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Making EU foreign policy via informal groupings: the case of the Minsk
agreement and the Iran nuclear deal

MA thesis

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ABSTRACT

The thesis examines the question of how foreign-policy making by informal groupings is legitimised in the European Union (EU). Covering the period 2003-2015, the analysis focuses on the Iran nuclear deal and the Minsk agreements aiming to stop the conflict in Ukraine. As the EU's foreign policy is constrained by multiple factors, including the decision-making process and administrative capacity, groups of interested states have on occasion taken the lead in handling negotiations with third party actors without a mandate from the EU. This however goes against the very normative and systematised approach the EU applies when forming policy, where no country or group of countries should be able to prescribe policies upon others. In this situation, the informal grouping needs to legitimise their approach to the excluded parties as the tools they want to use need approval from those excluded.

The thesis uses Schmidt's framework (2010) of three legitimisation strategies of input, throughput and output, and how these are justified by the informal grouping to the excluded parties. In this situation those taking the lead are an informal exclusive long-term hierarchical set of states acting on behalf of the EU, with the excluded parties being the rest of the EU's member states. The cases under investigation are chosen as they present a deviation from what has been the standard procedure for policy making, but are plausible contenders for a roadmap to future EU crisis management. When dealing with time sensitive or security related matters, it is often not possible to achieve a consensus on the Union level, which is why those more invested may start negotiating as a small circle of like-minded countries on behalf of the rest with the third party. It is the authority that is taken, not given, which is the first issue the informal grouping needs to justify, otherwise it is lacking in input legitimacy. Secondly, if the excluded cannot see into the operation of the negotiations, mistrust of the informal grouping will rob them of throughput legitimacy. This is due to the excluded parties not being able to confirm that those negotiating are doing so with the best intentions for all. Thirdly, the informal grouping needs to ensure that the settlement they eventually achieve is palatable to the excluded parties as well, and does not favour themselves, divesting it of output legitimacy.

The cases are chosen due to their saliency, deviating from normal EU foreign policy procedure. In both cases it is possible to conduct process tracing through data triangulation of primary and secondary sources. In the cases presented, the various forms of legitimisation strategies the informal

grouping uses are explained. In both cases, the primary legitimisation strategy was one of output as an appeal to effectiveness, with the claim being that the EU could not manage the situation, but the informal grouping could. As a response, those side-lined protested, to which the informal grouping relented by keeping the excluded parties informed and onboarded some EU elements into the negotiation process, providing throughput legitimacy. In the Iranian nuclear case, the role of the lead negotiator switched, with the EU taking over from the informal grouping granting the process input legitimacy as well, thereby adhering to the normative method by which the EU makes policy and all three forms of legitimacy.

As it is likely that the EU will face some crisis again where an informal grouping will take the lead, understanding how and when to onboard the EU to the process can ensure a more coherent approach and a more effective policy, increasing trust and co-operation between member states, whilst maintaining a flexibility that only informal groupings can provide. However, due to the growing capacity of the EU and its institutions, it is unlikely to be an exclusive grouping unless demanded by external actors.

Keywords: informal groupings, legitimacy, EU foreign policy, coherence, policy effectiveness, exclusiveness

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LIST OF ABBREVIATIONS

BRICS – Brazil, Russia, India, China, South Africa

CSTO – Collective Security Treaty Organisation

CFSP – Common Foreign and Security Policy

DCFTA – Deep and Comprehensive Free Trade Area

E3 – European 3 (France, Germany, United Kingdom)

EEAS – European External Action Service

EU – European Union

GCC – Gulf Cooperation Council

IAEA – International Atomic Energy Agency

JCPOA – Joint Comprehensive Plan of Action

NATO – North Atlantic Treaty Organisation

NGO – non-governmental organisations

OSCE – Organisation for Security and Co-operation in Europe

P5 – Permanent Five Security Council members

PESCO – Permanent Structured Cooperation

QMV – qualified majority voting

TEU – Treaty on European Union

TFEU – Treaty on the Functioning of the European Union (TFEU)

UN – United Nations

1. INTRODUCTION

1.1. Research question and relevance

The European Union is in many aspects a *sui generis* creature, not comparable to any other institution (Bickerton, 2007). As the EU has grown, both in terms of widening and deepening, its institutions have developed, and procedures have become ever more strongly codified. This also includes the manner in which the EU conducts its foreign policy. For this, there are rules outlined in the treaties, and foreign policy is one of the few areas where the EU's decision-making process is strongly intergovernmental. States see foreign policy as being strongly connected to sovereignty, which is why they have been reluctant to confer the right to maintain and conduct international relations and negotiations to the EU, and why the EU's Common Foreign and Security Policy (CFSP) is a rare case where unanimity is required for a vote to pass. The merits and drawbacks of this unanimity clause have been argued back and forth. Those preferring to scrap it and hand more power over to EU institutions claim that it would give the EU more clout and influence. Opponents maintain that collective action can also be collective inaction, which is unacceptable in matters of national security, or can lead to states being forced to accept decisions against their interest without fair recompense. Nevertheless, when an agreement is reached, either through unanimous approval or constructive abstention, responsibility and authority is bestowed on the High Representative, who then represents the EU as a whole on the agreed upon topic (Viceré, 2021).

However, there are instances where EU countries with more leverage or stronger interests prefer to approach third parties directly, thereby bypassing the EU's conventional procedures, and take the lead in negotiations. This is especially the case with matters regarding security which are time or veto sensitive. Currently, there are both formal and informal groupings within the EU with specific foreign policy goals, the difference being whether there exists a formal agreement to the member's obligations vis-à-vis each other or not. Moreover, there are formal and informal groupings outside the EU's framework with a concentrated focus on certain external issues. Within the EU, formal co-operation is regulated by the Treaty on European Union (TEU), these being initiatives like Permanent Structured Cooperation (PESCO) which are subservient to the EU's institutions (PESCO, 2023). Informally there are groupings like Visegrad or the EUMed, where all the members are part of the EU, but the grouping has no formal connection to the EU's

institutions or receive no nominal EU input. Further, outside the EU framework there can also be formal groupings, when the EU delegates responsibility for a certain task to certain states, as envisaged in the Treaty on the Functioning of the European Union (TFEU) articles 42 and 44 (EUR-Lex, 2012b).

It is also important to differentiate between inclusive groupings, where members can freely join as long as they meet the grouping's criteria, and exclusive groupings, which are for select members and entry is by invite only.

The objective of this thesis is therefore to examine the legitimisation of EU foreign policy when led by exclusive informal groupings in an exploratory two-case study. Therefore, the research questions are as follows:

How has the use of exclusive groupings been legitimised to other EU members?

How has the role of the EU changed during negotiations led by informal groupings?

How has the use of exclusive groupings changed over time?

The focus of this thesis are exclusive informal groupings outside the EU's framework, being the Normandy format where a Franco-German duo represented the EU to stop the conflict in Ukraine, and the E3 format where France, Germany and the United Kingdom negotiated with Iran to disincentivise it from its nuclear programme. The third question will be answered in the final conclusion where the cases can be analysed next to each other.

Specifically, this thesis comprises of two cases where such informal groupings played prominent roles. First, the Joint Comprehensive Plan of Action (JCPOA), colloquially known as the Iran nuclear deal, where the big three - the UK, Germany, and France, known as the European 3 or E3 led the negotiations in the beginning, and gradually phased in the EU after seeing that their method was alienating other member states and their perceived lack of legitimacy was hindering their leverage in the negotiations. The second case under investigation is the Minsk II negotiations in 2014 aiming to de-escalate and stop the violence in the Donbas between Ukraine and pro-Russian insurgents. Here, the EU was formally absent from the discussion throughout, beyond its representation by France and Germany (Normandy format), and the national interests of bordering countries needed to be taken into account on security grounds, most notably Poland and the Baltic

states. The intent is to discover how the exclusive informal groupings have legitimised their methods of conducting foreign policy to other excluded EU member states.

This process of EU foreign policy led by informal groupings needs investigation because although the EU is a highly normative actor, the cases under investigation are instances where the EU's member states have behaved in a manner deviating from the norm, forming said informal groupings, and deviating from the EU's intergovernmental system. It is plausible that there will be instances in the future when direct representation of EU interests will not or cannot be performed by EU institutions and will be headed by an informal grouping. Nevertheless, the countries taking the lead in the negotiations would need to inform, accommodate, and involve the EU and its member states to legitimise their actions, for both the unity of the Union and functioning of the negotiated settlement.

To answer the stated research questions, it is required to trace the process of actions that led to the events under investigation (Hawkins, 2009). It is necessary to not only state the "what" of an investigated event but also the whys of the actors' decisions. To achieve this, the data regarding the negotiations, communications and legitimisation strategies is gathered through secondary sources such as public media outlets, reports from think tanks and non-governmental organisations (NGOs) and academical experts on the topic, but also from primary sources, amongst others governmental speech acts of countries participating in or excluded from the informal groupings, treaties and agreements. It should be noted that due to the political and often sensitive nature of the topics discussed, it is likely that in terms of actors' objectives, concerns, and diplomatic leverage there are unknown unknowns and issues that the parties do not wish to share with the public. As this is an explorative study, it is nevertheless possible to conduct the research through the use of secondary sources. It is noted that interviewing the decision makers would theoretically provide an avenue of insight that may overcome the stated source issues, but this is beyond the scope of this thesis due to time constraints of the author and the implausibility of replies from the senior decision makers. The mitigation of blind spots and the corroboration of claims made in secondary sources will be achieved by using a wide selection of overlapping and mutually confirming sources.

The data will be analysed qualitatively due to the heterogeneous nature of the sources, the exploratory nature of the thesis, and the suitability of qualitative methods in answering the how questions this thesis poses. As the phenomenon itself and the data analysed is human-centric, based

on text and speech acts, a qualitative approach gives the ability to understand and factor in the context of a given datapoint and from a confluence of such points infer the mechanisms that lead to the decisions that leaders make. By doing so, it would be possible to distinguish between causation and correlation.

