Release, US Sanctions on ICC Officials Undermine Independence of Tribunal and Justice for Victims: UN Experts (Aug. 22, 2025), at <https://www.ohchr.org/en/press-releases/2025/08/us-sanctions-icc-officials-undermine-independence-tribunal-and-justice> [<https://perma.cc/38LR-JHZZ>].

⁵² See Dennis Li, *EU Officials Reaffirm Support for ICC in Response to US Sanctions on Judges*, JURISTNEWS (June 7, 2025), at <https://www.jurist.org/news/2025/06/eu-officials-reaffirm-support-for-icc-in-response-to-us-sanctions-on-judges>. Slovenia and Belgium have asked Brussels to use the EU's Extraterritoriality (Blocking) statute, Council Regulation (EC) No. 2271/96, to prohibit EU operators from complying with the sanctions without special authorization.

⁵³ Rome Statute of the International Criminal Court, July 17, 1998, 2187 UNTS 90.

⁵⁴ For example, the cooperation and assistance agreement between the EU and the ICC that was adopted in 2006, OJ L 115, 28.4.2006, at 50–56, and the CFSP Decision committing the EU and its member states to support the ICC's effective and efficient functioning, Decision 2006/313/CFSP. Full cooperation with the ICC is also part of the EU's pre-accession conditionality.

⁵⁵ See Vincent Chetail, *Removing Palestinians from Gaza Is Not a Plan; It Is a Crime Against Humanity*, EJIL: TALK! (May 19, 2025), at <https://www.ejiltalk.org/removing-palestinians-from-gaza-is-not-a-plan-it-is-a-crime-against-humanity>.

⁵⁶ See Joint Statement by High Representative Kallas, Commissioner Šuica and Commissioner Lahbib on the Humanitarian Crisis in Gaza, (May 7, 2025), at https://cyprus.representation.ec.europa.eu/news/joint-statement-high-representative-kallas-commissioner-suica-and-commissioner-lahbib-humanitarian-2025-05-07_en. A draft UN Security Council resolution also called for an immediate and permanent ceasefire in Gaza. The resolution failed after the United States exercised its veto, blocking the initiative backed by all ten elected members of the Council, including the current European members, Slovenia, Greece, and Denmark, as well as the United Kingdom and France. See Vibhu Mishra, *US Vetoes Security Council Resolution Demanding Permanent Ceasefire in Gaza*, UN NEWS (June 4, 2025), at <https://news.un.org/en/story/2025/06/1164056>. In response to the ongoing crisis, ever more European states have recognized Palestine. Bulgaria, Cyprus, Czech Republic, Hungary, Poland, Romania, and Slovakia took this action before joining the EU. Slovenia and Sweden granted recognition when they were a member of the EU. France, Ireland, Norway, Spain, and the UK have done so recently. See Farnaz Fassihi, Thomas Fuller & Catherine Porter, *World Leaders Recognize Palestinian State, in a Challenge to U.S. and Israel*, N.Y. TIMES (Sept. 22, 2025), at <https://www.nytimes.com/2025/09/22/world/middleeast/unga-palestinian-state.html>. Germany does not yet intend to recognize Palestine.

the West Bank.⁵⁷ The current debate centers around the suspension of the EU-Israel Association Agreement, given Israel's human rights violations,⁵⁸ and many European states have ceased arms delivery to Israel, including Germany.

MEDDLING IN EUROPEAN LIBERAL DEMOCRACIES

Contributing to the opening of the transatlantic political and value schism is the impression from European countries that the United States is actively fostering ethno-nationalistic, right-wing populist parties in Europe, contributing to destabilization and undermining Europe's (formerly shared) values. President Trump has said that the EU was created to "screw" the United States, and he acts as if the EU were a hostile power.⁵⁹ The open friendship between Hungary's President Viktor Orbán and President Trump is not easy to bear. Hungary not only calls itself an illiberal democracy, but it also actively disrupts EU foreign and internal politics, weakening the "one voice" EU that is so dearly needed to uphold faithfulness to international law and confront Russian aggression. It is also the most corrupt EU member.⁶⁰ The meddling by the Trump administration includes support for right-wing extremist parties with Nazi ties in Germany.⁶¹ Elon Musk's interview with the Alternative für Deutschland (AfD) candidate for chancellor, Alice Weidel,⁶² and Vice President JD Vance's meeting with her⁶³ prior to Germany's parliamentary elections were perceived as unfriendly interference. Similar instances have occurred in other European countries, including veiled hints that not electing nationalist candidates could endanger security (as in the Polish presidential elections).⁶⁴ Given that the EU and the Council of Europe are founded on liberal democratic values, this support for forces that aim to undermine exactly those values is considered as openly hostile.

Although within Europe, the backlash against DEI is not as fierce as in the United States, U.S. government measures bolster voices that are critical of DEI and risk a culture war within Europe. Many multinational European companies have already shed their DEI

⁵⁷ See UK Foreign, Commonwealth and Development Office Press Release, UK and Partners Unite to Sanction Ministers Inciting West Bank Violence (June 10, 2025), at <https://www.gov.uk/government/news/uk-and-partners-unite-to-sanction-ministers-inciting-west-bank-violence>.

