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# From Internal-Input to External-Output: A Multi-tiered Understanding of Legitimacy in EU Foreign Policy

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Legitimacy is understood to encompass the general acceptance by a given population of a stipulated political order. At a minimum this requires passive acquiescence. At a maximum it entails the active and positive engagement of that population in the management, reproduction and development of that political order. It does not necessarily, at least in theoretical terms, have to assume a democratic form of government. However this is the starting assumption of most analyses in looking at contemporary political systems. According to Risse, therefore, 'In democratic systems, a social order is legitimate, because the rulers are accountable to their citizens who can participate in rule-making through representation and can punish the rulers by voting them out of office' (Risse 2006). This legitimacy is understood to have two aspects; philosophical/normative and sociological/empirical (Stoddard 2015). The approach adopted in this Special Issue of Global Affairs prioritises a sociological or empirical understanding of legitimacy and the extent to which the European Union is deemed to be legitimate (i.e. a belief or faith in the rightness of EU governance), prior to asking any normative questions as to its moral or ethical standing as a system of governance.

***Challenges of internal and external legitimacy: input, throughput and output***

The foreign policy of the European Union faces an ongoing challenge of legitimacy at two levels; internal and external (see figure 1 below). When we seek to apply legitimacy to foreign policy we have to consider these two faces; that which is deemed to be legitimate by the community on whose behalf the foreign policy is being executed (internal legitimacy) and that which is deemed to be legitimate by the wider global commons; a community of states and peoples (external legitimacy).

In considering the internal legitimacy of the European political project as a whole, Fritz Scharpf has further developed a critical distinction between output and input legitimacy (1997, 1999). Vivian Schmidt (2013) has usefully extended this conversation to discuss 'throughput' legitimacy; an analysis of the quality of practices within the 'black box' of governance, related to "efficacy, accountability, transparency, inclusiveness and openness to interest consultation." In her own words, "Throughput is process-oriented, and based on the interactions – institutional and constructive – of all actors engaged in EU governance" (Schmidt, 2013, 5).

In foreign policy terms, considerations of *output legitimacy* – or permissive consensus – have long predominated; that is to say the legitimacy of EU foreign policy has been grounded in the extent to which these policies have delivered on widely-sought goals (peace, security, prosperity, etc.) and the Union's associated capacity to deliver these policy results (Risse 2006: 185). This was all the more salient if one were to accept that the community whose approbation was being sought was that of a community of EU governments rather than the broader European population(s) (Scharpf 2009).

In recent years scholarly attention has shifted somewhat to assess in greater detail the *(internal) input and throughput legitimacy* of EU foreign policy (Sjursen 2011; Lindgren and Persson 2010). Here attention is devoted to the internal 'participatory quality of the decision-making process' (Risse 2006) – be it in the EU institutions or in the context of EU Member States (see figure 1). To what extent, if at all, are European ministers – acting unanimously – held accountable to national parliaments (Caballero-Bourdot 2011; Huff 2015; Lord 2011; Auel and Christiansen 2015; Raube 2014)? To what extent, if at all, are EU-level policy makers held accountable before European parliamentarians (Raube 2012; Herranz-Surralles 2014; Rosén 2015; Riddervold and Rosén 2015; Van Hecke and Wolfs 2015)? As policy making in this field has been increasingly constructed and pursued through new and shared policy making structures in Brussels, to what extent is that corpus of policy making and its implementation then subject to the control of those in whose name it is being executed? Here again