1.2. Structure of the thesis

This thesis is divided into four chapters, split into subchapters, followed by a conclusion. The first of these will give a theoretical background of what informal groupings are and explain what the workings and limitations of conventional foreign policy decision making in the EU are. Firstly, it presents an overview of how foreign policy is conducted in the EU in the majority of cases. Secondly, it dissects the sources of legitimacy and how these are achieved. Thirdly, it explains what informal groupings are and how they can be categorised. This is necessary as understanding what the EU is and how it does and does not work in regard to foreign policy is the reason why informal groupings form.

The second chapter will justify the research design and provide an overview of the sources used and data gathered. It will explain the methodological approach used in this thesis, which is qualitative analysis applied in an exploratory case study. It will also elucidate the main concepts used or discussed in the thesis, and how these are operationalised, enabling a coherent understanding of the arguments presented.

The third chapter examines the first case under investigation, namely, the nuclear deal with Iran, giving an overview of the situation, before explaining the E3's shifting role in the process, and concluding with the findings of what were the flaws and successes of the approach. It is presented in a chronological manner, firstly with an introduction of what led to the need to negotiate, and then the E3's and EU's involvement and method of legitimisation in the various stages, and finished with an analysis of the legitimisation strategies.

In the fourth chapter, the Minsk agreement will be analysed. The chapter provides a historical overview of the crisis that led to the creation of the Normandy format and explains what the group tried to achieve and to what extent it was successful. It will be split up based on the preferences of various EU member states and finished with an analysis of the legitimisation strategies.

2. Formation of EU foreign policy, legitimacy, informal groupings, and key concepts

In this chapter the framework of the three central topics of EU foreign policy making, legitimacy and informal groupings are explained, followed by the definition of the key concepts used in this thesis. The first part dissects how EU foreign policy is conducted and what are its limitations. It also explains why the system is set up as it is and lays out methods of circumventing the structural barriers for more efficient policy implementation. In the second section, legitimacy and its possible sources will be expounded. The third section will describe groupings in general and what differentiates informal groupings from formal ones, before explaining what the benefits of such groupings are in a foreign policy context. Moreover, as there can be many types of informal groupings, it explains how to differentiate between various types and provides examples of these. In the fourth section, the concepts of intergovernmentalism, coherence and effectiveness will be defined to ensure a uniform understanding of the terms.

2.1. EU foreign policy making

The EU is a *sui generis* entity, which means the methods it uses to come to an agreement regarding which tools to use and how to implement them differs from states and other international organisations. However, because of the size and nature of the EU, it can also have a much stronger impact than other regional bodies. In general, foreign policy is an intergovernmental affair where the member states through the European Council are the main actors in the Union's policy making, and the other major bodies of the EU have a secondary advisory or consultative role (Phelan, 2012; Schütze, 2016).

On a national level, foreign policy is dependent on the country's core interests and the debate between stakeholders and interest groups on which strategies to pursue to achieve those goals. These societal actors are rational and risk averse, and their influence on state policy depends on their material resources, social clout and interaction between each other. The winning subset of society, however this is achieved, is the one that then defines which priorities to set and how to achieve them. In foreign policy, a core priority is national preservation, and this can be pursued in many ways from diplomacy to defence. Having these options open is a precondition to being able

to use them, which is why states are often reluctant to delegate the right to conduct foreign policy to other actors. Thus, when a decision is made, a state wants to be free to pursue that goal. However, nations work in an international system where there are transnational societal interactions, which means that one country's action will have others' reactions, many of which are unintended and unforeseen (Moravcsik, 1997).

Foreign policy is not something that member states need to coordinate with the EU, therefore as long as it does not contradict the EU's set policy, states are free to pursue their own objectives, either alone or in a coalition of interested parties. These coalitions are generally *ad-hoc* and formed to pursue a single policy objective. As such manoeuvres are usually performed by the EU's heavyweights, their preferences are carried over to be the EU's preferences.

As opposed to most other issues, when the EU acts as a foreign policy actor, it does not operate by its conventional decision-making process of qualified majority voting (QMV), where a double majority of 55% of member states representing 65% of the EU's population is required for the decision to be adopted. Instead, in questions regarding its CFSP, it needs unanimous consent from all members. This is a remnant from the pillar structure which regulated how competences between the member states and the EU were to be divided as set up in the 1993 Treaty on the European Union. The following 1999 Amsterdam Treaty sought to mend some of these inadequacies by creating a High Representative of the Union for Foreign Affairs and Security Policy tasked with coordinating a common EU foreign policy. This role was further strengthened in the subsequent Lisbon Treaty of 2007 (Gianniou & Galariotis, 2016), additionally turning the position into a vice-president of the Commission and creating the European External Action Service as a diplomatic service for the EU (Hill et al., 2017; Schuette, 2019).

The question of whether the EU should switch over to QMV for CFSP has been discussed both among politicians and academics, and very much depends on one's vision of where the EU should be heading and who should be in charge. Historically, maintaining independent foreign relations has been a core feature of statehood, and surrendering these powers to the EU can be regarded as a loss of sovereignty. For smaller countries, mostly located in the so-called New Europe, and with less influence in the EU, having a veto right on issues which might be their core national interests is a way of ensuring that they will not be overruled. Having achieved full independence only a

generation ago, relinquishing the right to conduct their own foreign policy is for many unpalatable (Nováky, 2021).

The effectiveness or lack thereof of the EU's foreign policy has been one of its most quoted weaknesses (Dempsey, 2021; Techau, 2010). One way to make it more effective is to concentrate the authority more in the European External Action Service (EEAS) or do away with the unanimity clause discussed above. Another is to make it more flexible and have close foreign co-operation among a select number of member states (i.e., lead groups) to further a specific goal. This is especially true of situations where other member states lack political will or interest in general towards the topic. Such enhanced co-operation can further the overall goals of the Union, as long as the lead groups' policy goals overlap with the EU's as a whole (Blockmans, 2017; van Veen, 2021).

Here, it is important to differentiate between informal groupings and lead groups, the former having been explained above. Whilst informal groupings do not have a formal mandate from the excluded parties, lead groups do and are tasked with defined objectives. These objectives are limited in time and scope, and they can have set obligations towards those excluded. These can be among others the limits of concessions the excluded would be willing to accept or outlined requirements on reporting back and information sharing. Finally, it is possible for an informal grouping to morph into a lead group if a mandate is received from those they represent and the rules of engagement are established. By this definition, the lead group is somewhere between an agent and a principal (Alcaro & Siddi, 2020a; Christiansen & Neuhold, 2013).

The two main schools of thought explaining EU integration are the supranationalist approach, which sees the institutions of the EU taking an ever greater role in setting the course, and those who adhere to liberal intergovernmentalism, who see EU integration and political evolution as something still controlled by nation states through interstate bargaining. It must be noted that these are not political views, but ways of explaining the mechanism of how the EU evolves and decides. This thesis takes the stance that the EU's foreign policy is an intergovernmental affair where it is the member states that dictate the course of the Union, a theory which will be elucidated in the concepts.

2.2. Legitimation

To be perceived as legitimate has been a focus of the EU's policy making methods, and the organs of the Union go to great lengths to be both transparent and accountable with their decision-making processes and to cater to the electorate's policy demands. Legitimacy can be conceptualised descriptively or normatively. The descriptive approach focuses on the perception of stakeholders in the political process, meaning to what extent the authority of the decision makers is deemed to be acceptable for those whom the decisions affect. Seen through a descriptive lens, results, charisma, and tradition can be a source of legitimacy if they satisfy the affected parties' expectations, or to simplify, how popular they are. Contrasting this, normative legitimacy is based on inherent normative standards which are used to justify the authority of the decision makers and decision-making process. These standards may be among others political inclusion, a democratic process, or the rule of law. Following this logic, the decisions are legitimate even if they are unpopular, as the method of decision making is paramount to the outcome. In some instances, it may be difficult to draw a clear line between the two, as people also have second order beliefs, that something can be perceived to be illegitimate even if it benefits them or, vice-versa, a decision is perceived to be illegitimate due to its unpopularity even though the decider is legitimate (Peter, 2017).

The framework this thesis applies is Schmidt's (2010) model of the sources of legitimacy in the EU, where they are divided into three categories of output, input, and throughput. Using these terms, output legitimacy looks at policies, and consists of two aspects. First is the institutional regulatory output, which is based on the performance of the policy that the EU's institutions make, that being how well the decisions remedies the issue it tries to solve. Secondly, this policy needs to resonate with the citizenry, termed constructive deliberative output. This implies that the decisions suit the citizenry's needs, are known and understood by them, meet their expectations, and reflect their identity. This means that for something to have output legitimacy, it needs to be effective in policy and popular in discourse. Output legitimacy, as it focuses on results, can be categorised as a descriptive form of legitimacy and can be measured by the quality, appeal and results of the decisions.

Input legitimacy focuses on politics, and is also divided in two, consisting of institutional representative input and constructive deliberative input. The former describes representation and participation in the electoral process by the citizenry as one would find in a representative

democracy, and can be measured by how much people feel they have a say in the decisions that govern them. The latter is achieved by having an open discourse by the citizenry, stakeholders, interest-groups and experts in open forums to discuss their views and make their priorities heard to the political elite. This means that input legitimacy requires not only that the elite are a representation of the citizenry, but that the choices available are a reflection of the latter's preferences. Input legitimacy is an expression of the citizens' expression of demands and focuses on politics. (Schmidt, 2019; Schmidt, 2010). This sort of legitimacy makes legislatures legitimate, as the decision makers have a mandate from the electorate, and is a form of normative legitimacy.

Thirdly, throughput legitimacy is a process focused mechanism, which Schmidt divides this into three. Institutional pluralist throughput is measured by how willing the decision makers are to consult and consider the interests of the citizenry and interest groups, be they in the majority or minority. This is a form of corrective democracy, as it enables political participation outside elections. Institutional rules-based throughput lies in the normativity of the decision making process, and measures its accountability, transparency, and openness. Finally constructive deliberative throughput is the practice through which stakeholder input is transformed into output. This is a measure of the quality and effectiveness of will of the electorate transforming into policy decisions. To summarise, throughput legitimacy looks at the decision makers' willingness to engage with interested parties, how rules-based the decision-making process is and the quality of the decision making process. For something to have throughput legitimacy, one should be able to see how policies are made and evaluate their results, thus avoiding the government becoming a black box where electoral input goes in and policy output is produced without understanding the motivations of the decision makers or functions of the decisions (Schmidt, 2010). Throughput legitimacy is also a normative type of legitimacy, as it measures the standards of the process.