⁵⁸ See European Parliament, Review of the EU-Israel Association Agreement (2025), at [https://www.europarl.europa.eu/RegData/etudes/ATAG/2025/772892/EPRS_ATA\(2025\)772892_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2025/772892/EPRS_ATA(2025)772892_EN.pdf) [<https://perma.cc/6HJE-8WUY>]; Maïa de La Baume, *EU Leaders Leave Israel Partnership on Shelf Despite Pressure to Act*, EURONEWS (June 27, 2025), at <https://www.euronews.com/my-europe/2025/06/27/eu-leaders-leave-israel-partnership-on-shelf-despite-pressure-to-act>.

⁵⁹ See *To Earn American Help, Allies Are Told to Elect Nationalists*, ECONOMIST (June 3, 2025), at <https://www.economist.com/international/2025/06/03/to-earn-american-help-allies-are-told-to-elect-nationalists> [hereinafter *To Earn American Help*].

⁶⁰ *Corruption Perceptions Index: Hungary*, TRANSPARENCY INT'L, at <https://www.transparency.org/en/cpi/2024/index/hun>.

⁶¹ After years of suspicion of right-wing extremism and anti-constitutionalism, this assessment is now legally final with a decision of the German Federal Administrative Court of May 20, 2025, BVerwG, Ref. 6 B 21.24. Currently, there is an active debate regarding whether the AfD should be prohibited.

⁶² Alice Weidel (@Alice_Weidel), X (Jan. 9, 2025, 4:58 p.m.), at https://x.com/Alice_Weidel/status/1877475125970211197.

⁶³ Geir Moulson & Aamer Madhani, *US Vice President JD Vance Meets German Far-right Leader as He Criticizes "Firewalls" in Europe*, AP (Feb. 14, 2025), at <https://apnews.com/article/germany-munich-vance-free-speech-election-33e720b820e61db9d5e478e63b4a4dc7>.

⁶⁴ See *To Earn American Help*, *supra* note 59.

policies as a reaction to the developments in the United States and letters sent by the Trump Administration⁶⁵ to European companies.⁶⁶ Further, Europeans are ever more concerned about democratic backsliding in the United States, including attacks on freedom of speech, freedom of the press, and academic freedom, as well as the dismantling of the checks on executive power. Given the attacks on universities and academics, Europeans have issued programs to attract top American researchers.⁶⁷

President Trump might nudge forward changes in what liberal democracy means in Europe, even if his actions have the result of bringing Europe closer together and do not result in victory by populist right-wing parties. The Trump administration and the populist movements in Europe are counterparts. We may see centrist governments and the EU change in response to both in order to contain the populist threat that has been strengthened and promoted by the Trump administration, as well as more subtle mimetic effects. The threat of President Trump is thus also a threat within a liberal democratic Europe.

CONCLUSION

In spite of the fear and anxiety within Europe, and the deep regret and empathy that it has with the U.S. citizens and residents, the second Trump administration is an opportunity for Europe. As Jean Monnet, a founding father of the EU, said: “Europe will be forged in crisis, and will be the sum of the solutions adopted for those crises.”⁶⁸

Europe has the opportunity to show leadership to the free world,⁶⁹ to uphold liberal democratic values, multilateralism, and the importance of international norms. The Trumpian foreign policy of coercion only works when states compete with each other (*divide et impera*). Consequently, coordination and standing together can uphold the international order. Currently, the gap in international leadership is being filled by China, not Europe—and that will heavily weaken the *liberal* international order. To fill the role that the United States has abjured, Europe needs to ramp up public investment, develop its capital market, coordinate on defense, and pass economic reforms to ensure competitiveness. It also must stand firm on international core values and international law despite finding itself between Scylla and Charybdis—breaking international law to save itself (in trade and global commons) or holding fast in an ever-weaker competitive position.

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⁶⁵ See Giorgio Leali, Paul de Villepin & Joe Stanley-Smith, *France, Belgium Scoff at Anti-DEI Letter from Trump Administration*, POLITICO (Mar. 30, 2025), at <https://www.politico.eu/article/france-belgium-scoff-at-anti-dei-policy-letter-from-donald-trump-administration>.

⁶⁶ See Federica di Sario, *Trump Pressuring European Companies to Follow Anti-DEI Path*, PARLIAMENT (Mar. 26, 2025), at <https://www.theparliamentmagazine.eu/news/article/as-trump-wages-war-on-dei-european-firms-face-a-dilemma>.

⁶⁷ See Hoger Onderwijs Persbureau, *New “Super Grant” to Attract US Academics to Europe*, VOX (May 8, 2025), at <https://www.voxweb.nl/en/new-super-grant-to-attract-us-academics-to-europe>.

⁶⁸ JEAN MONNET, MEMOIRS 416 (Richard Mayne trans., 1978).

⁶⁹ Europe as a continent still has the highest number of full democracies, whereas the United States is ranked as a flawed democracy. See Economist Intelligence Unit, *Democracy Index 2023* (2024); Theodore Bunzel & Elina Ribakova, *What Europe Needs to Lead: American Self-Sabotage Calls for European Self-Help*, FOR. AFF. (May 30, 2025), at <https://www.foreignaffairs.com/europe/what-europe-needs-lead>.