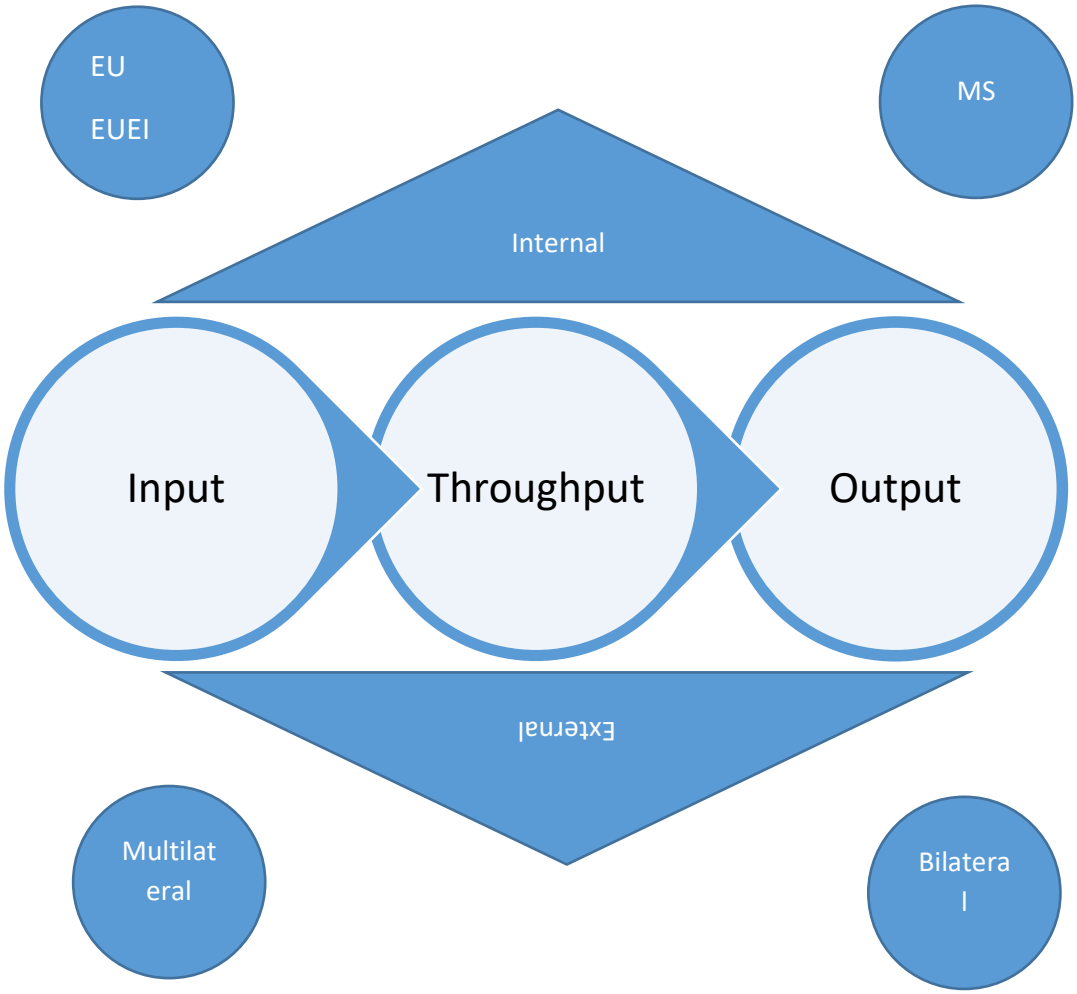
it may be asked to whom is such a policy properly accountable; member state governments or European Union citizens as a whole?

As noted above, there is an extensive literature on the defects of the EU's input legitimacy as regards foreign policy. There is particular focus therein on the worsening of that democratic deficit through processes of Busselsization and/or Europeanisation (Allen 1998, Tonra 2001, Wong 2012), and prescriptions for its amelioration (O'Brennan, and Raunio 2007; Sjursen 2011). There is vigorous discussion too on the aforementioned issue as to whether (internal) input legitimacy is to be best pursued on the basis of accountability to and through national governments (intergovernmental input legitimacy) or directly to and through European citizens (supranational input legitimacy) (Wagner 2005). Resolution of these deficits are commonly posited through several avenues – each of which is designed to better ground EU foreign, security and defence policies in democratic consent and control. The first and most obvious is a strengthening of the aforementioned parliamentary accountability, whether at the national or European level. The second is through the more active engagement of stakeholders in policy planning and execution (Buchs 2008). This has the added value too of improving the quality of policy, with such stakeholders providing not just improved public accountability but also access to expert knowledge. A third element is through the strengthening of a European public space of debate and deliberation such that it contributes to the creation of agreed narratives surrounding the Union's place and role in the world (Youngs 2004, Nitoiu 2013; Risse and Grabowski 2008; Tonra 2011).