Though Schmidt focuses on intra-EU politics where the will of the citizens provide input legitimacy, it is possible to transpose this model to an extra-EU plane, where the EU's member states are the source of input legitimacy, and the acting executive is an informal exclusive grouping which forms the policies. More specifically, when considering that EU foreign policy is an intergovernmental affair, the "electorate" is the EU's member states with their own interests, though these are also subservient to their own national electorates. Therefore, for an informal grouping engaging in foreign policy on behalf of the EU to have input legitimacy, it needs the

consent and approval of the other member states. For output legitimacy, the policy outcomes they provide or at least strive to achieve must be in the interest of the whole Union, and not for the grouping alone. Finally, as legitimacy can wane and is not a fixed state, giving the excluded parties a view into and a say in the negotiations gives the informal grouping throughput legitimacy throughout the process. By differentiating between these different forms of legitimacy, it becomes possible to identify weak points in the informal groupings' legitimisation strategies, and provide solutions which can remedy these deficiencies.

In an ideal situation, the decisions and the deciders would be both normatively and descriptively legitimate. In the real world, however, democracies must make unpopular choices and autocrats try to maintain in power. From this, one can draw that if something is descriptively illegitimate, its legitimacy can be supported by increasing its normative legitimacy and vice versa. This can also go the opposite way, for example the increase of throughput legitimacy by being more inclusive can lead to a loss in output, as when something is everybody's responsibility it is also nobody's. (Bassiri Tabrizi & Kienzle, 2020a)

2.3. Informal groupings and how they differ from formal ones

A grouping is a collection of individuals or organisations inside a larger framework with a common goal. They exist in all levels of society and for countless objectives. As opposed to formal groupings, informal groupings provide a forum for decision making without a formal treaty or agreement which could limit their options or bind the parties to further obligations (Vabulas & Snidal, 2011). On an international level, be they economic, military, or political, informal groupings are sometimes preferred over intergovernmental organisations or formal groupings as they enable a quicker decision-making process with the added benefit of higher level of confidentiality (Christiansen & Neuhold, 2013). In crises, quick action is preferential to unanimous approval, and the larger the circle of approvers the likelier it is that one finds dissent. However, unless one is a superpower, autonomous and unilateral action is rarely possible. The reason states form groupings is to increase their bargaining power, as collectively a group of states has more weight behind it than a single country. The drawbacks of such an approach is a lack of consistency and less efficient implementation of agreements (Stone, 2013). Informal groupings are informal as they do not have a fixed rulebook and are generally set up to find a solution to a specific issue or

promote a certain cause. Such groupings are prevalent in many international organisations, but seem to be a defining feature of the EU due to the nature of its decision making process (Moret, 2016), which will be explained below.

International groupings, both formal and informal, can be measured on three axes: based on duration, exclusiveness, and hierarchy (Cooper et al., 2022). If the grouping is for the management of a certain crisis, then once a satisfactory solution to the issue has been found or the topic has lapsed, the group loses its reason of being and dissolves. Such groupings are often short term and can last for as little as a summit meeting, whilst long term groupings are more interest or region based. Defining when short-term becomes long term in international relations and foreign policy is difficult, but it is here considered that this thesis investigates two instances of long-term groupings, as the duration of their existence is measured in years.

Exclusiveness is measured on how open the grouping is to expanding its membership. Therefore, a fully open group is one where any state with a will and capacity to join may do so, whilst a fully exclusive one limits its membership to only select ones who formed the group. Open groupings tend to be with a certain domestic element, where members need to manage some domestic issue, such as signatories to the Paris climate accord or disaster relief committees, whilst exclusive groupings have a tendency to be regional, such as Visegrad, or economical, such as the G7, or as is the case in this thesis, where states try to avoid potentially disruptive third parties in negotiations (Bassiri Tabrizi & Kienzle, 2020a).

Thirdly, groupings can vary in their hierarchy. In groupings with a low hierarchy, members are all of equal rank, whilst a highly hierarchical grouping would have a clear leader and supporting followers. In such instances, the leader is usually the state with the largest power in the bloc. This type is common in defensive groupings such as the Ukraine Contact Defence Group (colloquially referred to as the Ramstein group) (Seligman, 2023) providing arms for Ukraine and headed by the US, and Collective Security Treaty Organisation (CSTO), or in a regional block such as Gulf Cooperation Council (GCC). However, such leadership does not need to be limited to one state, as a small group of dominating states can also act as a collective leadership body (Lake, 2009).

This thesis focuses on strongly hierarchical informal groupings, as in both instances under investigation, the lead parties were trying to make policy and impose it on others. It is such

groupings which are long-term, exclusive, and hierarchical that are of interest when it comes to policy making, as they are a break from common international norms, both global and those inside the EU, in which all countries are nominally equal. When decisions are made behind closed doors, the parties themselves, the institutions they are part of, and the policies they generate can suffer from a lack of legitimacy, leading to a decrease in public approval and confidence in both the outcome and the actors.

2.4. Concepts: intergovernmentalism, coherence, effectiveness

Liberal **intergovernmentalism** is the approach this thesis takes in explaining the way the EU conducts its foreign policy. Developed by Moravcsik, it is a rationalist approach, which means that it takes states to be rational actors with their primary interest being their own wellbeing. It holds that nation states have the dominant position when it comes to EU policy in general but foreign policy in particular. This is done through a three-step process of “national preference formation, interstate bargaining, and institutional choice.”¹ First, on the domestic level, the state develops its own preferences and objectives. As there may be multiple opposing preferences the first step is intra-state bargaining between interest groups. Secondly, once the preferences have been sorted, strategies are developed to achieve these goals through inter-state bargaining, the goal being the fulfilment of the objectives in a manner more efficient than unilateral action would. Thirdly, after coming to agreement, states decide whether or not to delegate sovereignty on the matter to an international institution that can more effectively safeguard the preferences (Moravcsik, 2013).

Coherence, when talking about EU policy making, has been an issue from the very beginning of the Union. As the member states have differing interests, capabilities, and preferences, finding a common policy to which all can agree is a challenge. Due to spill-over effects, policy changes in one field may necessitate changes in another, and policy changes beneficial to some members may have a negative impact on other members, leading to a slow process. Though EU integration has deepened, there is still a clear divide in which fields the EU has exclusive competences, which

¹ Moravcsik, A. (1998) *The Choice for Europe Social Purpose and State Power from Messina to Maastricht*, Routledge p. 20-21

competences are shared, and in which the EU has a supporting role, with foreign policy being in a special category of its own. (EUR-Lex, 2009, 2022; Fakiolas, 2007; Gianniou & Galariotis, 2016)

Hill distinguishes between four types of coherence: vertical, between the Union and its member states; horizontal, between the Unions supranational and intergovernmental spheres; intra-institutional, between the functioning of the CFSP and the Commission; and interorganisational, between the EU and third parties (Hill et al., 2017). This thesis focus is on vertical coherence, as it is the relationship between informal groupings and the wider EU that is under investigation. As the informal grouping makes a policy, it is their intent to upload said policy to the EU level, transforming it from their own policy to a Union-wide one. Conversely, the EU can try to download its policy preferences to those negotiating, either through successful Europeanisation of said policies or by making clear the necessity of EU approval for any deal to manifest. (Müller et al., 2021).

The EU's foreign policy **effectiveness** is the measure of to what extent the intended policy outcome is achieved. This does not apply only to the substance of the agreement, but also to the time and resources spent to get to the outcome. If a lot of resources were spent on achieving consensus instead of finding an agreement with the third party, it would be an inefficient strategy. Conversely, if there was broad consensus amongst the member states and the lead group represented the EU's position by default, it would spend more of its effort on negotiating with the third party, thereby being more likely to achieve more of its intended policies. In the EU's case, foreign policy effectiveness is often inversely proportional to its internal functionality as there are few pan-European foreign policy positions that do not require a thorough preliminary consensus building effort (Bickerton, 2007).

3. Research design, case selection, data, methods, and limitations

This chapter will give an outline of the methods used and challenges faced when studying the legitimisation of the foreign policy formed by the informal grouping to the excluded parties. The research approach used in this study is an interpretative exploratory method that involves the analysis of data gathered from various sources. It is important to note that this study does not intend to test any particular theory or present any hypothesis. Instead, it intends to serve as a basis of future hypothesis formation that may be tested in attempting to understand the dynamics of informal groupings in the formation of foreign policy. It also explains why the cases under investigation are chosen, what makes them relevant and why no other cases have been included. Methodologically this thesis is at its core an exercise in theory building, in the form of a case driven conceptualisation exercise. Because of the limited scope of the thesis and reliance on secondary sources due to the inaccessibility of decision-makers, this research is only able to provide preliminary insights into the topic. However, the analysis presented in the empirical chapters utilises a comprehensive evaluation of sources to provide initial understanding of how informal groups between the EU member states can impact the foreign policy making and how these decisions have been legitimised to other EU members. Finally, due to the nature of the topic, there are limitations to the availability of information due to multiple factors which need to be addressed.

3.1. Research design: exploratory study

The research design will be an exploratory study lying in between configurative-idiographic and hypothesis generating types, insofar as the aim of the thesis is to present the groundwork for later hypothesis formation and testing by analytically identifying key concepts (Vennesson, 2008). This is due to the limited amount of work done on the topic of the dynamics of informal groupings in EU policy formation previously. With a dearth of theories seeking to explain the function of such grouping and the resultant lack of testable hypotheses, such an approach represents the logical ‘next step’ in terms of the meaningful academic study of this emergent and potentially institution shaping phenomenon. Indeed, it has been noted that the capacity for the formation of effective

foreign policy is likely to be an area that catalyses the further development of the EU as a supranational organisation (Dempsey, 2021; Techau, 2010). Further, such a design is also oriented towards the research aims of this thesis, as it facilitates through analysis of heterogeneous source material a more concrete understanding of the questions of ‘what’ and ‘how’ in relation to the presented cases. This will provide insights into the mechanisms that cause the phenomenon under investigation (Boru, 2018; Neuman, 2014). While hypothesis testing ultimately is desirable in the investigation of the topic at hand, namely the dynamics of informal grouping in foreign policy formation generally and in the EU specifically, there are few theoretical guidelines for investigating the phenomenon, and it remains difficult to discern what is important from the irrelevant in the absence of a conceptual analysis of the presented cases. An exploratory study and the theoretical contribution provided by the applied conceptualisation therein, as presented by this thesis, is therefore a necessary precondition to the further study of the topic. Finally, further research is also needed on how informal groupings lead foreign policy on an international level in other organisations, but this is beyond the scope of this thesis. This research could be further developed into a theory of if, how and when informal groupings could be used in dealing with future crises, and if it is viable as a long-term option for the EU for conducting foreign policy.

3.2. Case selection

The thesis consists of two case studies: it examines two instances of informal groupings leading EU foreign policy in a crisis situation, with some EU input. Though there are other instances of informal groupings taking the lead on a topic, these have been open to membership and input to all interested parties and are therefore not exclusive. These two cases are chosen as they are well documented with a considerable amount of both academic and non-academic literature detailing the run-up, cause, negotiations, and results of the cases. They are time-limited with a fixed start and a concluding end, with the negotiations that led to the JCPOA having a longevity of twelve years, and the talks around the Minsk agreements lasting eight months prior to the signing, meaning that both are processes and not summits. This gives the possibility of investigating a finished process, meaning more data is likely to be available and it is possible to see a causal chain. The cases are also still relevant, as the issues the agreements that were supposed to solve are both

problems again. This does not mean that the negotiations were futile, the issues flared up again for external reasons, as they still provide possible lessons regarding future EU policy making. Furthermore, due to the length of the talks leading to the Iran nuclear deal the structure and workings of the EU matured and mutated. This enables the assessment of the EU's foreign policy capabilities in its various phases of development, paying attention to their evolution throughout the duration. With the negotiations that led to the Minsk II agreement, we have a case that is more time constrained but even more of a politically hot topic, but with a slightly different form of EU input and in an evolved capacity. Both of these cases will be examined in parts 4 and 5, respectively.

3.3. Data and sources

Data for this thesis will be collected and examined from both primary and secondary sources. The primary sources are governmental speech acts by the engaged parties and declarations by the EU and its envoys. The secondary sources are open-source media outlets and academical papers by specialists in their fields.

3.3.1. Primary sources

This group includes statements made at the time or as a conclusion of the talks by the states' ministers, diplomats and representatives engaged in the negotiations, including those of France's President Hollande (Hollande, 2014; Supinski, 2015), Germany's Chancellor Merkel (Merkel, 2014), Poland's foreign minister Waszczykowski (Chmielewski, 2017) among others. By having accounts from both those comprising the informal grouping and the excluded parties, it is possible to get a more complete and balanced overview. As the EU was also a party, the primary sources also encompass statements of the High Representatives (Solana, 2004) during their tenures as well as other formal declarations made by other EU officials (Presidency, 2004). These statements are vital as they are likely the most accurate and concrete form of evidence and provides the starting point from which all other analysis can be carried out. These sources are chosen as they are publicly

available, and though interviewing the decision makers directly may be tempting, this was deemed unfeasible in the scope of this thesis.

Among the primary sources are also the treaties that set out the EU's functioning in regard to conducting foreign policy, including the TEU (EUR-Lex, 2012a) and TFEU (EUR-Lex, 2012b). Other primary sources include agreements concerning specific cases, such as the Tehran Agreement (Consilium, 2003), the JCPOA (Europarl, 2015), and both Minsk I (Allan, 2020a) and II (Allan, 2020b) agreements. These agreements provide critical insights into the specific negotiations and agreements that took place. This category also contains legislative decisions made by the EU that limit the actions of the negotiating parties, as well as the sanctions placed on the offending parties intended to dissuade further escalation.

3.3.2. Secondary sources

The secondary sources consist of public media outlets and reports from think-tanks and NGOs, are used to provide context to the situation, explain governmental decisions and constraints and explore other motives the parties might have which are not disclosed by the decision makers. They include interviews with media outlets and news reports of decision makers. However, most of the secondary sources will be think tank reports, policy briefs and academic articles. The thesis will primarily rely on secondary sources, but this is rationalised as the authors of these sources are specialists in their fields. All the data collected is done using web-accessible tools. This approach is justified, as other data collection methods, that is interviewing, observing, and feeling, are either out of reach or unsuitable for the research design (Yin, 2018).

The Normandy format has been previously examined by numerous think tanks, including the Center for strategic and international studies (Lohsen & Morcos, 2022), the European council of foreign relations (Buras, 2014), the Canadian global affairs institute (Carment, 2020), mainstream media sources such as Foreign Policy (Mackinnon et al., 2019), Deutsche Welle (Hasselbach, 2022) and Politico (Szuldrzyński, 2015). As to the role of the E3/EU+3 format, it too has been investigated by a similarly wide range of think tanks, such as Chatham House (Billon-Galland et al., 2020) the German council on foreign relations (Puglierin, 2019) and Carnegie (Brattberg, 2020), academics (Wright, 2015) (Bassiri Tabrizi & Kienzle, 2020a) and an essentially inexhaustive list of media articles.

This work builds on existing research by collating the findings of the few academic papers that have evaluated the use of informal groupings (lead groups) in the EU's foreign policy activities in the years 2003-2015, and seeks to add to the literature of such works. In terms of existing literature, the topic of informal groups in EU policy formation has been broached to some extent by Riccardo Alcaro (Alcaro, 2018; IAI, 2013) and Marco Siddi (FIIA, 2017; Siddi, 2018a, 2018a), but their focus has been more on the sustainability of informal groupings for shaping EU foreign policy and not on such groupings legitimisation strategies. While Vivien Schmidt (BU, 2023; Schmidt, 2010) has investigated legitimisation strategies on an intra-EU level through input, throughput and output, there is little literature using this model for the legitimisation of EU foreign policy. This thesis, as presented, is then well poised to meaningfully contribute to the theoretical landscape of EU policy formation through the synthesis of existing studies with divergent focuses, while itself remaining grounded in a two case analysis.

3.4. Methods: case study, process tracing, data triangulation

In pursuit of the presented research questions, the method used will be an exploratory case study, due to little previous research and no hypotheses that can be tested, and due to the wide scope of both the negotiations and the numerous countries where the benefits and disadvantages can be expressed (Laherand, 2010). The cases are chosen due to them being two cases where exclusive informal groupings have tried to lead the EU's foreign policy, the fact that they are instances where only few countries have participated, compared to larger and inclusive groupings such as the Berlin Process for the enlargement into the Western Balkans or Friends of Syria Group.

While at first glance a comparative approach may seem appealing, such a method would be premature, given the aims of this thesis. This is to say, that in light of the emergent nature of the phenomenon at hand, and the somewhat ill-defined concepts in existing literature, attempting a direct comparison would require theoretical development in excess of the scope of this thesis. Further, as the cases presented are the only two extant examples of major EU foreign policy formation led by informal groupings followed by legitimisation efforts, in methodological terms they present both most similar and most different cases. Thus, in terms of research design, a comparative approach attempting to isolate causation would present an overstretch of qualitative methods. Rather, it is here argued that in keeping with the exploratory aims of this thesis,

conceptual development and the formation of a typology of informal group legitimisation strategy presents the most salient academic approach to the cases at hand.

Process tracing will be used to investigate the decision making and sequencing of the cases under investigation. This will enable the differentiation between the cause and effect, but also enable the creation of a chain of logic that led to the eventual outcome. This means collecting data to reconstruct the decision-making process and identify the key steps. This enables the discovery of critical junctures in the decision making process and limiting factors to the decision makers (Bennett, 2010; Della Porta & Keating, 2008).

Triangulation of data sources is a procedure of using three different sources to verify the claims or pieces of data. Data triangulation will be used, that is choosing different types of sources and from multiple countries and the EU, thus avoiding the bias of individual actors, enabling the cross-checking of information, and providing increased reliability and a higher level of validity, thereby preventing the lack of objectivity that otherwise might affect case studies. In doing so, it is possible to identify trends and avoid jumping to conclusions based on an outlying data point (Mishra, 2017). This is especially important in a situation where there are insiders and outsiders, the former being more prone to exaggerate the merits and progress of the approach and the latter likely being more vocally discontent over the results of the proceedings as well as the format itself.

3.5. Limitations

It should be noted that as the EU's foreign policy is an intragovernmental affair, stances and policies advocated by member states may be kept secret. This makes access to primary sources of information limited, as though there are public statements and press briefings, these constitute a tip of the iceberg and rarely reflect the decision-makers preferred policy but a compromise of interests. As foreign policy is often a closed-door business, it will inevitably suffer from a lack of transparency, and the process behind the decisions might be difficult to piece together. Interviews of decision-makers are rare, and these may be biased, both in the statements of the interviewed and in the interpretation of the statements by the interviewer or researcher. Furthermore, both politicians and the media are prone to overemphasise the great successes and failures, with less to

say about the daily workings and communication between the parties. These factors will lead to an incomplete picture, but can be to an extent mitigated by compiling information from multiple sources and seeing if they corroborate each other.

4. The nuclear deal with Iran and the role of the E3

This chapter will give an overview of the Iranian nuclear programme and why it was and still is considered a problem, how first the informal E3 and eventually a combination of the E3 and the EU tried to negotiate with Iran and other countries to defuse the situation, and how this initially *ad hoc* approach was legitimised to the EU's other member states. To understand how the situation developed, it is necessary to give a brief history of the steps that led to the negotiations and the eventual agreement. Since the overthrow of its authoritarian monarchy, Iran and the West have viewed each other with mutual suspicion. The Iranian regime has been fearful of a US sponsored coup against the theocracy currently ruling the country, whilst the US and many of its allies accuse Iran of being a state sponsor of terrorism. Things came to a head in 2003 when leaked documents revealed that Iran had a clandestine nuclear programme with possible military applications. Here, the E3, being perceived as fair arbitrators by the Iranians and with the backing of the other P5² started negotiations to dissuade Iran from furthering its military nuclear research. It is the E3's and EU's internal dynamic of the negotiations in the time period from here until 2015 when the JCPOA was signed which is under investigation.