A key question here, of course, is also how such input legitimacy is contextualised by a rising tide of geopolitics. Differentiated perceptions surrounding geopolitical priorities have been a longstanding European pre-occupation. Central and Eastern European member states have had very different perceptions of 'Europe's' geopolitical realties than have southern and Mediterranean member states. Such differentiation was for many years successfully marshalled within the European Neighbourhood Programme (ENP) in a one-size-fits-all geopolitical bazaar (DeBardeleben 2007), but that framework withered in the Arab Spring (Dannreuther 2015). With the increased salience of geopolitics, a critical unit of analysis problem is thus reinforced; can the 'Union' qua 'Union' successfully represent itself as an effective geopolitical actor in the eyes of its citizens and member states, or is the Union reduced to a status of a clearing-house for distinct national perceptions of geopolitics and thereby assessed in terms of its effectiveness in marshalling/balancing that plurality? At the same time, less attention has traditionally been accorded to the external legitimacy of EU foreign, security and defence policies and its relevance to geopolitics. And yet, external legitimacy gains critical analytical importance with

regard to the EU's external performance – be it in its bilateral or multilateral external relations (see figure 1).

**Figure 1: Internal and External Input-, Throughput- and Output- Legitimacy in EU Foreign Policy**




External legitimacy affords the Union both the formal locus standi of international action as well as contributing to its international credibility. Assessing external legitimacy, however, is more challenging in as much as there is no definitive arbiter of legitimacy in either philosophical or empirical terms. Different geographical communities possess their own models and understandings of their own state's legitimacy – over both time and space. These multiple legitimacies (the divine right of kings, republicanism, democracy, authoritarianism, communism etc.) entail contestation and these contestations largely define the turning points of history (Clark 2007). In the absence of any definitive means to mediate between these differences, international actors are left with multiple of options of submission, cooperation, and coercion and conflict (Stoddard 2015: 556).

Moreover, also with regard to external legitimacy it is important to distinguish between *(external) input legitimacy, (external) throughput* and *(external) output legitimacy* (see figure 1). External input legitimacy may be said to relate to the participatory quality of decision making with international partners, both bi- and multilaterally. In our example, this might be said to relate to the perceived capacity of EU policy actors to listen to partners and to take account of their views in policy development and negotiations. It might also entail active engagement with IGOs and international NGOs and a visible and practical commitment to a rules based multilateral order which is reflective and respectful of different interests, values and legitimacies. Geopolitics can also be critical here. In respect of Ukraine and Russia's invasion, occupation and annexation of parts thereof, an ongoing criticism has been the Union's geopolitical naiveté. The Union, so the argument goes, failed a key test of external input legitimacy by taking inadequate account of Russian geopolitical fears/ambitions and Ukrainian geopolitical tensions, thereby opening the pass to a critical juncture of miscalculation and Russian adventurism. This has had the additional impact of shattering well established European norms and even formal treaty-based agreements on the inviolability of post-Cold war borders.

*External throughput legitimacy*, following Schmidt's original argument, focuses on the quality of (global) governance processes – both bilateral and multilateral in nature – that the EU is engaged in (Schmidt, 2013, 5). In other words the quality of policy-making processes (decision-making, implementation and law execution) is not only elementary to the legitimacy of the EU policy-making structure (internal legitimacy), but also to the international order. Beyond the participatory aspect (external input legitimacy) throughput legitimacy becomes concerned with mutually agreeable, reciprocal, predictable, fair and transparent proceedings. In fact, the EU has underlined such quality-efforts by subscribing and promoting a rules-based international order. In other words, procedural rules of decision-making, implementation and law execution helps the EU and its partners to trust in an international system that provides reliability. In times of the politics of denial and growing contingencies for international leaders to pursue their interests (rather than being bound by the rules of the game) and where, in consequence, the international liberal order can no longer be taken for granted, the quality of process-related legitimacy is clearly undermined. As a consequence, decisions may no longer be taken in the UN Security Council, but rather outside its framework, as the crisis in Syria shows.