4.1. Overview of the Iran case

The Iranian nuclear programme has lasted longer than the Islamic Republic, being initiated by the Shah in the 1950s. First set up as a civilian programme for energy generation with the support of the US, the two then being allies. The US was even willing to provide a nuclear fuel reprocessing plant and all the know-how to produce a nuclear bomb, falling just short of actually selling Iran a bomb (Linzer, 2005). The programme led to a small research reactor, but the Iranian Revolution of 1979 halted the programme, with the new government being vehemently anti-American and revolutionary students, implicitly backed by the government, taking the personnel of the US embassy to a year-long hostage. This led to a mutual falling out between Iran and the US, and all co-operation was suspended. During the subsequent war with Iraq, what nuclear infrastructure had been constructed was damaged and made inoperational (Kaye et al., 2011). During the war, the

² Permanent five UN Security Council members, China, France, Russia, UK and US.

leader of the revolution Ali Khomeini issued a *fatwa*³ declaring that nuclear weapons are incompatible with Islam, a stance the Iranian regime maintains as official policy even today (Porter, 2014). It was only in 2011 that the half-completed and war-damaged reactor at Bushehr was completed with Russian help. (Nader, 2013; World Nuclear Association, 2022)

When reports of a restarted Iranian nuclear programme was made public in the summer of 2002, it was embarrassing for the regime to be forced under international pressure to accept inspectors from the International Atomic Energy Agency (IAEA), who ended up verifying the claim. This included a nuclear enrichment plant and a heavy water production site, both needed for a heavy water reactor, which could produce the fissile materials needed to create nuclear bombs. Though Iran's then president admitted to the existence of said facilities, the claim was that these were solely for energy generation, which is within every country's right. This would then free up Iran to export more of its hydrocarbon resources. However, along with numerous other nuclear activities including mining and enrichment facilities and the fact that Iran had not disclosed its programme made many to believe that the programme had a nefarious intent. In September 2003, the IAEA made two requests to Iran, these being increased co-operation and transparency, and a suspension of sensitive nuclear research (Alcaro, 2018).

4.2.Role of the E3

As the restarted Iranian nuclear programme came to light, the EU was still a 15-state block of mostly Western European states, the great enlargement of 2004 being two years off. This was also prior to treaty revisions that strengthened the EU's foreign policy toolbox (Kienzle, 2013). To deal with the issue, an exclusive grouping of the big three of UK, France, and Germany (Lehne, 2012) (E3) took the lead in shaping the EU's diplomatic engagement with Iran, as the EU's own foreign policy capabilities were deemed insufficient by the E3, and who also had their own interests. The groupings came to be in order to avoid and mend the divisions between them following the fallout of the Iraq war, where France and Germany had vehemently opposed the invasion, but Britain had been a primary initiator (Billon-Galland et al., 2020). It should be noted that the E3 has co-operation in other fields as well (Brattberg, 2020), but this thesis looks solely on the grouping's

³ Islamic ruling about compatibility within Islam (*Fatwa | Definition & Facts | Britannica, 2023*)

work towards the Iran nuclear deal. The grouping's work, now technically in its twentieth year, can be split into three phases, based on how the group tried to legitimise its actions to the EU and its member states. In the first phase, the E3 acted independently of the EU's formal framework. In the second phase, the EU High Representative was included into the E3 format. In the third phase, due to changes in the workings of the institutions as a result of the Lisbon Treaty and the content of the negotiations, the E3 and EU negotiating teams were amalgamated into one.

4.2.1. Phase 1: The E3 takes the initiative (October 2003 to October 2004)

Although in the summer of 2003, the EU's High Representative visited Iran repeating the recommendations the IAEA had suggested, this amounted to little (Consilium, 2003). With the US having placed Iran on "the axis of evil"⁴ (Glass, 2019) it had burnt the bridges of any co-operative dialogue, necessitating someone else to take the lead in finding a solution. In October of 2003, wishing to avoid an escalation of the issue, either by bringing it to the United Nations (UN) Security Council where any sanctions would be vetoed by China or Russia, or possible unilateral action by the US, and fearing deadlock if needing to use formal EU procedure, the E3 agreed amongst themselves to send a high-level delegation to Iran, intending to find a quick solution (Borger et al., 2003; Wright, 2015). The argument was that the EU was not an institution capable of rapid and flexible negotiations, and with a poor record of crisis management. Without the EU tying their hands, the E3 could focus on resolving the issue, and after coming to terms with Iran and the other interested parties, present it to other EU states as a *fait accompli*, and base its legitimacy on its problem-solving capabilities. Secondly, in the early phases, the offering from the E3 was their support in Iran's civilian nuclear programme, something the E3 could supply themselves in return for compliance (Taylor & Charbonneau, 2003). In addition, it was deemed likely to be a one-time issue, and not a *modus vivendi*. This delegation managed to convince the Iranians to temporarily suspend their activities and led to the Tehran Declaration (Consilium, 2003) in October 2003, in which Iran agreed to halt all enrichment activities until a long-term deal could be reached (Solana, 2006; Zarate & Christy, 2014).

Nevertheless, this approach alienated many EU members, especially the Italians, who were chairing the rotating presidency and who also had considerable energy interests in Iran, as well as

⁴ Bush G.W. (2002) State of the Union address

Dutch and Belgian officials who saw this as a clear breach of the multilateral norms of the EU (Wright, 2015). It was clear to the E3 that eventually the EU would need to be allowed involvement, but also made it clear that the E3 would work alongside the EU, not through it. Rather quickly it became apparent that the Tehran Declaration would not hold, but this was not due to EU disunity but rather caused by internal domestic issues in Iran and to some extent actions by other actors, primarily the US.

From here, one can argue that 1; had the Tehran Declaration born fruit and quickly lead to a follow-up agreement detailing the rights and obligations of Iran in regard to allowing the IAEA to conduct more thorough checks on its nuclear activities and 2; had the E3 and other P5, especially the US been satisfied with Iran's commitment to halt its nuclear research, it could have settled the matter. Although a likely deal would have a trade element to it, something falling under the EU's exclusive competences, the E3 would have continued their talks with Iran in their exclusive format and eventually presented the deal they hammered out to the EU as a fact. Though this would cause some ire between the E3 and the other members, it would have most likely been due to the means and not the end, with the E3 legitimising their actions in a descriptive and output centred manner by efficiently providing a result.

4.2.2. Phase 2: The High Representative is included (November 2004 to December 2009)

The Tehran Declaration was always intended to be a temporary measure prior to securing a full agreement. The need to involve the EU was primarily due to the sort of deal that the E3 wanted to hammer out, with Iran needing to be nudged using a carrot and stick approach, with Germany especially preferring to offer some rewards in return for Iranian compliance. Due to the division of competences within the EU, with the customs union being an exclusive competence, any trade deal would need approval on the Union level. The same would apply if sanctions were to be imposed on Iran, were it to fail to meet its treaty obligations. The question of sanctions was an especially pressing one, with some countries being in the pro-US and pro-sanctioning camp, others being against it, whilst the EU as a whole opted for a stance of negative conditionality (Koch, 2015). To accommodate the EU, the High Representative Javier Solana was formally made part of the negotiating team, and the E3 became the E3/EU (Presidency, 2004). This inclusion had three benefits. Firstly, it gave access to EU assets, these being the lure of a trade deal or the threat of

sanctions. Secondly, it increased the legitimacy of the negotiations the E3 conducted, both towards fellow EU states and outside. Thirdly, it added political weight to the negotiators, as now they had the nominal backing of the whole Union and its members. However, it has been argued that the inclusion of the High Representative and not the Commission or the Presidency was due to the E3 still wanting to control the talks, as Solana had little institutional powers and no leverage on the E3 (Bassiri Tabrizi & Kienzle, 2020b).

Although this did little to change the balance of power, with the E3 still dictating EU policy on the issue, the fact that the EU was present meant that other member states' concerns of being in the dark abated. This inclusivity led to a higher level of transparency, accountability, and legitimacy, easing tensions between the E3 and the other member states, with the interested parties of the out group now also feeling represented. This also reinforced the wish of the EU to find a diplomatic solution within the E3/EU framework, and to avoid the issue being taken up in the UN Security Council. The primary achievement of this phase was the Paris Agreement, which was signed with the EU as an official party. The content was a repeat of the previous Tehran Declaration, with little specifics of timeframes or concrete steps and mostly a confidence building measure restating each parties' commitments (IAEA, 2004; Solana, 2004). This agreement did not hold, as Iran, using ambiguities in the agreement, continued operations at its nuclear sites, prompting the IAEA to escalate the matter. After Iran's nuclear programme was eventually referred to the UN Security Council, the EU continued as the mediator between the Iranians and the P5+1⁵ and the High Representative as the spokesperson for the group, being a neutral party with no formal national affiliation.

Had the Paris agreement been implemented and both sides committed to it, it would have been seen as a triumph for EU diplomacy, but diplomacy still firmly led by the directory of the E3. Here, the EU's role was still one of mediator and agent, not of a principle. The inclusion of the High Representative was a source of increased throughput legitimacy for the process, as the black box of the negotiations was dismantled, and other interested parties were kept in the known. However, the inclusion became necessary after the E3 failed in the first phase to base its legitimacy on output efficiency. In addition, had the E3 proposed a sanctions regime on Iran, it would have needed to win over those member states who were opposed to such measures, something toward

⁵ Permanent five UN Security Council members, (China, France, Russia, UK and US) and Germany

which they would have been more amiable if they were less side-lined and more engaged in the process.

4.2.3. Phase 3: Amalgamation of the E3 and EU (December 2009 -2015)

The Paris Agreement was not a long-term solution either, merely a stop-gap measure with little more substance than its predecessor. With the implementation of the Lisbon Treaty, the institutional workings of the EU were tweaked to make the Union more effective (EUR-Lex, 2012a). One of these changes was a reform that increased the capability, through the creation of the European External Action Service, and authority of the High Representative, as with the treaty change, the High Representative also became the Vice-President of the European Commission (Consilium, 2022). With this came a change in the person filling the seat of the High Representative, taken over by Catherine Ashton, and also the role the EU had in the negotiations. Whilst in the first two phases, the EU had a negligible advisory or coordinating position, now due to the increased means at its disposal, it took over the lead from the E3, becoming the principal negotiator with the E3 having a more advisory role.

This change in leadership also coincided with an internal convergence of interests, both between the E3 themselves and the EU in general, which meant that the application of any sanctions or trade deal would be easier to implement (Bassiri Tabrizi & Kienzle, 2020b). In this phase, as the distinction between the E3 and EU became blurred and the process gained input legitimacy, and the EU/E3 morphed from an informal grouping to a lead group. The result was that because the negotiations were perceived now as an EU project and not one led by the interests of the E3, member states which otherwise were wary of EU sanctions against Iran, something advocated by more hawkish members like France, the Netherlands and the UK (Berman, 2015), found such policies more amiable. This can be explained by previously sceptical states finding it to be in their interest to be strategically aligned with prevailing EU interests, and thereby avoid isolation on the EU stage (Juncos & Pomorska, 2006). Eventually, the term E3/EU was dropped from the discourse, and after 2009 became framed as just an example of the EU's foreign policy. The need for sanctions became apparent when Iran restarted its centrifuges after a hard-line president came to power (Sinha & Beachy, 2013). To this, it was not the E3 but the EU that pushed for sanctioning the regime, separate from and in addition to UN sanctions (Alcaro & Siddi, 2020b). This pressure

and the promise of sanctions relief led to the eventual signing of the JCPOA in 2015, which remained in force until the US unilaterally withdrew from the treaty in 2018.

Thus, due to preference convergence between the E3 and the EU, and due to an increased capacity and capability of the High Representative and the EEAS, the EU could and was allowed to take over negotiations from the E3. By framing the threat posed by Iran's nuclear programme as an EU issue, the smaller states who had little or no connection prior to the EU taking the reins became interested parties to finding a solution. In this format, the negotiations were legitimate by input, as the High Representative as the lead negotiator had the mandate from the EU, by throughput, as other interested parties were informed of the course of the negotiations, and eventually found legitimacy in output by providing a satisfactory result in the form of the JCPOA (Europarl, 2015). The question of legitimacy of the E3 became irrelevant, as though they were still full parties to the negotiations, it was the High Representative who led the discussions and spoke on behalf of both the EU and the E3.

4.3. Main findings from the Iran case

In the Iran case, one can trace the process of more EU involvement leading to greater legitimacy of the negotiations. As can be seen, the E3 first took the lead in negotiating with Iran, wholly outside the EU's framework, acting as a detached entity. This was primarily explained by the perceived low efficiency of mediation through the EU and the higher efficiency the E3 could muster, having fewer parties to reconcile. The informal grouping hoped that its method could be legitimised descriptively through output by providing results quickly and justifying their method by stating its urgency. In the second phase, with no quick solution achieved, more political weight needed to be added, along with the greater tools and resources which could only be applied with consent and participation from the EU. To achieve this, some EU onboarding was necessary and acquiescence from other member states. For this, the High Representative was co-opted as a mediator, which soothed the excluded members' concerns somewhat and provided throughput legitimacy. In the final phase, following an institutional restructuring of the EU, leading the negotiations was given over to the EU in whole. This muted the question of the legitimacy of the E3 and the negotiations themselves, as they were subsumed into the EU's normal method of

conducting foreign policy, satisfying the demand for input legitimacy. In addition, the difference between the E3 and EU became increasingly vague, as the policies advocated by the informal grouping and the EU became ever more congruent, with the E3 becoming a lead group.

The intergovernmentalist interpretation is that informal groupings such as the one in the Iran case work when the excluded parties regard the management of the crisis more important than opposition to the lead. This is a satisfactory explanation if the positions of the excluded are aligned or at least not opposing to the informal grouping's stance. This implies however that for the lead group to be able to have legitimacy from a descriptive perspective, their positions are knowingly compatible with those of the excluded parties, meaning that the lead group takes into consideration that the EU is a socially constructed multi-level and multi actor system. In the second and third phases, however, the negotiations were legitimised using a normative throughput and then throughput and input approach, with the E3 relinquishing their pre-eminence and handing the negotiations over to the EU.

Although the E3 started out as an informal grouping trying to solve the crisis on their own terms, excluding other participants to increase their own leverage and promote their national policy objectives, their positions were a continuation of what had been the EU's stance prior to the crisis. Their method did not provide a satisfactory result but did however create a firmer starting point from which the negotiations progressed. Once the High Representative got involved, the basis to where the negotiations with Iran could go were already firmly set, and the more the E3 could loosen its grip on the negotiations, as the EU was ever more aligned to the E3's position. In this example we can see Schmidt's three forms of legitimacy play out in the three phases, first by the E3 focusing on output by striving to get a fast agreement, then in the second phase opting for some EU inclusion to provide throughput legitimacy, and in the third phase handling the reins over to the High Representative and the EU as lead negotiators giving the process input legitimacy.

If the E3 were to not have taken the initiative with Iran, it is unlikely that someone else would have. The eventual other signatories of the JCPOA either lacked the diplomatic will or the leverage necessary to influence Iran, and the EU itself was still lacking the administrative capacity to lead such talks. In addition, if the member states would have agreed upon an EU led delegation, it is likely that due to internal differences and the EU's foreign policy decision making method, it would have led to an ineffective approach. In this example, higher input legitimacy would have

led to a loss in coherence and thereby to less effective negotiations. With the E3 taking the lead, what was originally lacking in input legitimacy was recompensed in the initial phase by a highly coherent platform which could have led to high output legitimacy.

The ever larger presence of the EU in the second and third phase is a sign of increasing administrative capacity and authority of the EU and the EEAS, but also one of political coherence of the member states towards the topic. The source and extent of this coherence though is unclear, as it may be only skin deep and based on countries not wanting to be isolated on the EU stage or wish to expend political capital on a fight they cannot win or is not worth the effort. Nevertheless, it was the High Representative that ended up representing the EU, thereby also representing those member states which were not part of the E3, and turning the JCPOA into a European project and not one for just the big three.

5. The Minsk agreements and the Normandy format

This chapter explains the situation in Ukraine that led up to the outbreak of violence in 2014, the stances of the EU's member states, and the legitimisation approaches the Normandy format that tried to halt the conflict used. Only by providing this background is it possible to understand why the actors behaved in the ways they did and the rationale behind it. Because Ukraine was much closer to the EU than the previous case, in terms of economic ties, security, geography and culture, and because there was direct violence, European leaders were keen to find a way to de-escalate as fast as possible. For this, the Normandy format was set up, consisting of the active parties Russia and Ukraine, with the mediation done by Germany and France, representing at the same time the EU's interests. Due to the proximity of the conflict and the various interested parties, their stances towards the format will be introduced and legitimisation mechanisms of the negotiating parties explained. Though the Normandy format continued until the 2022 Russian invasion (Lohsen & Morcos, 2022), this thesis looks at the period from 2014 when the crisis erupted to the signing of the Minsk II agreement in 2015.

5.2. Overview of the Minsk case

Ukraine has for most of its existence been a conflicted space, be it between Slavs and Mongols, Lithuanians and tartars, Russians and Turks, or now between Russia and the West. Prior to its full independence in 1991, the territory had had little agency of its own, often being referred to as just *the* Ukraine. After the Soviet Union's dissolution, Ukraine remained economically tied to Russia, it being by far the country's largest trading partner. After the Orange revolution in 2004, in which the Kremlin's preferred candidate lost to Viktor Yushchenko, a pro-Western candidate, a new resurgent Russia under Vladimir Putin feared Ukraine drifting away from its orbit. This, along with the accession of the Baltic states into NATO and the EU, the Rose revolution in Georgia and the 2008 Bucharest summit's declaration of eventual Georgian and Ukrainian NATO membership, along with the new government's decision to end the leasing of the Sevastopol naval base in Crimea to Russia's Black Sea Fleet by 2017 was perceived by Russia as encroachment into what it labelled as its sphere of influence. To prevent a NATO presence on its southern flank, Russia fought a war with Georgia, occupied parts of it and created a territorial dispute barring it from NATO membership (Belton, 2020; Magen et al., 2015; Matsaberidze, 2015; Mearsheimer, 2014; NATO, 2008).

Due to political infighting, in Ukraine's next election in 2010, Russia's man, Victor Yanukovich, won, trying to balance between Russia and the West. At the same time, the EU launched its Eastern Partnership programme, intended to modernise state institutions and enable the spread of liberal European values in partner countries without directly provoking Russia by offering a path to membership (Minzarari & Pistrinciuc, 2020). During Yushchenko's tenure, the EU had invited Ukraine to sign a Deep and Comprehensive Free Trade Area (DCFTA) agreement, which would have drawn Ukraine away from the Russia-led Eurasian Customs Union and nudged it in a western direction. Under pressure from Russia, Yanukovich suspended the talks, opting for a Russian trade and loan package, a decision which proved highly unpopular and led eventually to the Maidan Revolution and his ousting in early 2014. In his place came a strongly anti-Russian and pro-Western government, firmly intending to take Ukraine out of Russia's orbit.

In most of Ukraine, this was dubbed the revolution of dignity, whilst in the Southern and Eastern parts of the country, many viewed this as a coup, as did Russia (Faure, 2022; VOX, 2022). Framing this through a russophobic lens (Kolstø, 2016), Putin ordered a rapid occupation of Crimea by little green men⁶, to whom in the face of superior numbers the few Ukrainian units on the peninsula surrendered. In March, the parliament of Crimea voted for independence and declared a referendum on the future of the peninsula. In the referendum, marred by irregularities, reportedly 97% voted for union with Russia, to which the latter acquiesced, making Crimea and Sevastopol federal subjects of Russia. Due to these irregularities and the referendum being carried out under a state of occupation, it was not internationally recognised by most countries. At the same time in the east of Ukraine, with the new government in Kyiv having no effective control over the security services, autonomist militias started to seize control of strategic sites. Though these militias had some local support, for the most part they consisted of Russian special forces, mercenaries, and Chechens. In the summer, after regrouping, Ukrainian forces managed to halt and reverse the pro-Russian advance, leading to artillery duels with heavy civilian casualties (Gardner, 2015).