For its part, *external output legitimacy* is grounded in the effectiveness, credibility, coherence and success of foreign policy in the eyes of partners and other international actors plays a role. The perceptions of third-party states are of central importance (Lucarelli and Fioramonti 2009; Holland

and Chaban 2014). Their reading of the European Union might well determine the extent to which they are open to acceptance or rejection of EU policy preferences (Stoddard 2015). Clark (2003) suggests that the external output legitimacy of an international actor is established through a legitimacy of authority and a legitimacy of order. The legitimacy of authority is grounded in the capacity of an international actor to secure compliance to its preferences. Such compliance is grounded in a fusion of power with legitimate social purpose (Clark 2003: 89). In the case of the EU this can be most visibly illustrated in the compliance of applicant states – and those with their own membership aspiration – with the Union's *acquis*. This is a limited pool of legitimate authority and while it served the Union very well in successive rounds of enlargement it has been visibly absent in the Union's subsequent development of its neighbourhood policy, weakened as it has been argued to be, by a failure to encompass its own and its neighbours' geopolitical realities (Börzel and Van Hüllen 2014; Mello 2014; Noutcheva 2015). Moreover and further afar, the EU may also fail because its actions are not see as legitmate in the eyes of the other at all. In the case of the EU's policy towards China, normative claims and diffusion is often 'dead on arrival' (Mattlin 2013), implying a negation of the EU's external legitimacy.

**Figure 2: Multi-tiered Legitimacy: Internal Input-/Output- and External Input-/Output-Legitimacy in EU Foreign Policy**

| Type of Legitimacy | Legitimatory Condition | Legitimatory Practice |
|---|---|---|
| Internal Input Legitimacy | Democratic accountability | Parliamentary accountability<br>• National (intergovernmental)<br>• EP (supranational)<br>Stakeholder engagement<br>European Public Space |
| Internal Throughput Legitimacy | Process-related quality of decision making | Rules-based decision-making, implementation and enforcement |
| Internal Output Legitimacy | Delivery of policy outputs; peace, security, prosperity | Effective, coherent and credible foreign policy action(s) |
| External Input Legitimacy | Participatory quality of decision making with international partners | Policy listening and engagement with third parties |
| External Throughput Legitimacy | Quality of the processes of decision-making with international partners | Rules-based legitimacy in international decision making, implementation and enforcement |
| External Output Legitimacy | Extent to which third parties are open to acceptance or rejection of EU policy preferences | Legitimacy of Authority<br>Legitimacy of Order<br>Legitimacy of Action |

***Legitimacy of Order: International Norms and EU Action***

The legitimacy of order rests on much softer foundations. In the absence of a clear global hierarchy or overarching authority or system of governance, legitimacy rests on the general acceptance of common but evolving – sometimes even contested – international norms. It should be noted that such contestation can extend to the very nature of the international system itself such that state may be viewed, and view itself, not simply as a revisionist state (in opposition to status quo states) but even

a revolutionary one. For the EU, its external output legitimacy is contingent on norms and values shared by both its constituent member states and others within the international system. Such norms, however, are not universally shared and are subject to contestation from other international actors. Such actors may have very different understandings of, or ambitions for, the dominant set of international norms. For the EU it is important to recognize such alternative normative claims which put the EU's own normative standing in perspective. In this respect, 'provicializing Europe' (Chakrabarty 2007) and 'provincializing Westphalia' (Acharya 2018) offer methodological tools to situate the normative contestation and actual norm diffusion mechanisms between the EU and other parts of the world.

In addition, the geo-political 'turn' in security and international relations has certainly problematized the Union's legitimacy of order (Russell Mead 2014; Götz 2015). The external perception of the Union as a child of globalisation, multilateralism and cosmopolitan norms serves to diminish it in the eyes of external stakeholders as they survey (and exploit) a shift towards protectionism, unilateralism and nationalist populism. The Union can thus be presented in such quarters as being the legacy residue of a near bygone era - or in more sympathetic terms, as a critical bulwark against a rising and aggressive international tide.

It is suggested here that we might add a third constituent of external output legitimacy; a legitimacy of action. Both authority and order may be said to be constituted at least in part by action – the instantiation and re-instantiation of norms through policy performance. Diplomatic and foreign policy action creates both facts on the ground as well as precedents, which, absent a global referee, serve to constitute legitimate authority and perhaps even contribute to legitimate order. In ideal circumstances, such iterative actions may have the effect of enhancing global justice and global stability, should they succeed in creating consensual even binding understandings of legitimate action and authority/order between international actors (Clark 2007:16).

In the case of the EU, the legitimacy of action is all the more germane. The Union lacks the formal mutual recognition of sovereignty and must therefore rely much more heavily on the informal recognition of third parties in the construction of its external legitimacy. The Union, by and large, is reluctant to use coercive measures, especially military force, in pursuit of its values and interests. This is a function of both its own institutional foreign policy structures - which require unanimous consent among the member states – as well as its own consensus-driven diplomatic culture. With the significant exception of trade and international economic cooperation, therefore, the Union is largely

absent a legitimacy of authority. In its stead, the Union has explicitly relied upon a legitimacy of order in which the Union professes its commitment to a set of universal norms and values and rhetorically pursues their fulfilment across the full spectrum of its international actions. Such has been the Union's self-ascribed profile in this role that scholars have differentiated the Union from other international actors and argued that its unique profile has created for it a position as 'normative power', a 'difference engine', or as an 'ethical power' (Manners 2002; Manners and Whitman 2003; Aggestam 2008). While this has been repeatedly challenged – most especially in the realms of international political economy and development - the fact remains that the Union presents itself and is characterised by others – as being exceptionally committed to the fulfilment of ideational milieu goals.

Within the above, however, the Union is especially vulnerable to counter claims that what it does fails to map onto what it says it will do. For a nation state, such a charge is less than fatal. A nation state's external legitimacy is firmly grounded in mutual sovereign recognition such that the legitimacy of authority and of order are well understood and acknowledged- the patterns therein are clear. For the European Union however, such a charge can be debilitating. It must rely to a greater relative degree on the legitimacy of its action so that it can (re)create/instantiate/constitute that legitimacy of order and authority.

In an evolving geopolitical order, however, how does such legitimacy of action potentially fare? Here the Union is again visibly struggling. The EU's 2016 Global Strategy goes some distance in privileging the local neighbourhood of states as a prioritised area of policy focus. At the same time, however, it may be argued that in that very same strategy, the Union is resiling from directive action, relying now instead on a 'principled pragmatism' and a foreign policy approach rooted in the 'resilience' of itself and its neighbours (Global Strategy 2016; Juncos 2015; Sjursen 2017). This potentially then undermines EU claims at differentiation as an international actor, limiting its actions in both scope and ambition so as to accommodate a more focused and precise impact on local actors.

***Legitimacy of EU foreign policy: conceptual-empirical contributions in times of anxiety***

Much ink has been used to understand the EU's ambitions, objectives, policy failure and success. Issues of effectiveness in policy-making and implementation were more important than questions of legitimacy. And yet, the more EU crisis management developed, the more questions of effectiveness and implementation were linked to questions of legitimacy, such as mechanisms of parliamentary accountability (Koenig-Archibugi, 2004; Sjursen, 2006; Wouters and Raube 2018). And still, the debate

has so far missed a conceptualization of external input-, throughput- and output-legitimacy on the one hand, and external input-, throughput- and output legitimacy on the other hand. The findings are results of the Jean Monnet Network 'Antero' (2014-2017), which devoted much of its research to the question how the European Union can legitimately manoeuver its external relations in times of internal and external anxiety, which on the one hand asks the EU to act in view of multiple crises and crisis scenarios, but on the other hand questions the legitimacy of the EU as an actor in European and international affairs.

It is our contention that the framework outlined above offers analysts and policy makers a critical tool in better understanding the very unique nature of the Union in its international action, While it highlights again the Union's exceptionalism, it does so for a deeply pragmatic and policy-driven purpose. It provides a conceptual map – based in practical policy experience – from which policy makers can identify the intersections, contradictions, overlays and reinforcing tensions which underpin the Union's legitimacy. It thereby allows us to assess in advance of policy development, decision-making shifts, or treaty changes, how the Union's legitimacy may be impacted. It also allows us to assess areas of relative strength or weakness in the Union's legitimacy as an international actor and perhaps, thereby, better focus the official mind towards building upon strengths and mitigating weaknesses. At a minimum we hope to stir debate surrounding the profound question of the Union's democratic legitimacy as a foreign policy actor.

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