⁶ Soldiers without insignia but with Russian equipment

5.3. Prevailing stance in the EU and its member states

This section will provide an overview of the prevailing positions in the major powers and stakeholders of the EU and the Union itself in relation to Russia prior to the breakout of violence. The sample of parties selected is based on their political weight in the EU, differing positions towards Russia, and input to the negotiations. Through this, it is possible to understand why some parties were more suited to act as mediators than others. It should be noted that the format, though not categorically set by Russia, was one which needed Russia's approval.

Germany had until the start of the crisis been the EU's strongest advocator for seeking a strategic partnership with Russia. This policy was backed by all major political parties, and boosted by various business interest groups, the main focus being energy, with Germany becoming ever more dependent on Russian gas and oil, and the Russian state becoming reliant on Germany for its hydrocarbon exports with which to fill its coffers. This dependence led to the construction of Nord Stream, a gas pipeline under the Baltic Sea directly from Russia to Germany, bypassing other countries, and further expanded by Nord Stream 2. The invasion of Ukraine and annexation of Crimea soured the mood, both in the German public and leadership (Kwiatkowska & Frymark, 2015). Nevertheless, due to the large commercial interests of both parties, Germany was well suited to take the lead in negotiations. (Siddi, 2018a)

France has had a special relationship with Russia since the *Ancien Regime*, with Paris seeing the two countries as natural partners in balancing against the other great powers of Europe and more recently against US influence, equals as both are UN Security Council permanent members, and a vital pillar in Europe's security framework. France was opposed to extending NATO Membership Action Plans to Georgia and Ukraine, and was the leader in setting up NATO-Russia dialogues. France was also the country to mediate between the Russians and Georgians in 2008, much to the favour of Russia (Aver, 2011). This *bonhomie* did not last indefinitely, with Russia's use of the military as a foreign policy tool and the countries choosing opposite sides in the Libyan civil war creating tensions. Nevertheless, due to relatively good relations and German insistence, France joined as a mediator. (Cadier, 2018)

In addition to France and Germany, other major EU players' and interested parties' stances should be noted. Italy has had a pragmatic and business-minded approach to Russia, seeing Moscow as

an intermediate power with whom to curry favour in order to expand its influence within international organisations, and thereby bilaterally or multilaterally achieve Italy's foreign policy objectives. It too has strong economic interests in Russia, mostly related to energy, and has since Soviet times had a functioning dialogue with the country, something which has been carried over to the present (Lynch, 2004). As there is no historical animosity between the countries, a positive relation has maintained regardless of the governing parties in Italy. At the same time, until this point, all Italian governments had also been strongly pro-EU integration, putting the country in a conundrum when the conflict broke out. In this situation, Italy's loyalties lay with the EU, but since the country did not see Russia as a direct threat, with Italy facing more pressing security concerns and because of possible economic consequences, its stance towards punishing Russia indefinitely was likely to wane (Siddi, 2018b).

Poland, contrary to the other parties mentioned, has had a troubled and wary rapport with Russia, and has regarded its eastern neighbour as the greatest threat to its security. Though there was a slight thaw from between 2009 and 2013, Russia's destabilisation of Ukraine has reinforced the prevailing animosity. Another central worry of Poland is being marginalised as a pawn between Germany and Russia, and having decisions that affects its security made in backroom deals and over the heads of Warsaw. This sentiment was expressed by the Polish foreign minister about the Normandy Format (Chmielewski, 2017), where Poland's presence was denied. At the same time, maintaining a dialogue with Russia implies a willingness to make concessions, something the hawkish Polish government was not willing to do. In this climate, Poland tried to upload its policy preferences to the European level, expressing its displeasure about Nord Stream 2, and urging stronger measures against Russia (Sus, 2018).

In addition to the interested parties mentioned above, the EU itself has a relationship with Russia, and though it is strongly influenced by the EU's larger members, it is not subservient to them. As a block it has much more influence than is often given credit, and is more unified than is often assumed (Moravcsik, 2017). EU-Russia relations were beginning to slowly thaw in the years after the Russo-Georgian war, with a strong focus to increase ties with the BRICS⁷ countries, there amongst Russia. These were almost solely for economic interest and not ideological or political co-operation (Abdullaev et al., 2012). Russia saw the EU as a competitor, and created its own

⁷ Brazil, Russia, India, China & South Africa

trading block, the Eurasian Union to rival the EU, a union into which it tried to coax Ukraine into (Popescu, 2014). The economic ties took a hit after Russia's invasion and annexation of Crimea, with the EU applying diplomatic and economic sanctions against Russia (EUR-Lex, 2014).

From this array of positions, the negotiators had the difficult balancing act of accommodating both those preferring a soft approach towards Russia and those with prevailing economic interests, with the overall aim of ending the conflict (Foreign Affairs Council, 2015; Liik, 2017). At the same time, as this was a security concern for many EU members, avoiding a loss of trust from the member states whilst trying to maintain the confidentiality of the negotiations had to be managed.

5.4. Role of the Normandy Format

As a response to Russia's actions, the EU imposed a range of sanctions. In order to stem the violence, the Organisation for Security and Co-operation in Europe (OSCE) backed by Germany and France tried to mediate between the two sides, creating the informal Trilateral contact group of the OSCE, Russia and Ukraine (Ministère de l'Europe et des Affaires étrangères, 2022). This led to the Minsk I agreement (Allan, 2020a), signed in September 2014, intended to be a cease fire, and providing for the exchange of prisoners, amnesty for insurgents and self-government for the Donbas republics, with an OSCE monitored security zone separating the parties. This agreement soon collapsed, as the fighting quickly resumed. Germany and France, along with Poland in the informal 'Weimar triangle'⁸ format had already tried to mediate a peaceful transfer of power from Yanukovich prior to the breakout of separatist violence, but with Russia hostile to the idea of Poland having a prominent role in the negotiations and EU members starting to have heterogeneous preferences (Lehne, 2014) regarding how to disincentivise further Russian aggression, Germany and France decided to launch an informal arrangement to reconcile the parties. This became known as the Normandy format⁹ (Lehne, 2015; Sus, 2023).

In this format, the heads of state and government of France and Germany acted as the go-between for Russia and Ukraine (Hollande, 2014; Merkel, 2014). According to Algaro and Siddi, though

⁸ A loose grouping of France, Germany, and Poland (Soloch, 2014)

⁹ Due to the parties (France, Germany, Russia & Ukraine) first meeting as a side-event at the 70th anniversary of the D-day landings in Normandy.

the High Representative was keen to be more engaged in the process, the Russians were opposed to this due to the highly structured, legalistic, and inflexible nature the Russians perceived the EU to have in conducting negotiations. In addition, the French thought a new party would have an adverse effect on the negotiations, whilst the Russians themselves wished to avoid being outnumbered in the talks (Alcaro & Siddi, 2020a). Furthermore, this opposition by Russia to EU inclusion could be to create divisions within the EU (Dempsey, 2015). This made the Normandy format an exclusive grouping without any mandate from the EU, thereby dismissing the possibility of input legitimacy from that direction. Instead, its legitimacy was based on the acceptance and recognition of other interested parties, those being the Russians and Ukrainians, as well as a lack of incentive from the other EU members to oppose the Normandy format (Alcaro & Siddi, 2021), as well as acceptance of external international actors. This could be perceived as output legitimacy, as there was an expectation from most parties in the EU that the negotiators would act for the benefit of the whole Union and not in their own interest. To ensure the excluded parties trust in the format, the High Representative was constantly informed of the direction of talks, as were the rest of the EU's member states, and in some side meetings the EU and other interested parties were allowed a presence, providing throughput legitimacy to the process (Bundesregierung, 2014; Liik, 2017; Sjurssen & Rosén, 2021). Finally, the US' approval of the format can be interpreted as a form of *ex-facto* input legitimacy, but this mattered more outside the EU.

In February 2015, these negotiations eventually led to the signing of the Minsk II (Allan, 2020b) agreement, which tried to set out on further detail how to implement Minsk I. It reaffirmed the withdrawal of heavy weapons and the exchange of prisoners, but also created the political basis for the future of the Donetsk and Luhansk oblasts. The separatists were to be given an autonomous status following Ukrainian constitutional reform guaranteeing linguistic and cultural rights, political and legal self-government following local elections, and the right to form people's militias. The major difference was the scrapping of the OSCE buffer zone, with Ukraine taking full control over the border with Russia following the elections. It had more success in calming the violence, though it did not end the conflict nor were its provisions ever fully implemented (Allan, 2020b; Magen et al., 2015).

For France and Germany, to be seen as legitimate in the excluded parties' eyes was necessary due to the structure of the EU, as unanimity would be necessary to implement further sanctions or to

change the sanctions regime (Solana, 2016). Being open with other member states made it clear that France and Germany were negotiating for something that was acceptable for all EU members, both for the hawkish ones like Poland and the Baltic states (Vilson, 2015) bordering Russia and those with good ties and strong trade links such as Italy or Hungary (Végh, 2016). Although some countries, including Germany and Italy made suggestions to make the sanctions more flexible (Nienaber, 2016), to incrementally decrease them as Minsk II was implemented step by step or to review them regularly (Adams, 2015), these positions did not gain much traction and the proponents of such measures did not expend much political capital on this for fear of being isolated. Even Poland, who had been the most vocal critic of Russia (Sjursen & Rosén, 2021), and even more after the election of a nationalist-populist government who saw the format as bigger states conducting politics over the heads of smaller ones, did not raise any serious objections to the process (Sus, 2018). What the EU did try to do was compartmentalise relations with Russia to enable some programmes and co-operation in less politically sensitive fields to continue, among others, the then ongoing nuclear talks with Iran mentioned above (Foreign Affairs Council, 2015; Liik, 2015; Mogherini, 2015).

5.5. Main findings from the Normandy case

In the Normandy format, the negotiating duo did not form because the countries had strong national interests to defend which deviated from the EU's general interests, but because one of the counterparts (Russia) would only accept mediation by state actors, something the EU's High Representative was not representing. It can be argued that by avoiding direct EU involvement, Russia was deliberately undermining the Normandy format's legitimacy, trying to create divisions between the negotiators and those excluded, and acting as a spoiler in their own negotiations with no intent of having the negotiations lead to a lasting peace. Direct EU involvement would have limited the possible disunity and mistrust between the negotiators and member states, given hawkish countries more of a say, and also reduced the likelihood of a pragmatic settlement in Russia's favour. It can however be argued that the format had descriptive legitimacy, as the lack of options was seen as a justification for France and Germany to negotiate on behalf of the EU, with the primary focus being the ends, not the means. In addition, in this situation, the Franco-German duo was not so much negotiating for themselves, but as ambassadors for the EU, lending

them a veneer of normative legitimacy. Furthermore, the conflicting parties viewed the mediators as unbiased, something which could not be said of other interested parties like Poland. Though the format was not an EU-led initiative, the Franco-German duo was perceived as legitimate by the EU's member states as there was no viable alternative. In addition, the EU was fairly united in the condemnation of Russia's actions and the general measures to be implemented to discourage such actions, and due to clear communication between the negotiators and the excluded, the member states were kept in the know, meeting Schmidt's demand for throughput legitimacy. It was also clear to the Franco-German duo that even if they would like to have negotiated a deal that they would favour but not one which would have suited the rest of the EU, this would not have been possible due to institutional constraints.

It is difficult if not impossible to evaluate this case through an intergovernmental perspective, as there is little evidence of there being any inter-state bargaining between France and Germany, and the other EU member states, nor can institutional choice be evaluated for the negotiators as this was set by one of the conflicting parties, not the mediators. It could however be seen as a case of Europeanisation of foreign policy, as the policies preferred by most member states were rather homogenous. Though there was some dissent, this was rather limited in time and scope, partly avoided for fearing isolation, but some of it can be traced to the objection in the means, not the ends. Nevertheless, it was important for the negotiators to be perceived as legitimate in the eyes of the rest of the EU for the former to be trusted and for the latter to be unified. To achieve this, France and Germany took care to constantly inform the High Representative by being open and transparent, thereby providing throughput legitimacy. It was also vital to ensure that any settlement would be suitable for the rest of the EU, without whose approval any agreement would not be achievable, meaning that the duo had to strive for output legitimacy. Because of this, the duo received the full backing of the EU, which in turn gave France and Germany *de facto* input legitimacy, and through this turning them from an informal grouping to a lead group representing EU interests.

In the case of the Normandy format, it is challenging to assess the change of the role of the EU or the High Representative during the negotiations, as the negotiations were shorter in duration and with no direct EU input. However, during the negotiations, the High Representative was the fulcrum to which other EU member states concerns were addressed to. What one can triangulate

from the data is a higher level of dialogue and understanding between a stronger EU and the duo than what would have been likely before the Lisbon Treaty's reforms. This could also be explained by the higher stakes involved due to the proximity of the crisis and its potential implications for the EU's stability and member state's security.

CONCLUSION

This exploratory case study aimed to explore the legitimisation methods applied by informal groupings when conducting foreign policy on behalf of the EU, and how the role of the EU has evolved in such situations. Two cases were analysed, those being the Iran nuclear deal led by the E3, and the Minsk agreement in the Normandy format. In both situations, an exclusive group of EU countries created an informal grouping without any mandate from the EU and acted initially without any EU participation. The cases were chosen as they are at the time of writing the two aberrations to the highly structured and normative method of conducting foreign policy within the EU, which relies heavily on unanimity, discussion, and transparency. The empirical analysis consisted of an investigation on the primary and secondary sources used in the thesis, based on which it was possible to apply process tracing to discover both legitimisation strategies of the informal grouping and the changing role of the EU in the negotiations. As future foreign policy crises are likely, understanding how these groupings work and legitimise their actions, and if, when and how to best use them, is important as knowing this would make the EU's foreign policy more effective and likelier to achieve success.

In the Iran case, an exclusive grouping of three countries, France, Germany, and the UK attempted to negotiate with Iran to halt its nuclear programme, acting as agents on behalf of the EU. The method was justified by the E3 by stating that the EU was not capable of such negotiations, and expecting a quick solution to the issue would give the E3 output legitimacy by efficiently providing results. If the agreement was reached, it could be presented to the EU as a *fait accompli*, with the expectation that the EU would find that the ends were justifying the means and accept the settlement. However, as the E3's initial approach failed and the negotiations dragged on, the incentives they wanted to employ needed approval from the EU. This led to the second phase of negotiations where the High Representative was included. His presence did not alter the balance of power between the E3 and EU, with the former still holding the reins, but did mollify the other states' opposition to being in the dark to negotiations which could affect them. By opening up the black box of negotiations, the process became more transparent and the negotiators more accountable, providing throughput legitimacy. In the final phase, and after treaty revisions which strengthened the authority and capacity of the High Representative, the lead was handed over to the High Representative, and letting the EU bear the onus with the E3 taking a more observatory

role. In doing so, with the EU in charge and applying the proper mechanisms to conduct foreign policy, the negotiations achieved input legitimacy and became a European project.

With the Minsk agreement, there was a larger number of countries that wished to partake in the talks, and even the EU tried to get direct access. However, due to constraints set primarily by Russia, it ended up comprising of only a select group of state actors, with Germany and France representing the EU without an explicit mandate. This precipitated the same lack of input legitimacy as in the first case. Due to the closeness and severity of the issue, a lot more was at stake, in terms of states' security, economic stability and Union cohesion. That no other options were available was justification to accept the format by the excluded states, giving it some implicit input legitimacy, though grumblings persisted in some countries. However, it was clear from the onset that it was on the EU's behalf that the Franco-German negotiated. By this time, the informal grouping had also learned from the experiences of the Iran case, as had the EU, leading to better communication between the negotiators and the High Representative and the other member states further down the line. This openness and transparency provided throughput legitimacy, calming the nerves of the most anxious countries. As the course of talks and possible agreements was made known to the excluded parties, it was also made clear that the arrangement the duo was trying to reach was one satisfying as many member states as possible, and not one solely favouring the positions of Germany and France, thereby striving for output legitimacy. The fact that the duo was perceived as legitimate created trust and cohesion between member states which would enable the format to continue, and also allow the EU to react as quickly as it did eight years later during Russia's second invasion of Ukraine.

What is seen in both cases is that the informal grouping is hampered in the beginning by a lack of input legitimacy as it does not have an explicit mandate from the EU to negotiate on its behalf. This is justified by informal grouping by the issue's urgency or their greater efficiency and capacity. As the fast solution the informal grouping hoped for does not materialise, additional tools need to be used and pressure applied, something which is an exclusive competence of the EU and not of the states negotiating. This requires EU onboarding and legitimisation of the informal grouping to the excluded parties. First, this is done by providing throughput legitimacy, allowing the excluded parties to see what is on the negotiating table and how the process is carried out. This also allows those excluded to see if the informal grouping is negotiating for the benefit of all or

for themselves. When the result appeases all, the informal grouping is legitimate by output. To more effectively initiate trade deals and apply or remove sanctions, the informal grouping can formally amalgamate with the EU and the High Representative, which due to the normative character of the latter's authority provides input legitimacy to the process. This was seen in the Iran case, and would likely have been the result in the Minsk agreements as well would it not have been for Russian intransigence. Based on the cases investigated, one can see an ever increasing will, capacity and role of the EU and the High Representative to act. From the small scope and authority of the pre-Lisbon era, the EU through the High Representative has been an ever more present actor in the negotiations led by informal groupings. In the Iran case, the EU went from not present at all to being the chief negotiator, whilst in the Minsk case, the High Representative functioned as a vital conduit between the informal grouping and the rest of the EU and ensuring a coherent front against Russia, and the reason for the EU not having direct involvement is solely down to Russian obstinacy. The expanded presence of the EU is likely due to the increased clout of its institutions, but also due to the expectation from the EU's citizens and member states that the EU works in an orderly and norm-based manner. This includes foreign policy, and when an exclusive group of member states speaks for the EU without its endorsement, it violates both the expectations and the principles of the EU. In these situations, the actions and procedures need to be legitimised, even *ex facto*, and the simplest way to do this is to open up to the other member states and onboard the EU.

To answer the third question the thesis asks, as there are only two cases to analyse, it is difficult to assess how the role of informal groupings has changed. As the EU is still a union of 27 independent member states, rapidly finding a foreign policy position that accommodates all will be a challenge as long as the unanimity clause is in effect. Informal groupings are a way to make the EU's foreign policy more flexible whilst still maintaining the right of the member states to have their own foreign policy preferences and freedom of action. It also enables the EU to have a presence in situations towards which there is interest in for only a few member states. It is the exclusiveness which is the main issue, but this limitation is likely to fade over time as the EU becomes more congruent, normative and rules-based. As in the cases studied, the exclusivity was eventually dropped when the High Representative became the primary negotiator with Iran, and in the Minsk agreement, it remained exclusive not due to the duo preferring it but at the insistence of Russia. Unless a counterparty's demand is an exclusive format, it is likely that in future situations, the EU

will be present in its own right, even if it is in the company of other member states. This might not be so in the initial stage, but if the informal grouping wants to apply pressure that only the EU can provide, at least some onboarding is necessary.

This thesis was an exploratory study using Schmidt's (2010) framework of legitimisation strategies but applied to a foreign policy context. It has explored two cases where exclusive informal groupings acted as agents on behalf of the EU without a mandate. In both cases their actions needed to be legitimised, and this is done through throughput, output and input, in order to gain access to EU tools to apply pressure on the third party. During the period under investigation, the EU has grown in scope and capacity and has taken a more commanding and authoritative position over the course of the negotiations, and is likely to do so in the future. Because exclusive informal groupings are a deviation from the norm when conducting foreign policy, they are likely to be used only due to external circumstances where third parties insist on the EU not being present. However, informal groupings *per se* are here to stay, as member states form coalitions to promote certain causes, something which is encouraged by the EU itself.

The results of this study indicate that exclusive informal groupings for the conduction of EU foreign policy are likely to be rare events in the future. This not only due to them breaking the norms of the EU, but also due to the increased capacity of the EEAS to conduct foreign policy and the authority granted to the High Representative on the EU level. In both cases, it has been shown that a group of member states cannot form EU foreign policy without EU input and acceptance, no matter how large or important those states are. However, based on two cases, one can only make preliminary predictions, but they indicate a future where when negotiating on behalf of the EU, it is the High Representative who takes the lead.

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